
DEPARTMENT OF COMMERCE**International Trade Administration**

[A-351-838, A-331-802, A-533-840, A-570-893, A-549-822, A-552-802]

**Certain Frozen Warmwater Shrimp
From Brazil, Ecuador, India, the
People's Republic of China, Thailand,
and the Socialist Republic of Vietnam:
Notice of Court Decision Not in
Harmony With the Final
Determinations and Amended Final
Determinations of the Antidumping
Duty Investigations**

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

SUMMARY: On April 14, 2010, the United
States Court of International Trade
("CIT") sustained the remand

redetermination issued by the Department of Commerce (“Department”) pursuant to the CIT’s remand order in the final and amended final determinations of the antidumping duty investigations of certain frozen warmwater shrimp from Brazil, Ecuador, India, the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam. See *Ad Hoc Shrimp Trade Action Committee, Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company v. United States*, Slip Op. 10–39 (CIT 2010) (*Ad Hoc IV*). This case arises out of the Department’s final determinations¹ and amended final determinations² in the original investigations. Consistent with the decision of the United States Court of

¹ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil*, 69 FR 76910 (December 23, 2004) (*Brazil Final Determination*); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Ecuador*, 69 FR 76913 (December 23, 2004) (*Ecuador Final Determination*); *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India*, 69 FR 76916 (December 23, 2004) (*India Final Determination*); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the People’s Republic of China*, 69 FR 70997 (December 8, 2004) (*China Final Determination*); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004) (*Thailand Final Determination*); *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004) (*Vietnam Final Determination*); collectively the *Shrimp AD Final Determinations*.

² See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Brazil*, 70 FR 5143 (February 1, 2005) (*Brazil Amended Final Determination & Order*); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Ecuador*, 70 FR 5156 (February 1, 2005) (*Ecuador Amended Final Determination & Order*); *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 (February 1, 2005) (*India Amended Final Determination & Order*); *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) (*China Amended Final Determination & Order*); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand*, 70 FR 5145 (February 1, 2005) (*Thailand Amended Final Determination & Order*); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) (*Vietnam Amended Final Determination & Order*); collectively, the *Shrimp AD Amended Finals and Orders*.

Appeals for the Federal Circuit (“Federal Circuit”) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department is notifying the public that *Ad Hoc IV* is not in harmony with the *Shrimp AD Final Determinations* and *Shrimp AD Amended Finals and Orders*.

DATES: *Effective Date:* April 28, 2010.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–2312.

SUPPLEMENTARY INFORMATION:

On July 1, 2009, the CIT remanded to the Department its decision to exclude dusted shrimp from the scope of the investigations, stating that the Department’s decision was unsupported by adequate reasoning and therefore contrary to law. See *Ad Hoc Shrimp Trade Action Committee, Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company v. United States*, Slip Op. 09–69 (CIT 2009) (*Remand Opinion and Order*). Pursuant to the CIT’s remand instructions, the Department re-examined record evidence and considered whether dusted shrimp should be within the scope of the investigations.

The Department released the *Draft Results of Redetermination Pursuant to Court Remand (Draft Redetermination)* to the interested parties for comment on September 22, 2009. After receiving and considering the comments from interested parties, on October 29, 2009, the Department filed its final results of redetermination pursuant to the *Remand Opinion and Order* with the CIT. See *Final Results of Redetermination Pursuant to Court Remand*, Court No. 05–00192, (October 29, 2009) (*Final Redetermination*), found at <http://ia.ita.doc.gov/remands/09-69.pdf>. In the remand redetermination, the Department determined that dusted shrimp should properly be included within the scope of the *Shrimp AD Final Determinations* and *Shrimp AD Amended Finals and Orders*.³ On April 14, 2010, the CIT affirmed all aspects of the Department’s remand redetermination.

³ As is often the case, the amended final determinations and antidumping duty orders were written and published as one document. Thus, although the amended final determinations and orders may be referenced together as the *Shrimp AD Amended Finals and Orders*, only the scope of the *Shrimp AD Final Determinations* and subsequent amended final determinations are at issue in this remand determination.

In its decision in *Timken*, 893 F.2d at 341, the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (“Act”), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination, and must suspend liquidation of entries pending a “conclusive” court decision. As a result of the Department’s finding that dusted shrimp should properly be included within the scope of the *Shrimp AD Final Determinations* and *Shrimp AD Amended Finals and Orders*, the CIT’s decision in this case on April 14, 2010, constitutes a final decision of that court that is not in harmony with the Department’s final and amended final determinations of the original investigations. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the CIT’s ruling is not appealed or, if appealed, upheld by the Federal Circuit, the Department will instruct U.S. Customs and Border Protection to collect cash deposits for entries of dusted shrimp.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: April 22, 2010.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–10009 Filed 4–27–10; 8:45 am]

BILLING CODE 3510–DS–P