

on refinery inputs covered under HTSUS Subheadings 2709.00.10, 2709.00.20, 2710.11.25, 2710.11.45, 2710.19.05, 2710.19.10, 2710.19.45, 2710.91.00, 2710.99.05, 2710.99.10, 2710.99.16, 2710.99.21 and 2710.99.45 which are used in the production of:

- certain petrochemical feedstocks and refinery by-products;
- products for export;
- and, products eligible for entry under HTSUS Subheadings 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2005, subject to extension.

The zone grantees on behalf of the refining/petrochemical facilities listed below are now requesting that the authority for the NPF option (Condition 3) be extended.

The refineries/petrochemical complexes produce fuels and petrochemical feedstocks from crude oil and other inputs, such as naphtha and

natural gas condensate. Fuel products include gasoline, jet fuel, distillates, residual fuels, and motor fuel blendstocks. Petrochemical feedstocks and refinery by-products produced under zone procedures (NPF option) have included: benzene, toluene, xylene, naphthalene, natural gas—liquified & gaseous, ethane, propane, butane, ethylene, propylene, butylene, butadiene, paraffin waxes & petroleum jelly, carbon black oil, petroleum coke, asphalt, sulfur, sulfuric acid, cumene, pseudocumene, n-pentane and isopentane, isoprene, dicyclopentadiene, styrene, other aromatic hydrocarbon mixtures, mixtures of hydrocarbons not elsewhere specified, and certain other saturated and unsaturated acyclic and cyclic hydrocarbons. (Although the refining/petrochemical plants vary in their petroleum product slate, the review would generally include the full range of products listed above for all refineries.)

Zone procedures exempt the refineries from Customs duty payments on the foreign products used in exports. On domestic sales, the NPF option allows the companies to choose the Customs duty rates that apply to certain petrochemical feedstocks and refinery by-products (HTSUS duty rates for most of these products are zero) by admitting incoming foreign crude oil and natural gas condensate in non-privileged foreign status. Such petrochemicals and by-products account for about 25 to 30 percent of refinery activity, on average. The duty rates on inputs range from 5.25¢/barrel to 10.5¢/barrel. Duties on inputs used to make fuel products (motor gasoline, jet fuel, blendstocks), which constitute some 70 to 75 percent of production, will continue to be dutiable at the crude oil rate. The applications indicate that the continuation of authority to elect non-privileged foreign status will contribute to the refineries' international competitiveness.

Board order	Subzone	Company	Location	Docket No.
Grantee: Port of Long Beach, California				
1050	50G	Shell Oil Products U.S.	Los Angeles, CA	Doc. 54(1)—04
Grantee: Port of Corpus Christi Authority				
1086	122N	Equistar Chemicals, LP	Nueces Co., TX	Doc. 54(2)—04
Grantee: Port of Freeport, Texas				
1087	149F	Equistar Chemicals, LP	Brazoria Co., TX	Doc. 54(3)—04
1088	149G	Dow Chemical Company	Brazoria Co., TX	Doc. 54(3)—04
Grantee: Board of Harbor Commissioners of the City of Los Angeles				
1032	202C	ConocoPhillips Company	Los Angeles, CA	Fov. 54(5)—04

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the requests and report to the Board.

Public comment on these proposals is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. *Submissions Via Express/Package Delivery Services:* Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. *Submissions Via the U.S. Postal Service:* Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is February 7, 2005. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 22, 2005).

Copies of the requests will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above.

Dated: December 2, 2004.

Dennis Puccinelli,

Executive Secretary.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-893]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China

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

EFFECTIVE DATE: December 8, 2004.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva, AD/CVD Operations, Office

IX, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3208.

Final Determination

We determine that certain frozen and canned warmwater shrimp from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV") as provided in section 735 of Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

SUMMARY: On July 16, 2004, the Department of Commerce published its preliminary determination of sales at LTFV, partial affirmative preliminary determination of critical circumstances and postponement of the final determination in the antidumping investigation of certain frozen and canned warmwater shrimp from the PRC. On September 1, 2004, the Department of Commerce published an

amended preliminary determination of sales at less than fair value ("LTFV").

During the investigation, the Department examined sales information from four shrimp processors that were selected as Mandatory Respondents.¹ In addition, fifty-three companies requested separate rates and we refer to them, collectively, as the Section A Respondents.² We invited interested

parties to comment on our preliminary determination and amended preliminary determination. Based on our analysis of the comments we received, we have made changes to our calculations for the four Mandatory Respondents. As a result of those changes, the rate assigned to companies which received a separate rate has also changed.

Case History

The Department of Commerce ("Department") published its preliminary determination in this investigation on June 24, 2004. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China*, 69 FR 42654 (July 16, 2004) ("Preliminary Determination"). On September 1, 2004, the Department published an amended preliminary determination. See *Notice of Amended Preliminary Antidumping Duty Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China*, 69 FR 53409 (September 1, 2004) ("Amended Preliminary Determination").

Since the publication of the *Preliminary Determination*, the following events have occurred. The Department conducted verification of the Mandatory Respondents: Allied on August 23, and 25 through 27, 2004; Red Garden/Shantou Jinyuan District Mingfeng Quick-Frozen Factory ("Mingfeng") (one of Red Garden's suppliers during the POI) on August 15 through 19, 2004; Yelin on August 27, and August 31 through September 2, 2004; and Zhanjiang Guolian on August 16 through 20, 2004; and the two Section A Respondents, Meizhou Aquatic Products Quick-Frozen Industry Co., Ltd. ("Meizhou") on August 23, 2004, and Shantou Ocean Freezing on August 25 through 26, 2004, in the PRC. See the "Verification" Section below for additional information.

We received comments from the Ad Hoc Shrimp Trade Action Committee,

Versaggi Shrimp Corporation and Indian Ridge Shrimp Company, hereinafter referred to collectively as "Petitioners", a number of respondents and other interested parties to this investigation that addressed issues including: Mandatory Respondent Selection; Section A Respondents; Scope; and other issues.

On October 19, 2004, parties submitted case briefs. On October 26, 2004, parties submitted rebuttal briefs. On November 5, 2004, the Department held a public hearing in accordance with section 351.310(d)(1) of the Department's regulations. Representatives for the Mandatory and Section A Respondents, the Petitioners, the PRC government and the PRC Chamber of Commerce were in attendance. On November 23, 2004, the Department convened a public hearing on scope issues.

