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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 and Final Determination of No Shipments; 2018-2019

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

SUMMARY: The Department of Commerce (Commerce) finds that Shantou Red Garden Food Processing Co., Ltd. (Shantou RGFP) is not the successor in interest to Red Garden Food Processing Co., Ltd. Additionally, we find that that Shantou RGFP and Shantou Red Garden Foodstuff Co., Ltd. (collectively, Shantou Red Garden Foods) made sales of certain frozen warmwater shrimp (shrimp) from the People's Republic of China (China) at less than normal value during the period of review (POR) February 1, 2018 through January 31, 2019.

DATES: Applicable [Insert Date of Publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Jasun Moy, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8194.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of the administrative review of the antidumping duty order on shrimp from China on March 5, 2020.¹ On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.² On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.³ Commerce extended the deadline for the final results further by 60 days on October 2, 2020.⁴ The deadline for the final results of this review is now December 21, 2020. For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁵

Scope of the Order⁶

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, shell on or peeled, tail on or tail off, deveined or not deveined, cooked or raw, or otherwise processed in frozen form. For a full description of the scope, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in interested parties' briefs are addressed in the Issues and Decision

¹ See *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019*, 85 FR 12894 (March 5, 2020) (*Preliminary Results*).

² See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

³ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated July 22, 2020.

⁴ See Memorandum, "Frozen Warmwater Shrimp from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review, 2018-2019," dated October 2, 2020.

⁵ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China; 2018-2019," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁶ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the People's Republic of China*, 70 FR 5149 (February 1, 2005) (*Order*).

Memorandum. A list of the issues raised by interested parties and to which we responded in the Issues and Decision Memorandum is provided in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

Affiliation and Single Entity Determination

On April 29, 2020, Commerce preliminarily found that Shantou RGFP and Shantou Red Garden Foodstuff Co., Ltd. are affiliated pursuant to section 771(33) of the Tariff Act of 1930, as amended (the Act) and should be treated as a single entity for purposes of this antidumping duty proceeding pursuant to 19 CFR 351.401(f).⁷ No interested party commented on this treatment of Shantou Red Garden Foods, and this finding remains unchanged for these final results.

Final Determination of No Shipments

In the *Preliminary Results*, we found no evidence calling into question the no-shipment claims of the following companies: (1) Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd.; (2) Allied Pacific Food (Dalian) Co., Ltd.; and (3) Allied Pacific (HK) Co., Ltd. No parties commented on this preliminary decision. For the final results of this review, we continue to find that these companies had no shipments of subject merchandise to the United States during the POR.

⁷ See Memorandum, "Affiliation and Collapsing of Shantou Red Garden Food Processing Co., Ltd. with Shantou Red Garden Foodstuff Co., Ltd.," dated April 29, 2020.

Changes Since the *Preliminary Results*

After evaluating the comments received from interested parties and record information, we have made two changes to the *Preliminary Results*. First, we have elected to use Shantou Red Garden Foods' most recently-submitted factors of production (FOP) database in calculating its final weighted-average dumping margin. Second, we have determined that the use of partial adverse facts available (AFA), pursuant to sections 776(a)-(b) of the Act, is appropriate when determining the weighted-average distance of shrimp suppliers to Shantou Red Garden Foods' factory. For a more detailed discussion of these changes, *see* the Final Analysis Memorandum.⁸

Separate Rate

In the *Preliminary Results*, we found that information placed on the record by Shantou Red Garden Foods demonstrated that this entity is entitled to separate rate status, which we preliminarily granted.⁹ The American Shrimp Processors Association (ASPA) argued that Shantou Red Garden Foods failed to fully cooperate in responding to Commerce's questions regarding its ownership, control, and history, and that, as a result, Commerce should find that Shantou Red Garden Foods' information is unreliable, rendering it ineligible for a separate rate.¹⁰ For the final results, we continue to find that Shantou Red Garden Foods is eligible for a separate rate. For a more detailed discussion of this issue, *see* Issues and Decision Memorandum.

