

## **Southern Shrimp Alliance Sues U.S. Customs and Border Protection; CDSOA Distributions Temporarily Delayed**

After unsuccessfully seeking to substantially reform U.S. Customs and Border Protection's ("Customs") administration of the Continued Dumping and Subsidy Offset Act ("CDSOA") for over two years, the Southern Shrimp Alliance ("SSA") filed suit against the agency on November 5, 2008 at the U.S. Court of International Trade ("CIT"). On November 13, 2008, based on a request by the SSA, the CIT acted to temporarily restrain CDSOA distributions for fiscal year ("FY") 2008.

Prior to this year, the SSA's goal has been to accelerate distribution of as much CDSOA funds to the domestic shrimp industry as possible. In the first year of CDSOA distributions for FY2006, the SSA's efforts led to \$102 million of antidumping duties being distributed to the domestic shrimp industry. However, the CDSOA distributions made for FY2006 appeared to have been significantly tainted by excessive, inaccurate, or fraudulent claims. At the insistence of the SSA, Customs agreed to conduct an unprecedented number of post-distribution verifications of distributions for that year. In total, Customs has reported that between the end of 2006 and 2008, the agency conducted verifications of 58 shrimp industry claimants receiving funds for FY2008. However, Customs has never publicly disclosed the results of these verifications, nor has the agency indicated whether any verifications were conducted for CDSOA distributions for FY2007. The agency's public reports regarding CDSOA distributions for FY2007 evidenced many of the same problems seen previously. For example, for FY2007 several distributions were made to parties with multi-million dollar claims that were thousands of times higher than the claims submitted for FY2006. In one case, the FY2007 claim submitted was nearly 6,500% higher than what was submitted in FY2006.

Customs' unwillingness or inability to significantly improve its administration of the CDSOA program has confirmed the SSA's belief that the program is not benefiting the domestic shrimp industry as a whole. Of the nearly \$140 million that has been distributed of antidumping duties collected on shrimp imports for the last two years, nearly 80% (\$108.5 million) has been distributed to less than 10% of the total claimants. Distributions became even more concentrated amongst those claiming massive amounts of qualified expenditures for FY2007 compared to 2006 and it is likely that this problem has worsened for FY2008.

For these reasons, the SSA no longer supports expedited distributions of CDSOA funds unless and until Customs' administration of the CDSOA program is improved to prevent claimants submitting inappropriate, exaggerated, or fraudulent claims from benefiting from the program at the expense of deserving shrimp industry members. The SSA's lawsuit against Customs sets forth eleven separate counts challenging Customs' violation of the law and its administration of the CDSOA program with respect to the distribution of antidumping duties collected on shrimp imports. These claims challenge Customs' failure to prevent distributions in response to inappropriate, exaggerated, or fraudulent claims, Customs' failure to ensure that distributions are only made for qualified expenditures related to the domestic production of shrimp, the agency's

acceptance of purchase costs of shrimp, including dumped imported shrimp, as a qualified expenditure, the non-transparent manner in which Customs conducts "reconsideration" proceedings, and the agency's withholding of distributions for the benefit of entities that did not support the petition for trade relief, including subsidiaries of foreign shrimp exporters.

Because of the CIT's action in response to the SSA's lawsuit, CDSOA distributions are temporarily restrained for a period of ten (10) days expiring at 5 pm on November 23, 2008. The SSA is further seeking to enjoin CDSOA distributions until such time as its claims are addressed by the CIT. The SSA is committed to achieving a more equitable distribution of antidumping duties collected on shrimp imports. Preventing distributions to those who have submitted excessive, inaccurate, or fraudulent claims is an important first step in obtaining that goal.