Mandatory Respondents

On July 16, 2004, the following companies submitted sales reconciliation documentation: Zhangjian Guolian; Yelin³; Allied; and Red Garden. On July 27, 2004, the Department sent the 4th supplemental questionnaires addressing certain deficiencies in Section C and D responses to: Allied, Zhanjiang Guolian, Red Garden and Yelin.

On July 28, 2004, the Department granted Zhanjiang Guolian's request for an extension to submit surrogate value data with an extension until August 4, 2004. On July 29, 2004, the Department documented the submission of new information by Allied. See *Memorandum to the File from Julia Hancock Regarding the Submission of New Information* (July 29, 2004).

On August 2, 2004, the Department received and granted an extension request from Red Garden for submitting its supplemental questionnaire response. On August 3, 2004, the Department received and granted an extension request from Zhanjiang Guolian for responding to the Department's supplemental questionnaire. On August 3, 2004, the Department received the 4th supplemental questionnaire response from Allied and the Department also received Yelin's response to the

¹ Allied Pacific Food (Dalian) Co., Ltd., Allied Pacific (H.K.) Co., Ltd., King Royal Investments, Ltd., Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd., and Allied Pacific Aquatic Products (Zhongshan) Co., Ltd. (collectively, "Allied"); Yelin Enterprise Co. Hong Kong ("HK Yelin") and its suppliers, Shantou Yelin Frozen Seafood Co., Ltd., Yangjiang City Yelin Hoi Tat Quick Frozen Seafood Co., Ltd., and Fuqing Yahua Aquatic Food Co., Ltd. (collectively, "Yelin"); Shantou Red Garden Foodstuff Co., Ltd. ("Red Garden"); and Zhanjiang Guolian Aquatic Products Co., Ltd. ("Zhanjiang Guolian").

² Asian Seafoods (Zhanjiang) Co., Ltd. ("Asian Seafoods"); Beihai Zhengwu Industry Co., Ltd. ("Beihai Zhengwu"); Chaoyang Qiaofeng Group Co., Ltd. ("Shantou/Chaoyang Qiaofeng" (Group) Co., Ltd.) ("Shantou/Chaoyang Qiaofeng"); Chenghai Nichi Lan Food Co., Ltd.; Dalian FTZ Sea-Rich International Trading Co., Ltd. ("Dalian FTZ Sea-Rich"); Dongri Aquatic Products Freezing Plants ("Dongri Aquatic"); Fuqing Dongwei Aquatic Products Industry Co., Ltd. ("Fuqing Dongwei"); Fuqing Longwei Aquatic Foodstuff Co., Ltd. (Longwei Aquatic Foodstuff Co., Ltd.) ("Fuqing Longwei"); Gallant Ocean (Liangjiang) Co., Ltd. ("Gallant Ocean"); Hainan Fruit Vegetable Food Allocation Co., Ltd. ("Hainan Fruit Vegetable Food"); Hainan Golden Spring Foods Co., Ltd./Hainan Brich Aquatic Products Co., Ltd. ("Hainan Golden"); Jinfu Trading Co., Ltd. ("Jinfu Trading"); Kaifeng Ocean Sky Industry Co., Ltd. ("Kaifeng"); Leizhou Zhulian Frozen Food Co., Ltd. ("Leizhou Zhulian"); Meizhou Aquatic Products Quick-Frozen Industry Co., Ltd./Shengping Shantou ("Meizhou"); Pingyang Xinye Aquatic Products Co., Ltd. ("Pingyang Xinye"); Savvy Seafood Inc. ("Savvy"); Shanghai Linghai Fisheries Economic & Trading Co., Ltd. ("Shanghai Linghai"); Shanghai Taoen International Trading Co., Ltd. ("Shanghai Taoen"); Shantou Freezing Aquatic Product Food Stuffs Co. ("Shantou Freezing"); Shantou Jinhang Aquatic Industry Co., Ltd. ("Shantou Jinhang"); Shantou Jinyuan District Mingfeng Quick-Frozen Factory ("Mingfeng"); Shantou Ocean Freezing Industry & Trade General Corporation ("Shantou Ocean"); Shantou Ruiyuan Industry Co., Ltd. ("Shantou Ruiyuan"); Shantou Sez Xu Hao Fastness Freeze Aquatic Factory Co., Ltd. ("Shantou Sez Xuhao"); Shantou Shengping Oceanstar Business Co., Ltd. ("Shantou Shengping Oceanstar"); Shantou Wanya Food Factory Co., Ltd. ("Shantou Wanya"); Shantou Yuexing Enterprise Company ("Shantou Yuexing"); Taizhou Zhonghuan Industrial Co., Ltd. ("Taizhou Zhonghuan"); Xuwen Hailang Breeding Co., Ltd. ("Xuwen Hailang"); Yantai Wei-Cheng Food Co., Ltd. ("Yantai Wei-Cheng"); Zhanjiang Bobogo Ocean Co., Ltd. ("Zhanjiang Bobogo"); Zhanjiang Newpro Food Co., Ltd. ("Zhanjiang Newpro"); Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd. ("Zhanjiang Evergreen"); Zhanjiang Go-Harvest Aquatic Products Co. Ltd. ("Zhanjiang Go-harvest"); Zhanjiang Runhai Foods Co., Ltd. ("Zhanjiang Runhai"); Zhanjiang Universal Seafood Corp. ("Zhanjiang Universal"); Zhejiang Cereals, Oils & Foodstuffs Import & Export Co., Ltd. ("Zhejiang Cereals"); Zhejiang Daishan Baofa Aquatic Product Co., Ltd. ("Daishan"); Zhejiang Evernew Seafood Corp., Ltd. ("Zhejiang Evernew"); Zhejiang Taizhou Lingyang Aquatic Products Co., Ltd. ("Lingyang"); Zhejiang Zhenglong Foodstuffs Co., Ltd. ("Zhejiang Zhenlong");

Zhoushan Cereals, Oils & Foodstuffs Import & Export Co., Ltd. ("Zhoushan Cereals"); Zhoushan Diciaryuan Aquatic Products Co., Ltd. ("Zhoushan Diciaryuan"); Zhoushan Haichang Food Co., Ltd. ("Zhoushan Haichang"); Zhoushan Huading Seafood Co., Ltd. ("Zhoushan Huading"); Zhoushan Industrial Co., Ltd. ("Zhoushan Industrial"); Zhoushan Lizhou Fishery Co., Ltd. ("Zhoushan Lizhou"); Zhoushan Putuo Huafa Sea Products Co., Ltd. ("Zhoushan Putuo"); Zhoushan Xifeng Aquatic Co., Ltd. ("Zhoushan Xifeng"); Zhoushan Zhenyang Developing Co., Ltd. ("Zhoushan Zhenyang"); and ZJ CNF Sea Products Engineering Ltd./CNF Zhangjiang (Tong Lian) ("ZJ CNF Sea Products").