Final Results of the Review

Commerce determines that the following weighted-average dumping margin exists for the period February 1, 2018 through January 31, 2019:

⁸ *See* Memorandum, "Final Analysis Memorandum for Shantou Red Garden Food Processing Co., Ltd. and Shantou Red Garden Foodstuff Co., Ltd.," dated concurrently with, and hereby adopted by, this notice (Final Analysis Memorandum).

⁹ *See Preliminary Results*, 85 FR at 12895.

¹⁰ *See* ASPA's Case Brief, "Certain Frozen Warmwater Shrimp from China: ASPA's Case Brief," dated May 13, 2020 at 3-19.

Exporter	Weighted-Average Dumping Margin (percent)
Shantou Red Garden Food Processing Co., Ltd./Shantou Red Garden Foodstuff Co., Ltd.	58.96

China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.¹¹ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, the entity is not under review and the entity's rate (*i.e.*, 112.81 percent) is not subject to change.¹²

Aside from the no-shipment and separate rate companies discussed above, Commerce considers all other companies for which a review was requested (none of which filed a separate rate application) to be part of the China-wide entity.¹³ This includes Shantou Yuexing Enterprise Company, a company that is under review that had previously been granted a separate rate¹⁴ but that failed to submit either a no shipment certification or a separate rate certification in this review. No parties commented on this preliminary decision. For the final results of this review, we continue to find that these companies (identified in Appendix II) should be treated as part of the China-wide entity.

¹¹ See *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).

¹² See *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; 2012-2013, 79 FR 57872 (September 26, 2014).

¹³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 18777, 18777-78, (May 2, 2019) ("All firms listed below that wish to qualify for separate rate status in the administrative reviews involving {non-market economy} countries must complete, as appropriate, either a separate rate application or certification, as described below"). Companies that are subject to this administrative review that are considered to be part of the China-wide entity are identified in Appendix II.

¹⁴ See, *e.g.*, *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; 2013-2014, 79 FR 75787 (December 19, 2014).

Assessment Rates

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates for merchandise subject to this review. We calculated importer (or customer)-specific assessment rates for merchandise subject to this review on a per-unit (*i.e.*, per-kilogram) basis. Specifically, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to that importer (or customer) and divided this amount by the total quantity sold to that importer (or customer) during the POR. To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculate importer- (or customer-) specific *ad valorem* ratios based on the estimated entered value. If an importer (or customer)-specific assessment rate is *de minimis* (*i.e.*, less than 0.50 percent), Commerce will instruct CBP to liquidate that importer's (or customer's) entries of subject merchandise without regard to antidumping duties.

For entries that were not reported in the U.S. sales data submitted by Shantou Red Garden Foods during this review, Commerce will instruct CBP to liquidate such entries at the rate for the China-wide entity.¹⁵

Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review in the *Federal Register*.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final

¹⁵ See 19 CFR 351.212(b)(1).

results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for Shantou Red Garden Foods, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate published for the completed segment of the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (this includes Shantou Yuexing Enterprise Company); and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary

information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(1).

Dated: December 17, 2020

/s/ Jeffrey I. Kessler

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issues
 - Comment 1: Whether Commerce Should Consider Shantou Red Garden Foods' Ministerial Error Allegation
 - Comment 2: Whether Commerce Should Apply AFA to Shantou Red Garden Foods
 - Comment 3: Whether Commerce Has the Authority to Conduct a Successor-in-Interest (SII) Analysis Within the Context of an Administrative Review
 - Comment 4: Whether Commerce's SII Analysis was Predicated on Erroneous Data
 - Comment 5: Whether to Maintain the Existing Combination Rate
 - Comment 6: Whether Truck Revenue Should Be Added to Gross Unit Price
 - Comment 7: Whether Commerce Should Use Shantou Red Garden Foods' Revised FOP Database
- VI. Recommendation

