

DEPARTMENT OF COMMERCE

International Trade Administration

A-533-840

Certain Frozen Warmwater Shrimp from India: Notice of Rescission of Antidumping Duty Changed Circumstances Review

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

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

SUMMARY: On March 22, 2010, the Department of Commerce (the Department) initiated a changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp from India to determine whether R.D.R. Exports (RDR) is the successor-in-interest company to Jaya Satya Marine Exports Pvt. Ltd. (Jaya Satya). See Certain Frozen Warmwater Shrimp From India: Initiation of Antidumping Duty Changed-Circumstances Review, 75 FR 13492 (Mar. 22, 2010) (Initiation). On July 30, 2010, RDR withdrew its request for a changed circumstances review. The Department is now rescinding this changed circumstances antidumping duty administrative review.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse; AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6345.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2005, the Department published in the Federal Register an antidumping duty order on certain frozen warmwater shrimp from India. See Notice of Amended Final

Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India, 70 FR 5147 (Feb. 1, 2005).

On January 25, 2010, RDR requested that the Department conduct an expedited changed circumstances review under 19 CFR 351.221(c)(3)(iii) to determine whether it is the successor-in-interest to Jaya Satya for purposes of determining antidumping liability. On March 22, 2010, the Department initiated a changed circumstances review but did not expedite the review, as requested by RDR, because we required additional information regarding the factual statements forming the basis of RDR's changed circumstances review request. See Initiation, 75 FR at 13493.

In April, June, and July 2010, we requested further information and documentation from RDR to substantiate its claim to be the successor-in-interest to Jaya Satya. RDR submitted additional information in response to the first two of these requests in May and June 2010. On July 30, 2010, before the deadline for submitting its response to the third additional information request, RDR withdrew its request for a changed circumstances review.

Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,¹ deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are

¹ "Tails" in this context means the tail fan, which includes the telson and the uropods.

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, 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 order. In addition, food preparations, which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: 1) breaded shrimp and prawns (HTSUS subheading 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 whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain battered shrimp. Dusted shrimp is a shrimp-based product:

1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; 2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; 3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; 4) with the non-shrimp content of the end product constituting between four and ten percent of the product’s total weight after being dusted, but prior to being frozen; and 5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 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, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

Rescission of Changed Circumstances Review

Although it does not specifically reference changed circumstances reviews, section 351.213(d)(1) of the Department’s regulations provides that the Department will rescind an administrative review if the party requesting the review withdraws its request within ninety days of the date of publication of the notice of initiation of the requested review. The Department’s practice has been to apply this ninety-day deadline to changed circumstances review rescission requests. See, e.g., Certain Softwood Lumber Products from Canada: Notice of Rescission of Antidumping Duty Changed Circumstances Review, 71 FR 16120 (Mar. 30, 2006). However, 19 CFR 351.213(d)(1) also provides that the Department may extend the ninety day time limit

for withdrawing the request for an administrative review if we determine that it is reasonable to do so. In this case, RDR withdrew its request for a changed circumstances review on July 30, 2010, which is beyond ninety days of the date of initiation. However, we note that no interested party, including the petitioner, has objected to RDR's withdrawal request. Additionally, the Department has not expended significant resources conducting this review. Therefore, we determine that it is reasonable to extend the ninety day time limit in this instance. Consequently, the Department has accepted RDR's withdrawal request in this case as timely and is now rescinding this antidumping duty changed circumstances review. U.S. Customs and Border Protection will continue to suspend entries of subject merchandise at the appropriate cash deposit rate for all entries of certain frozen warmwater shrimp from India.

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 the APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with 19 CFR 351.213(d)(4) and sections 751(b) and 777(i)(1) of the Tariff Act of 1930, as amended.

Edward C. Yang
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

____ August 17, 2010 _____
(Date)

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