³ Yelin Enterprise Co. Hong Kong, a Hong Kong exporter of subject merchandise and its wholly or partially owned subsidiaries, Shantou Yelin Frozen Seafood Co. (Shantou, China), Yangjiang City Yelin Hoi Tat Quick Frozen Seafood Co., Ltd. (Hailing, China), and Fuqing Yihua Aquatic Food Co., Ltd. (Fujian, China), Chinese producers and/or resellers of merchandise subject to this investigation, and Ocean Duke Corporation, the U.S. importing and resale affiliate of HK Yelin (collectively referred to as "Yelin," unless otherwise identified).

Department's 2nd supplemental Section A questionnaire.

On August 4, 2004, the Department received Meizhou's request for an extension of the deadline to respond to the Department's request for submission of a sales reconciliation package. The Department granted this request on August 6, 2004. The Department also received Zhanjiang Guolian's response to the Department's 4th supplemental questionnaire dated July 27, 2004.

On August 9, 2004, the Department received Yelin's supplemental information prior to verification and Meizhou's sales reconciliation information. The Department also sent verification outlines to Zhanjiang Guolian, Allied, Meizhou, Shantou Ocean, and Red Garden and its suppliers, Mingfeng and Shantou Longfeng Foodstuff Co., Ltd. ("Longfeng").

On August 11, 2004, the Department received Petitioners' pre-verification comments regarding Red Garden and Zhanjiang Guolian. On August 12, 2004, the Department received Allied's, Yelin's and Red Garden's supplemental questionnaire responses.

On August 16, 2004, the Department received Yelin's 3rd supplemental questionnaire response, Red Garden's and Zhanjiang Guolian's pre-verification corrections and a notice of intent to participate in the hearing from Petitioners. On August 17, 2004, the Department received Petitioners' pre-verification comments regarding Meizhou. On August 19, 2004, the Department sent a verification agenda outline to Yelin and its suppliers. On August 20, 2004, the Department received Petitioners' pre-verification comments regarding Yelin.

On August 26, 2004, the Department received a letter from Yelin requesting that their August 9, 2004 submission be removed from the record. On August 31, 2004, the Department received corrections to Allied's pre-verification corrections and revisions to Yelin's August 9, 2004 submission. On September 7, 2004, the Department received revised exhibits from Yelin to its August 9, 2004 submission.

On September 8, 2004, the Department received Zhanjiang Guolian's, Allied's, Yelin's Red Garden's and Petitioners' surrogate value data, as well as additional surrogate information from the Mandatory Respondents. On September 15, 2004, the Department received Petitioners' comments on Yelin's September 7, 2004 submission. On September 16, 2004, the Department removed Yelin's September 7, 2004 submission from the record.

On September 20, 2004, the Department received Zhanjiang Guolian's, Allied's and Yelin's additional factual information. On September 20, 2004, the Department received Petitioners' factual information rebuttal to the respondents' data as well as a request for an extension of the briefing schedule. On September 22, 2004, the Department released verification reports for Meizhou, Red Garden, Mingfeng, and Shantou Ocean. On September 24, 2004, the Department released the verification reports for Allied and Zhanjiang Guolian. On October 12, 2004, the Department released Yelin's verification report.

On November 8, 2004, the Department sent letters to Zhanjiang Guolian, Allied and Yelin concerning the verifications of those companies. On November 23, 2004, Petitioners submitted comments on Red Garden's November 19, 2004 response, arguing that Red Garden submitted more than minor corrections.

Section A Respondents

On July 19, 2004, the following companies submitted new factual information regarding their separate rates claim: Shantou Yuexing; Zhanjiang Go-Harvest, Shantou/Chaoyang Qiaofeng, Zhanjiang Runhai, Fuqing Longwei, Shantou Jinhang; Zhanjiang Evergreen; and Fuqing Dongwei. On July 21, 2004, the Department sent out second supplemental Section A questionnaires to the following respondents: Shantou Ocean, Beihai Zhengwu, Zhoushan Lizhou, Zhoushan Cereals, Zhanjiang Bobogo, Yantai Wei-Cheng, Shantou/Chaoyang Qiaofeng, Dongri Aquatic, Shantou Yuexing, Zhanjiang Newpro, Zhoushan Huading, Pingyang Xinye and Xuwen Hailang.

On July 26, 2004, the Department received a request for an extension of time to answer the Department's 2nd supplemental Section A questionnaire from Beihai Zhengwu. On July 28, 2004, the Department received extension requests from GDLSK Respondents.⁴

On August 2, 2004, the Department sent 2nd supplemental Section A questionnaires to the following companies: Shantou Ocean, Shantou/Chaoyang Qiaofeng, Xuwen Hailang, and the Department sent and received 2nd supplemental Section A questionnaire responses the same day from Dongri Aquatic, Shantou Freezing, Zhanjiang Newpro and Shantou Yuexing. On August 4, 2004, the Department received 2nd supplemental Section A responses from Zhoushan Cereals, Zhoushan Lizhou, Zhoushan

Huading, Pingyang Xinye, Yantai Wei-Cheng and Beihai Zhengwu. On August 4, 2004, the Department received Zhanjiang Bobogo's 2nd supplemental Section A response.

On September 3, 2004, the Department received case briefs from the following exporters who did not receive a separate rate in the *Preliminary Determination*: Shantou/Chaoyang Qiaofeng, Fuqing Dongwei, Fuqing Longwei, Leizhou Zhulian, Shantou Freezing, Shantou Jinhang, Shantou Ruiyuan, Zhanjiang Evergreen, Zhanjiang Go-harvest, and Zhanjiang Runhai. On October 18, 2004, the Department received Hainan Golden's case brief.