Appendix II

Companies Receiving the China-Wide Rate¹⁶

Asian Seafoods (Zhanjiang) Co., Ltd.
Beihai Anbang Seafood Co., Ltd.
Beihai Boston Frozen Food Co., Ltd.
Beihai Tianwei Aquatic Food Co. Ltd.
Changli Luquan Aquatic Products Co., Ltd.
Dalian Beauty Seafood Company Ltd.
Dalian Haiqing Food Co., Ltd.
Dalian Home Sea International Trading Co., Ltd.
Dalian Rich Enterprise Group Co., Ltd.
Dalian Shanhai Seafood Co., Ltd.
Dalian Taiyang Aquatic Products Co., Ltd.
Dandong Taihong Foodstuff Co., Ltd.
Food Processing Co., Ltd.
Fujian Chaohui Aquatic Food Co., Ltd.
Fujian Chaohui Group
Fujian Chaohui International Trading Co., Ltd.
Fujian Dongshan County Shunfa Aquatic Product Co., Ltd.
Fujian Dongya Aquatic Products Co., Ltd.
Fujian Fuding Seagull Fishing Food Co., Ltd.
Fujian Hainason Trading Co., Ltd.
Fujian Haohui Import & Export Co., Ltd.
Fujian Rongjiang Import and Export Co., Ltd.
Fujian Zhaoan Haili Aquatic Co., Ltd.
Fuqing Chaohui Aquatic Food Co., Ltd.
Fuqing Dongwei Aquatic Products Ind.
Fuqing Dongwei Aquatic Products Industry Co., Ltd.
Fuqing Longhua Aquatic Food Co., Ltd.
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 Universal Aquatic Food Co. Ltd.
Guangdong Wanshida Holding Corp.
Guangdong Wanya Foods Fty. Co., Ltd.
HaiLi Aquatic Product Co., Ltd. Zhaoan Fujian.
Hainan Brich Aquatic Products Co., Ltd.
Hainan Golden Spring Foods Co., Ltd.

¹⁶ We removed all companies that are excluded from the order even though entries that are not exporter-producer specific to the exclusion language would fall under the rate assigned to the China-wide entity.

Huazhou Xinhai Aquatic Products Co. Ltd.
Leizhou Bei Bu Wan Sea Products Co., Ltd.
Longhai Gelin Foods Co., Ltd.
Maoming Xinzhou Seafood Co., Ltd.
New Continent Foods Co., Ltd.
North Seafood Group Co.
Penglai Huiyang Foodstuff Co., Ltd.
Qingdao Fusheng Foodstuffs Co., Ltd.
Qingdao Yihexing Foods Co., Ltd.
Qinhuangdao Gangwan Aquatic Products Co., Ltd.
Rizhao Rongxing Co. Ltd.
Rizhao Smart Foods Company Limited.
Rongcheng Yinhai Aquatic Product Co., Ltd.
Rushan Chunjiangyuan Foodstuffs Co.
Rushan Chunjiangyuan Foodstuffs Co., Ltd.
Savvy Seafood Inc.
Shanghai Zhoulian Foods Co., Ltd.
Shantou Freezing Aquatic Product Foodstuffs Co.
Shantou Jiazhou Food Industrial Co., Ltd.
Shantou Jintai Aquatic Product Industrial Co., Ltd.
Shantou Longsheng Aquatic Product Foodstuff Co., Ltd.
Shantou Ocean Best Seafood Corporation.
Shantou Ruiyuan Industry Co., Ltd.
Shantou Wanya Foods Fty. Co., Ltd.
Shantou Yuexing Enterprise Company.
Thai Royal Frozen Food Zhanjiang Co., Ltd.
Xiamen Granda Import and Export Co., Ltd.
Yangjiang Dawu Aquatic Products Co., Ltd.
Yangjiang Haina Datong Trading Co.
Yantai Wei Cheng Food Co., Ltd.
Yantai Wei-Cheng Food Co., Ltd.
Zhangzhou Donghao Seafoods Co., Ltd.
Zhangzhou Xinwanya Aquatic Product Co., Ltd.
Zhangzhou Yanfeng Aquatic Product & Foodstuff Co., Ltd.
Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd.
Zhanjiang Fuchang Aquatic Products Freezing Plant.
Zhanjiang Longwei Aquatic Products Industry Co., Ltd.
Zhanjiang Newpro Foods Co., Ltd.
Zhanjiang Universal Seafood Corp.
Zhaoan Yangli Aquatic Co., Ltd.
Zhejiang Xinwang Foodstuffs Co., Ltd.
Zhoushan Genho Food Co., Ltd.
Zhoushan Green Food Co., Ltd.