

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

Investigation No. 731-TA-1063, 1064, 1066-1068 (Review)

FROZEN WARMWATER SHRIMP FROM BRAZIL, CHINA, INDIA, THAILAND, AND VIETNAM

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on frozen warmwater shrimp from Brazil, China, India, Thailand, and Vietnam.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on frozen warmwater shrimp from Brazil, China, India, Thailand, and Vietnam would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is February 3, 2010. Comments on the adequacy of responses may be filed with the Commission by March 19, 2010. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

EFFECTIVE DATE: January 4, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.--On February 1, 2005, the Department of Commerce ("Commerce") issued antidumping duty orders on imports of frozen warmwater shrimp from Brazil, China, India, Thailand, and Vietnam (70 FR 5143-5156).² The Commission is conducting reviews to determine whether revocation

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 10-5-209, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

² Commerce has subsequently revoked the antidumping duty order on imports of frozen warmwater shrimp from Thailand with respect to certain manufacturer/exporters. 74 FR 5638 (January 30, 2009). On February 1, 2005, Commerce also issued an antidumping duty order on imports of frozen warmwater shrimp from Ecuador. Commerce subsequently revoked that order. 72 FR 48257 (August 23, 2007).

(continued...)

of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.--The following definitions apply to these reviews:

- (1) **Subject Merchandise** is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.
- (2) The **Subject Countries** in these reviews are Brazil, China, India, Thailand, and Vietnam.
- (3) The **Domestic Like Product** is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the **Subject Merchandise**. In its original affirmative determinations, the Commission defined the **Domestic Like Product** to consist of fresh warmwater shrimp and prawns and those frozen warmwater shrimp and prawn products defined in Commerce's scope definition. Certain Commissioners defined the **Domestic Like Product** differently.
- (4) The **Domestic Industry** is the U.S. producers as a whole of the **Domestic Like Product**, or those producers whose collective output of the **Domestic Like Product** constitutes a major proportion of the total domestic production of the product. In its original affirmative determinations, the Commission defined the **Domestic Industry** to consist of: (1) all entities that harvest fresh warmwater shrimp (i.e., fishermen and shrimp farmers) and (2) all processors of frozen shrimp products within the scope definition except for firms that do not engage in sufficient production-related activities to be considered domestic producers.³ In addition several producers were excluded by the Commission from the **Domestic Industry** pursuant to the related parties provision.
- (5) The **Order Date** is the date that the antidumping duty orders under review became effective. In these reviews, the **Order Date** is February 1, 2005.
- (6) An **Importer** is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the **Subject Merchandise** into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.--Persons, including industrial users of the **Subject Merchandise** and, if the merchandise is sold at the retail level, representative consumer

² (...continued)

On May 5, 2005, the Commission instituted changed circumstances reviews pursuant to section 751(b) of the Act concerning its affirmative determinations on frozen warmwater shrimp from India and Thailand. 70 FR 23384 (May 5, 2005). In the changed circumstances reviews, it determined that revocation of the antidumping duty orders on subject imports from India and Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. 70 FR 71557 (November 29, 2005).

³ The Commission found that processing activities such as deheading, grading, machine peeling, deveining, and cooking all constitute domestic production but that marinating and skewering do not constitute domestic production. The Commission also concluded that breading did not constitute domestic production activity because breaded shrimp was not part of the **Domestic Like Product**.

organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the *Federal Register*. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. § 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR § 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR § 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.--Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the *Federal Register*. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.--Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.--Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is February 3, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is March 19, 2010. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.--Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

INFORMATION TO BE PROVIDED IN RESPONSE TO THIS NOTICE OF INSTITUTION: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country*; or produce *Subject Merchandise* in more than one *Subject Country*, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term "firm" includes any related firms.

- (1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.
- (2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.
- (3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.
- (4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.
- (5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).
- (6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date*.
- (7) A list of 3-5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* that are not themselves members of the *Domestic Industry* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).
- (8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

- (9) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.
- (a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production. If you are a processor, indicate the nature of the processing activities you perform (e.g., deheading, grading, machine peeling, deveining, cooking, marinating and/or skewering).
 - (b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);
 - (c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. production facility(ies);
 - (d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. production facility(ies); and
 - (e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. production facility(ies) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).
- (10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.
- (a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;
 - (b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country*; and
 - (c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country*.
- (11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including

antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

- (a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;
 - (b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and
 - (c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.
- (12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country*, and such merchandise from other countries.
- (13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

AUTHORITY: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: January 4, 2010