On October 19, 2004, the Department received case briefs from: Jinfu Trading, Zhangjian Guolian, Zhoushan Haichang, Asian Seafoods, Shantou Sez Xuhao, Zhejiang Evernew, Zhejiang Zhenglong, Zhoushan Industrial, Zhoushan Putuo, Zhoushan Xifeng, Daishan, Zhoushan Zhenyang, Yelin, Allied, Lingyang, Kaifeng, Shanghai Linghai, Zhoushan Diciaryuan, Red Garden, Zhejiang Cereals, Taizhou Zhonghuan and Petitioners. On October 26, 2004, the Department received rebuttal briefs from Savvy, Zhanjiang Bobogo, Jinfu Trading, Zhangjian Guolian, Zhoushan Haichang, Zhejiang Evernew, Zhejiang Zhenglong, Zhoushan Industrial, Zhoushan Putuo, Zhoushan Xifeng, Daishan, Zhoushan Zhenyang, Yelin, Allied, Lingyang, Kaifeng, Shanghai Linghai, Zhoushan Diciaryuan, Zhejiang Cereals, Taizhou Zhonghuan, Meizhou, Mingfeng, and Longfeng. On November 19, 2004, the Department received Red Garden's post-verification response.

Scope Comments by Interested Parties

On July 16, 2004, the Department received a scope exclusion request on behalf of Xian-Ning Seafood Co. Ltd. ("Xian-Ning") asking the Department to determine whether shrimp scampi is outside the scope of the antidumping investigation. On August 2, 2004, the Department received scope comments from Eastern Fish/Long John Silver ("Eastern Fish/LJS"). On September 24, 2004, the Department received Lee Kum Kee's request to determine whether shrimp sauce is outside the scope of this investigation. The Department scheduled a scope hearing for November 8, 2004, but postponed the hearing until November 23, 2004. On October 20, 2004, the Department received case briefs regarding dusted shrimp from Eastern Fish/LJS and Xian-Ning and also received a notice of intent from them to participate in the hearing. On October 25, 2004, the Department received a rebuttal brief from Eastern

⁴ Allied and Yelin (collectively "GDLSK Respondents").

Fish/LJS. On November 2, 2004, the Department received a letter from the American Breaded Shrimp Processors Association ("ABSPA") objecting to the decision to cancel the hearing on scope issues. On November 4, 2004, the Department also sent a letter to ABSPA notifying them that they did not submit any case or rebuttal briefs in the scope issues and that they could not make any presentations in the scope hearing because they did not submit any case or rebuttal briefs. On November 18, 2004, Department officials met with Petitioners on the appropriate surrogate values for raw shrimp and whether or not to exclude dusted and battered shrimp from the scope of the investigations involving all of the countries in the shrimp investigations (Brazil, Ecuador, India, Thailand, PRC and Vietnam). On November 22, 2004, Department of Commerce officials met with representatives of Xian-Ning, to discuss their scope exclusion request for shrimp scampi.

Analysis of Comments Received

The issue of separate rates raised in the case and rebuttal briefs by parties in this investigation are addressed in the Final Separate Rates Memorandum, dated November 29, 2004 ("Final Separate Rates Memorandum"), which is hereby adopted by this notice. The various scope issues are discussed in the "Scope Comments" section of this notice and the separate scope memoranda referenced in that section. All other issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, dated November 29, 2004, which is hereby adopted by this notice ("Decision Memorandum"). A list of the issues which parties raised and to which we respond in the *Decision Memorandum* is attached to this notice as an Appendix. The *Decision Memorandum* is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room B-099, and is accessible on the Web at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the memorandum are identical in content.

Scope Comments

On November 29, 2004, the Department made a scope determination with respect to Lee Kum Kee's shrimp sauce. See *Memorandum from Edward C. Yang, Vietnam/NME Unit Coordinator, Import Administration to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Antidumping Investigation on Certain Frozen and*

Canned Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the Socialist Republic of Vietnam and the Socialist Republic of Vietnam: Scope Clarification on Lee Kum Kee's Shrimp Sauce ("Shrimp Sauce Scope Memo"), dated November 29, 2004. Based on the information presented by interested parties, the Department determines that Lee Kum Kee's shrimp sauce is excluded from the scope of this investigation. See *Shrimp Sauce Scope Memo* at 8.

On November 29, 2004, the Department made a scope determination with respect to shrimp scampi. See *Memorandum from Edward C. Yang, Vietnam/NME Unit Coordinator, Import Administration to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Antidumping Investigation on Certain Frozen and Canned Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the Socialist Republic of Vietnam and the Socialist Republic of Vietnam: Scope Clarification on Shrimp Scampi ("Shrimp Scampi Scope Memo")*, dated November 29, 2004. Based on the information presented by interested parties, the Department determines that shrimp scampi is included in the scope of this investigation. See *Shrimp Scampi Scope Memo* at 8.

Additionally, on November 29, 2004, the Department made a scope determination with respect to dusted shrimp and battered shrimp. See *Memorandum from Edward C. Yang, Vietnam/NME Unit Coordinator, Import Administration to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Antidumping Investigation on Certain Frozen and Canned Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the Socialist Republic of Vietnam and the Socialist Republic of Vietnam: Scope Clarification on Dusted Shrimp and Battered Shrimp ("Dusted/Battered Scope Memo2")*, dated November 29, 2004. Based on the information presented by interested parties, the Department determines that (1) certain dusted shrimp, produced from fresh (or thawed-from-frozen) and peeled shrimp to which a "dusting" layer of rice or wheat flour of at least 95 percent purity has been applied so that the entire surface of the shrimp flesh is thoroughly and evenly coated with the flour and the non-shrimp content of the end product constitutes between 4 to 10 percent of the product's total weight after being dusted, but prior to being frozen and is subjected to individually quick frozen freezing immediately after application of the dusting layer; and (2) battered shrimp, when dusted in accordance

with the definition of dusting, coated with a wet viscous layer containing egg and/or milk, and par-fried are excluded from the scope of this investigation. See *Dusted/Battered Scope Memo* at 28.

Scope of Investigation

The scope of this investigation includes certain warmwater shrimp and prawns, whether frozen or canned, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,⁵ deveined or not deveined, cooked or raw, or otherwise processed in frozen or canned form.

