

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Frozen Warmwater Shrimp from Brazil, China, India, Thailand and Vietnam,
Inv. Nos. 731-TA-1063, 1064, 1066-1068 (Review)

On April 9, 2010, the Commission determined that it should proceed to full reviews in each of the subject five-year reviews pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission received two responses to the notice of institution from domestic interested parties. One response was filed by the Ad Hoc Shrimp Trade Action Committee (AHSTAC), the petitioner in the original investigations. AHSTAC is an association of eight members, six of which are shrimp fishermen, one of which is a processor, and one of which engages in both fishing and processing. The second response was filed on behalf of the American Shrimp Processors Association (ASPA), the Louisiana Shrimp Association (LSA), Dean Blanchard Seafood, and Seafood Shed. ASPA is an association of 41 entities, 31 of which are involved in processing of frozen warmwater shrimp. LSA is an association of nearly 500 members, the great majority of whom are shrimp fishermen. Dean Blanchard Seafood and Seafood Shed are U.S. processors of frozen warmwater shrimp. The Commission determined that the individual responses of AHSTAC, ASPA, LSA, Dean Blanchard Seafood, and Seafood Shed were adequate. Because the domestic interested parties that filed responses to the notice of institution collectively account for a substantial proportion of domestic production of fresh and frozen warmwater shrimp, the domestic like product that the Commission defined in the original investigations, the Commission also determined that the domestic interested party group response was adequate.

With respect to the antidumping duty order on subject merchandise from Brazil, the Commission received two sets of responses to the notice of institution from respondent interested parties. The first was made by Associacao Brasileira de Criadores de Camaro (ABCC), a foreign trade association which is an interested party because a majority of its members is composed of producers or exporters of the subject merchandise from Brazil. The Commission determined that ABCC's individual response was adequate, notwithstanding deficiencies.¹ The second response was filed jointly by Northern Star, a producer of subject merchandise in Brazil, and Fujicom-USA, a U.S. importer of warmwater shrimp. The Commission determined that the individual response of Northern Star/Fujicom was inadequate.² Because ABCC represents a substantial proportion of the production of subject merchandise in Brazil, the Commission determined that the respondent interested party group response was adequate for the review of the order covering subject merchandise from Brazil.³

¹ Most notably, while ABCC did furnish some empirical data about production of subject merchandise in Brazil, it did not provide production and capacity data for its individual members.

² Northern Star/Fujicom did not attempt to respond to most of the inquiries made in the notice of institution.

³ Commissioner Dean A. Pinkert determined that the respondent interested party response for the review of the order on subject merchandise on Brazil was inadequate because, although ABCC estimated that its members accounted for "the vast majority" of Brazilian production of farmed shrimp, ABCC did not provide a sufficiently precise estimate of this figure or estimate ABCC's percentage of all production of subject merchandise in Brazil.

With respect to the antidumping duty order on subject merchandise from China, the Commission received a collective response to the notice of institution from 35 individual members of the Shrimp Committee of China Aquatic Products Processing and Marketing Association (CAPPMA) that produce and/or export subject merchandise.⁴ The Commission determined that the individual responses of these 35 CAPPMA members were adequate. Because the 35 responding CAPPMA members represent a substantial proportion of the exports of subject merchandise from China, the Commission determined that the respondent interested party group response was adequate for the review on the order covering subject merchandise from China.

With respect to the antidumping duty order on subject merchandise from India, the Commission received a response to the notice of institution from Seafood Exporters Association of India (SEAI). SEAI is a trade association of seafood producers in India and is an interested party because 278 of its 291 members produce or export frozen warmwater shrimp. The Commission determined that the individual response of SEAI was adequate. Because SEAI represents a substantial proportion of exports of subject merchandise from India, the Commission determined that the respondent interested party group response was adequate for the review of the order covering subject merchandise from India.

With respect to the antidumping duty order on subject merchandise from Thailand, the Commission received a collective response to the notice of institution from 38 individual members of the Thai Frozen Food Association (TFFA) that produce and/or export subject merchandise.⁵ The Commission determined that the individual responses of these 38 TFFA members were adequate. Because the 38 responding TFFA members represent a substantial proportion of the exports of subject merchandise from Thailand, the Commission determined that the respondent interested party group response was adequate for the review of the order covering subject merchandise from Thailand.

With respect to the antidumping duty order on subject merchandise from Vietnam, the Commission received a collective response to the notice of institution from 28 individual producers and exporters of subject merchandise from Vietnam. The Commission determined that the individual responses of these 28 producers were adequate. Because the 28 responding producers represent a substantial proportion of the exports of subject merchandise from Vietnam, the Commission determined that the respondent interested party group was adequate for the review of the order covering subject merchandise from Vietnam.

⁴ Because counsel states CAPPMA's Shrimp Committee has 165 members, and it has identified only 35 of those members as producers or exporters of subject merchandise, there is insufficient information in the record to conclude that CAPPMA is an interested party. *See* 19 U.S.C. § 1677(9). Each of the 35 members identified in the response to the notice of institution, however, is an interested party. CAPPMA has indicated that its entry of appearance should be considered to be on behalf of the 35 individual members if the association is not itself an interested party. The Commission consequently evaluated the responses of the individual members.

⁵ The record indicates that 82 of the 178 TFFA members produce or export subject merchandise and have not been revoked from the order. Because this is not a majority, the record indicates that TFFA is not an interested party in its own right. In any event, TFFA did not purport to submit data for the association, but only for 38 of its individual members. Counsel also entered appearances for these members. The Commission consequently evaluated the responses of these 38 members.

Consequently, in each of the subject reviews both the domestic interested party group response and the respondent interested party group response was adequate. The Commission accordingly determined to conduct full reviews in each of the subject reviews.⁶

A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (<http://www.usitc.gov>).

⁶ While Commissioner Pinkert found respondent interested party group response inadequate for the review of the order on subject merchandise from Brazil, he nevertheless determined to conduct a full review of the order in order to promote administrative efficiency in light of his decision to conduct full reviews with respect to the orders in the other reviews.