The frozen or canned warmwater shrimp and prawn products included in the scope of the investigations, regardless of definitions in the Harmonized Tariff Schedule of the United States ("HTSUS"), are products which are processed from warmwater shrimp and prawns through either freezing or canning 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, whiteleg 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 investigation. 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 investigation.

Excluded from the scope are (1) breaded shrimp and prawns (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

⁵ "Tails" in this context means the tail fan, which includes the telson and the uropods.

whether shell-on or peeled (0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (1605.20.05.10); and (5) dried shrimp and prawns.

The products covered by this investigation are currently classified under the following HTSUS subheading: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, 1605.20.10.30, and 1605.20.10.40. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written descriptions of the scope of this investigation is dispositive.

The Department has issued nine decisions regarding the scope of the merchandise covered by this investigation: (1) On May 21, 2004, the Department declined to expand the scope of this investigation to include fresh (never frozen) shrimp; (2) on July 2, 2004, pursuant to a request from Ocean Duke, the Department found that its "Seafood Mix" is excluded from the scope of this investigation; (3) on July 2, 2004, the Department found that salad shrimp, sold in counts of 250 pieces or higher, are included within the scope of the this investigation; (4) on July 2, 2004, the Department found *Macrobrachium Rosenbergii* and organic shrimp included within the scope of this investigation; (5) on July 2, 2004, the Department found that peeled shrimp are included within the scope of this investigation; (6) on November 29, 2004, the Department found that shrimp sauce is excluded from the scope of this investigation; (7) on November 29, 2004, the Department found Xian-Ning Seafood Co., Ltd.'s scampi shrimp included within the scope of this investigation; (8) on November 29, 2004, the Department found certain dusted shrimp⁶ are outside the scope of this

investigation; and (9) on November 29, 2004, the Department found certain battered shrimp⁷ are outside the scope of this investigation.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the Mandatory Respondents and certain Section A Respondents for use in our final determination. See the Department's verification reports on the record of this investigation in the CRU with respect to Allied, Red Garden, Yelin, Zhanjiang Guolian, Shantou Ocean, and Meizhou. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

Period of Investigation

The period of investigation ("POI") is April 1, 2003, through September 30, 2003. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition. See Section 351.204(b)(1) of the Department's regulations.

Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) India is at a level of economic development comparable to that of the PRC; (2) Indian manufacturers produce comparable merchandise and are significant producers of frozen and canned warmwater shrimp; (3) India provides the best opportunity to use appropriate, publicly available data to value the factors of production. See *Preliminary Determination*, 69 FR at 42678; and see *Memorandum from Ron Lorentzen to James Doyle: Antidumping Duty Investigation on Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China*, dated March 10, 2004. We received no comments from interested parties concerning our selection of India as the surrogate country. For the final determination we have determined to continue to use India as the surrogate country and, accordingly, have calculated normal value using Indian prices to value the respondents' factors of production, when available and

Battered Shrimp ("Dusted/Battered Scope Memo2"), dated November 29, 2004.

⁷ 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.

appropriate. We have obtained and relied upon publicly available information wherever possible. For a detailed description of the surrogate values that have changed as a result of comments the Department has received, see *Final Surrogate Value Memorandum* (November 29, 2004).

Separate Rates

In the *Preliminary Determination* and the *Amended Preliminary Determination* the Department found that several companies which provided responses to Section A of the antidumping questionnaire were eligible for a rate separate from the PRC-wide rate. For the final determination, we have determined that additional companies have qualified for separate-rate status. See *Final Separate Rates Memorandum*. For a complete listing of all the companies that received a separate rate, see the "Final Determination Margins" section below.

As discussed below, the Department applied adverse facts available with respect to Meizhou, because we have determined that Meizhou did not provide verifiable information to support its request for a separate rate. Accordingly, Meizhou has not overcome the presumption that it is part of the PRC-wide entity and its entries will be subject to the PRC-wide rate.

The margin we calculated in the *Preliminary Determination* for the companies receiving a separate rate was 49.09 percent. Because the rates of the selected Mandatory Respondents have changed since the *Preliminary Determination* and the *Amended Preliminary Determination*, we have recalculated the rate for Section A Respondents that are eligible for a separate rate. The rate is 55.23 percent. See *Memorandum to the File from John D. A. LaRose, Calculation of Section A Rates*, dated November 29, 2004.

Critical Circumstances

For this final determination there have been no changes to the preliminary affirmative critical circumstances determinations. As such, the Department continues to find that critical circumstances exist for the following entities: Allied, Yelin, all the Section A Respondents granted a separate rate, and the PRC-wide entity. Additionally, for this final determination we continue to find that critical circumstances do not exist with regard to imports of certain frozen and canned warmwater shrimp from the PRC for Zhanjiang Guolian or Red Garden. For further details regarding the Department's critical circumstances analysis from the *Preliminary*

⁶ Dusted shrimp is a shrimp-based product that (1) 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) So that the entire surface of the shrimp flesh is thoroughly and evenly coated with the flour; and (4) The non-shrimp content of the end product constitutes between 4 to 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) Is subjected to IQF freezing immediately after application of the dusting layer. See *Memorandum from Edward C. Yang, NME Unit Coordinator, Import Administration to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration Antidumping Investigation on Certain Frozen and Canned Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the Socialist Republic of Vietnam and the Socialist Republic of Vietnam: Scope Clarification on Dusted Shrimp and*

Determination, please see the *Memo from Edward C. Yang, Office Director to Jeffrey A. May, Deputy Assistant Secretary for Import Administration, Regarding the Antidumping Duty Investigation of Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China—Partial Affirmative Preliminary Determination of Critical Circumstances*, dated July 2, 2004.

On October 6, 2004, Lingyang submitted three years of its company-specific export data for the Department's critical circumstances analysis. However, because the Department has determined that Lingyang is not entitled to a separate rate and continues to be part of the PRC-wide entity, we have not considered this data for the final determination. See *Final Determination for Sales at Less than Fair Value Investigation of Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China: Section A Respondents Issues Memorandum from Julia Hancock, Case Analyst through James C. Doyle, Edward C. Yang* ("Final Section A Respondent Memo"), dated November 29, 2004 at Attachment II.

The PRC-Wide Rate

Because we begin with the presumption that all companies within a non market-economy ("NME") country are subject to government control and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, e.g., *Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the "Final Determination Margins" section below (except as noted). The information used to calculate this PRC-wide rate was corroborated independently with some small changes in accordance with section 776(c) of the Act. See *Memorandum to the File from Alex Villanueva, Senior Case Analyst through James C. Doyle, Program Manager and Edward C. Yang, Director, NME Unit, Preliminary Determination in the Investigation of Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China, Corroboration Memorandum* ("Corroboration Memo"), (July 2, 2004).

Facts Available

Red Garden's Partial Adverse Facts Available

For the final determination, the Department is applying partial facts available to Red Garden regarding a portion of its sales produced by Meizhou because it failed to provide the factors of production ("FOP") data that the Department had requested, in accordance with section 776(a)(2)(A) of the Act.

Section 776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

In its August 5, 2004 submission and subsequent rebuttal brief, Red Garden chronicled its various attempts to obtain FOP information from Meizhou pertaining to its purchases of subject merchandise during the POI. However, at the Department's verification of Meizhou, the current ownership provided an inconsistent account of Red Garden's attempt to obtain this information from what Red Garden had previously reported to the Department. See *Red Garden's August 5, 2004 Supplemental Questionnaire Response* at Exhibit 1. On the basis of these inconsistent accounts of Red Garden's efforts, we find that Red Garden withheld information that had been requested by the Department and provided unverifiable information.

Furthermore, in accordance with section 776(b) of the Act, the Department found that Red Garden failed to cooperate to the best of its ability to comply with the Department's request for information, and, therefore, finds an adverse inference is warranted in determining the facts otherwise available.

During the time period that Meizhou completed its own responses, company officials had access to the records needed by Red Garden. See *Memorandum from John D.A. LaRose to Alex Villanueva, Acting Program Manager, regarding Verification of Sales and Factors of Production for Meizhou Aquatic Shantou Ocean Freezing Antidumping Duty Investigation of Certain Canned and Frozen Warmwater*

Shrimp from the People's Republic of China, (September 22, 2004). Thus, we find that Red Garden, despite its information to the contrary, by not contacting current ownership of Meizhou, or the ownership that was in place when Red Garden was responding to the Department's questionnaires, did not act to the best of its ability to obtain the FOP information from Meizhou. The Department determines that partial adverse facts is warranted for the portion of Red Garden's sales produced by Meizhou. Therefore, we are applying the PRC-wide rate to all of these sales by Red Garden during the POI.

Yelin's Partial Facts Available

For the final determination, the Department is applying partial facts available for Yelin's purchases of STPP used in the processing stage of subject merchandise production in accordance with sections 776(a)(1) and 776(a)(2)(D) of the Act.

When calculating its STPP usage, Yelin incorrectly allocated STPP usage over the shrimp input factor. See *Memorandum from John D.A. LaRose to Alex Villanueva, Acting Program Manager, regarding Verification of Sales and Factors of Production for Yelin Enterprise Co. Hong Kong, Antidumping Duty Investigation of Certain Canned and Frozen Warmwater Shrimp from the People's Republic of China* ("Yelin Verification Report"), dated October 12, 2004 at 22. It is inaccurate for Yelin to allocate this consumption over the shrimp input because it misrepresents the actual usage of STPP. In order for the Department to calculate the most accurate dumping margin for Yelin, normal value should be calculated using all of Yelin's FOPs during the POI. Because the STPP usage was not reported correctly, the reported usage by Yelin was not verifiable. At verification, the Department further explored the issue by requesting Yelin's purchase records for STPP. Yelin's audited financial records did not reflect STPP purchases. *Id.* Therefore, the Department determines that Yelin was unable to support its reported STPP usage rates.

In accordance with section 776(a)(2)(D) of the Act, the Department may determine that facts available apply due to the Department's inability to verify information provided by an interested party. Because Yelin was unable to support its purchases and usage of STPP, the Department is applying partial facts available for Yelin's factor usage for STPP. As facts available, the Department has calculated the factor usage ratio for STPP by taking the highest monthly volume figure of

STPP, multiplying that figure by six (for the six months in the POI) and dividing that by production of total finished product during the POI.

In addition, the Department is applying partial facts available regarding Yelin's sales of its by-product offset to normal value in the final determination. The Department at verification determined that Yelin's audited financial records did not reflect any by-product sales. *See Yelin Verification Report* at 22. In order for the Department to properly offset Yelin's normal value for its by-products sales, the Department would need evidence that Yelin actually sold the by-products during the POI. At verification, Yelin provided unofficial information regarding its by-product sales which could not be reconciled to its audited financial statements. In accordance with section 776(a)(2)(D) of the Act, because the Department was unable to verify information provided by Yelin, the Department is not making an adjustment to normal value for by-product sales.

Zhanjiang Guolian's Partial Facts Available

For the final determination, the Department is applying partial facts available regarding Zhanjiang Guolian's unreported consumption of diesel fuel. *See Memorandum from Irene Gorelik to Alex Villanueva, Acting Program Manager, regarding Verification of Sales and Factors of Production for Zhanjiang Guolian Aquatic Products Co., Ltd. Antidumping Duty Investigation of Certain Canned and Frozen Warmwater Shrimp from the People's Republic of China*, dated September 24, 2004. The Department learned during verification that this particular factor is used at an integral stage of Zhanjiang Guolian's farming and processing operations. Therefore, the Department finds that

diesel fuel is a significant expense related to transport of the primary input and must be included in the FOP database. In accordance with section 776(a)(1) of the Act, the Department may use the facts available if necessary information is not available on the record.

In its case brief submitted on October 19, 2004, Zhanjiang Guolian stated that diesel fuel was booked in the company's financial records as overhead. However, the Department found that the diesel fuel used by Zhanjiang Guolian is a significant material input for the production of subject merchandise. Zhanjiang Guolian did not report diesel fuel as a factor of production in the questionnaire dated February 25, 2004. Thus, since diesel fuel as an FOP is not on the record, the Department must make a determination using the facts available with regard to Zhanjiang Guolian's consumption of diesel fuel during the POI.

As facts available, the Department is using information from Zhanjiang Guolian obtained at verification to calculate the value for diesel fuel consumption. *See Preliminary Factor Valuation Memo* at Exhibit 6 and *Memorandum to James C. Doyle, Office Director, from John D.A. LaRose, Case Analyst, through Alex Villanueva, Acting Program Manager, Regarding Selection of Surrogate Factor Values for Allied Pacific, Yelin, Zhanjiang Guolian, and Red Garden* ("Final Factor Valuation Memorandum").

Changes Since the Preliminary Determination

Based on our findings at verification, additional information placed on the record of this investigation, and analysis of comments received, we have made adjustments to the calculation methodology for the final dumping margins in this proceeding. For

discussion of the company-specific changes made since the preliminary determination to the final margin programs, *see Final Analysis Memo for Allied, Final Analysis Memo for Red Garden, Final Analysis Memo for Yelin, and Final Analysis Memo for Zhanjiang Guolian*.

Margins for Cooperative Exporters Not Selected

For those exporters who responded to Section A of the Department's antidumping questionnaire, established their claim for a separate rate, and had sales of the merchandise under investigation, but were not selected as Mandatory Respondents in this investigation, the Department has calculated a weighted-average margin based on the rates calculated for those exporters that were selected to respond in this investigation, excluding any rates that are zero, *de minimis* or based entirely on adverse facts available. Companies receiving this rate are identified by name in the "Suspension of Liquidation" section of this notice. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 64 FR 24101 (May 11, 2001). For further discussion, see the *Preliminary Determination*.

Surrogate Values

The Department made changes to the surrogate values used to calculate the normal value from the *Preliminary Determination*. For a complete discussion of the surrogate values, see *Issues and Decisions Memorandum* at Comments 1, 2, 7 (B), and 9 (D) and (F).

Final Determination Margins

We determine that the following percentage weighted-average margins exist for the POI:

Company	Weighted-average margin (percent)
Allied Pacific Group ("Allied")	84.93
Yelin Enterprise Co Hong Kong ("Yelin")	82.27
Shantou Red Garden Foodstuff Co., Ltd. ("Red Garden")	27.89
Zhanjiang Guolian Aquatic Products Co., Ltd. ("Zhanjiang Guolian")07 (<i>de minimis</i>)
PRC Wide Rate	112.81

CERTAIN FROZEN AND CANNED WARMWATER SHRIMP FROM PRC SECTION A RESPONDENTS

Manufacturer/exporter	Weighted-average margin (percent)
Asian Seafoods (Zhanjiang) Co., Ltd.	55.23
Beihai Zhengwu Industry Co., Ltd.	55.23
Chaoyang Qiaofeng Group Co., Ltd. (Shantou Qiaofeng (Group) Co., Ltd.) (Shantou/Chaoyang Qiaofeng)	55.23

CERTAIN FROZEN AND CANNED WARMWATER SHRIMP FROM PRC SECTION A RESPONDENTS—Continued

Manufacturer/exporter	Weighted-average margin (percent)
Chenghai Nichi Lan Food Co., Ltd.	55.23
Dalian Ftz Sea-Rich International Trading Co., Ltd.	55.23
Dongri Aquatic Products Freezing Plants	55.23
Fuqing Dongwei Aquatic Products Industry Co., Ltd.	55.23
Gallant Ocean (Liangjiang) Co., Ltd.	55.23
Hainan Fruit Vegetable Food Allocation Co., Ltd.	55.23
Hainan Golden Spring Foods Co., Ltd./Hainan Brich Aquatic Products Co., Ltd.	55.23
Kaifeng Ocean Sky Industry Co., Ltd.	55.23
Leizhou Zhulian Frozen Food Co., Ltd.	55.23
Pingyang Xinye Aquatic Products Co., Ltd.	55.23
Savvy Seafood Inc.	55.23
Shanghai Taoen International Trading Co., Ltd.	55.23
Shantou Long Feng Foodstuffs Co., Ltd. (Shantou Longfeng Foodstuffs Co., Ltd.)	55.23
Shantou Wanya Food Factory Co., Ltd.	55.23
Shantou Jinyuan District Mingfeng Quick-Frozen Factory	55.23
Shantou Ocean Freezing Industry and Trade General Corporation	55.23
Shantou Shengping Oceanstar Business Co., Ltd.	55.23
Shantou Yuexing Enterprise Company	55.23
Shantou Ruiyuan Industry Co., Ltd.	55.23
Shantou Freezing Aquatic Product Food Stuffs Co.	55.23
Shantou Jinhang Aquatic Industry Co., Ltd.	55.23
Xuwen Hailang Breeding Co., Ltd.	55.23
Yantai Wei-Cheng Food Co., Ltd.	55.23
Zhangjiang Newpro Food Co., Ltd.	55.23
Zhangjiang Bobogo Ocean Co., Ltd.	55.23
Zhanjiang Runhai Foods Co., Ltd.	55.23
Zhanjiang Go-Harvest Aquatic Products Co., Ltd.	55.23
Zhanjiang Universal Seafood Corp.	55.23
Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd.	55.23
Zhoushan Huading Seafood Co., Ltd.	55.23
Zhoushan Cereals Oils and Foodstuffs Import and Export Co., Ltd.	55.23
Zhoushan Lizhou Fishery Co., Ltd.	55.23

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all entries of subject merchandise from Red Garden, that are entered, or withdrawn from warehouse, for consumption on or after the July 16, 2004, the date of publication of the *Preliminary Determination*. However, with respect to Allied, Yelin, all the Section A Respondents granted a separate rate, and all other PRC exporters, the Department will continue to direct CBP to suspend liquidation of all entries of certain frozen and canned warmwater shrimp from the PRC that are entered, or withdrawn from warehouse, on or after 90 days before the July 16, 2004, the date of publication of the *Preliminary Determination*. With respect to Zhanjiang Guolian, the Department will not direct the CBP suspend liquidation of any entries of certain frozen and canned warmwater shrimp from the PRC as described in the "Scope of Investigation" section, that are entered, or withdrawn from warehouse, for consumption on or after

the date of publication of this notice in the **Federal Register**. The Department does not require any cash deposit or posting of a bond for Zhanjiang Guolian when the subject merchandise is produced and exported by Zhanjiang Guolian. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does

not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or 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.

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

Dated: November 29, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix

I. General Issues:

- Comment 1: Raw Shrimp Surrogate Value
- Comment 2: Surrogate Value for Labor
- Comment 3: Combination Rates
- Comment 4: Weight Averaging the Dumping Margins
- Comment 5: Department's Offset Methodology

II. Company-Specific Issues

- Comment 6: Red Garden
 - A. Weighting Factor Between Mingfeng⁸ and Long Feng⁹
- B. Partial Adverse Facts Available for Sales Made using Meizhou¹⁰
- C. Red Garden's Deposit Rate
- Comment 7: Yelin & Allied Pacific
 - A. Critical Circumstances
 - B. Surrogate Financial Ratios
- Comment 8: Yelin
 - A. Facts Available for Water, Electricity, Diesel Fuel and Heavy Oil
 - B. Facts Available for Labor
 - C. Partial Facts Available for STPP¹¹
 - D. Denial of By-Products Offset
 - E. Rejected Submissions
- Comment 9: Zhanjiang Guolian
 - A. Minor Corrections
 - B. Ice and Diesel Fuel
 - C. Land Lease
 - D. Surrogate Value for Shrimp Feed
 - E. Valuation of Integrated Factors of Production
- F. Surrogate Financial Ratios

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-802]

Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam

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

SUMMARY: On July 16, 2004, the Department of Commerce published its preliminary determination of sales at less than fair value ("LTFV"), negative preliminary determination of critical circumstances, and postponement of the final determination in the antidumping investigation of certain frozen and canned warmwater shrimp from the Socialist Republic of Vietnam

("Vietnam"). On September 1, 2004, the Department of Commerce published an amended preliminary determination of sales at LTFV. The period of investigation ("POI") is April 1, 2003, through September 30, 2003.

The investigation covers four shrimp processors which are Mandatory Respondents¹ and 34 Section A Respondents.² We invited interested parties to comment on our preliminary determination and amended preliminary determination of sales at LTFV. Based on our analysis of the comments we received, we have made changes to our calculations for the four Mandatory Respondents.

DATES: Effective Date: December 8, 2004.
FOR FURTHER INFORMATION CONTACT: Alex Villanueva, 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) 482-3208.

Final Determination

We determine that certain frozen and canned warmwater shrimp from Vietnam is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of Tariff Act of 1930, as Amended ("the Act"). The estimated margins of sales at LTFV are

¹ Camau Frozen Seafood Processing Import Export Corporation ("Camimex"); Kim Anh Co., Ltd. ("Kim Anh"); Minh Phu Seafood Corporation ("Minh Phu"); Minh Hai Joint-Stock Seafoods Processing Company ("Seaprodex Minh Hai").

² Can Tho Animal Fisheries Product Processing Export Enterprise ("Cafatex"); Cai Doi Vam Seafood Import Export Company ("Cadovimex"); Sao Ta Foods Joint Stock Company ("Fimex VN"); Viet Hai Seafood Company ("Vietnam Fish-One"); Kiengiang Seafood Import Export Company ("Kisimex"); Soc Trang Aquatic Products and General Import Export Company ("Stapimex"); Coastal Fisheries Development Corporation ("Cofidec"); Phuong Nam Co., Ltd. ("Phuong Nam"); Cuu Long Seaproducts Company ("Cuulong Seapro"); Minh Hai Export Frozen Seafood Processing Joint-Stock Company ("Jostoco"); Can Tho Agriculture and Animal Products Import Export Company ("Cataco"); Nha Trang Fisheries Co. ("Nha Trang"); Nhatrang Seaproduct Company ("Nhatrang Seafoods"); Minh Hai Seaproducts Import and Export Corporation ("Seaprimex"); Thuan Phuoc Seafoods and Trading Corporation; Nha Trang Fisheries Joint Stock Company ("Nhatrang Fisco"); Danang Seaproducts Import Export Company ("Seaprodex Danang"); C.P. Vietnam Livestock; UTXI Aquatic Products Processing Company ("UTXI"); Viet Nhan Company; Investment Commerce Fisheries Corporation ("Incomfish"); Vinhloi Import Export Company ("VIMEXCO"); Bac Lieu Fisheries; Viet Foods Co., Ltd. ("Viet Foods"); Truc An Company ("Truc An"); Cam Ranh Seafoods Processing Enterprise Company ("Camranh Seafoods"); Hai Thuan Company ("Hai Thuan"); Phu Cuong Seafood Processing ("Phu Cuong"); Ngoc Sinh Company ("Ngoc Sinh"); Aquatic Product Trading Company ("APT"); Song Huong ASC Import-Export Company Ltd. ("ASC"); Hanoi Seaproducts Import Export Corp. ("Seaprodex Hanoi"); Pataya Food Industries (Vietnam) Ltd. ("Pataya VN"); and Amanda Foods (Vietnam) Ltd. ("Amanda").

shown in the "Final Determination Margins" section of this notice.

Case History

The Department of Commerce (the "Department") published its preliminary determination of sales at LTFV on July 16, 2004. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672 (July 16, 2004) ("Preliminary Determination"). On September 1, 2004, the Department published an amended preliminary determination. *See Notice of Amended Preliminary Antidumping Duty Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 53411 (September 1, 2004) ("Amended Preliminary Determination").

The Department conducted verification of the Mandatory Respondents and certain Section A Respondents' data in Vietnam. *See the "Verification" section below for additional information.*

We invited parties to comment on the *Preliminary Determination* and *Amended Preliminary Determination*. We received comments from the Ad Hoc Shrimp Trade Action Committee, Versaggi Shrimp Corporation and Indian Ridge Shrimp Company, hereinafter referred to collectively as "Petitioners," the Respondents and other interested parties to this investigation.

On October 20, 2004, parties submitted case briefs. On October 29, 2004, parties submitted rebuttal briefs.

Since the *Preliminary Determination*, the following events have occurred:

Company Specific Comments

On July 16, 2004, the Department received the sales reconciliation from Camimex, Kim Anh, Seaprodex Minh Hai and Minh Phu.

On July 21, 2004, the Department received comments from the Respondents on the Department's Customs instructions.

On July 26, 2004, the Department sent supplemental questionnaires to Seaprodex Minh Hai and Camimex. On July 27, 2004 the Department sent supplemental questionnaires to Kim Anh and Minh Phu. On July 30, 2004 the Department received a request for an extension to respond to the supplemental questionnaires from Camimex, Kim Anh and Seaprodex Minh Hai and served the verification schedule on all interested parties. On

⁸ Shantou Jinyuan District Mingfeng Quick-Frozen Factory.

⁹ Shantou Long Feng Foodstuffs Co., Ltd.

¹⁰ Meizhou Aquatic Shantou Ocean Freezing.

¹¹ Sodium Triphosphate.