



Southern Shrimp Alliance
P.O. Box 1577 Tarpon Springs, FL 34688
955 E. MLK Dr. Suite D Tarpon Springs, FL 34689
727-934-5090 Fax 727-934-5362

June 27, 2019

Docket No. ITA-2019-0002

VIA FEDERAL E-RULEMAKING PORTAL

The Honorable Jeffrey I. Kessler
Assistant Secretary for Enforcement and Compliance
Room 1870
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Re: Comments on Proposed Modification of Two Regulations Pertaining to Benefit and Specificity in Countervailing Duty Proceedings

Dear Assistant Secretary Kessler:

On behalf of the Southern Shrimp Alliance (“SSA”), we hereby submit comments as requested by the U.S. Department of Commerce (the “Department”) on the proposed modification of two regulations pertaining to the determination of benefit and specificity in countervailing duty proceedings.¹ Specifically, the Department is proposing to clarify how the agency “determines the existence of a benefit resulting from a subsidy in the form of currency undervaluation, and

¹ Modification of Regulations Regarding Benefit and Specificity in Countervailing Duty Proceedings, 84 Fed. Reg. 24,406 (May 28, 2019) (“Request for Comments”).

clarify that companies in the traded goods sector of an economy can constitute a group of enterprises for purposes of determining whether a subsidy is specific.²

Antidumping duty orders are currently in place on certain frozen warmwater shrimp imports from four countries – India, Thailand, the People’s Republic of China (“China”), and the Socialist Republic of Vietnam (“Vietnam”).³ These trade remedies were formally implemented in February of 2005 and, through meaningfully addressing unfair trade practices, have substantially improved the U.S. shrimp market for the domestic industry. For over a decade, U.S. shrimp fishermen, unloading docks, processors, and related businesses have been given the opportunity to recover from the flood of dumped imports that collapsed prices across the country and nearly drove our industry to extinction.

Throughout the last fifteen years, the domestic industry has confronted and addressed numerous other unfair trade practices beyond sales of shrimp at less than fair value in the U.S. market, including the use of illegal and harmful antibiotics in foreign shrimp aquaculture, slave and child labor in the supply chains for imported shrimp, and outright fraud in the marketing and importation of shrimp into the United States. However, efforts to counteract the harmful impact of

² Id.

³ See Certain Frozen Warmwater Shrimp from the People’s Republic of China, 70 Fed. Reg. 5,149 (Dep’t Commerce Feb. 1, 2005) (Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order); Certain Frozen Warmwater Shrimp from India, 70 Fed. Reg. 5,147 (Dep’t Commerce Feb. 1, 2005) (Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order); Certain Frozen Warmwater Shrimp from Thailand, 70 Fed. Reg. 5,145 (Dep’t Commerce Feb. 1, 2005) (Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order); and Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam, 70 Fed. Reg. 5,152 (Dep’t Commerce Feb. 1, 2005) (Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order).

significant government subsidies for foreign shrimp industries – unfair trade practices confirmed by this agency in previous investigations⁴ – have not resulted in any trade relief. In the context of an ongoing proceeding regarding one of the remaining antidumping duty orders, the Department recently, again, formally noted that there was clear evidence of significant export subsidies granted by the Indian government to Indian shrimp exporters.⁵

The Southern Shrimp Alliance is committed to creating a level playing field for all producers in the U.S. shrimp market. We recognize that unfair trade practices not only harm our members, but also adversely impact all foreign suppliers that have sought to compete fairly in the global marketplace. Accordingly, we strongly support the Department’s efforts to modify its regulations to ensure that our trade remedy laws address *all* forms of countervailable subsidies, including currency undervaluation. In effectuating the necessary modifications to existing regulations, the Southern Shrimp Alliance believes that the Department should endeavor to

⁴ See, e.g., Certain Frozen Warmwater Shrimp from Ecuador, 78 Fed. Reg. 50,389 (Dep’t Commerce Aug. 19, 2013) (Final Affirmative Countervailing Duty Determination); Certain Frozen Warmwater Shrimp from India, 78 Fed. Reg. 50,385 (Dep’t Commerce Aug. 19, 2013) (Final Affirmative Countervailing Duty Determination); Certain Frozen Warmwater Shrimp from Malaysia, 78 Fed. Reg. 50,381 (Dep’t Commerce Aug. 19, 2013) (Final Affirmative Countervailing Duty Determination); Certain Frozen Warmwater Shrimp from the People’s Republic of China, 78 Fed. Reg. 50,391 (Dep’t Commerce Aug. 19, 2013) (Final Affirmative Countervailing Duty Determination); and Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam, 78 Fed. Reg. 50,387 (Dep’t Commerce Aug. 19, 2013) (Final Affirmative Countervailing Duty Determination).

⁵ See Preliminary Decision Memorandum (at 25) accompanying Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam, 84 Fed. Reg. 16,648 (Dep’t Commerce Apr. 22, 2019) (Preliminary Results of Antidumping Duty Administrative Review; 2017-2018) (“Commerce cannot ignore the information on the record regarding the evidence of export subsidies (*e.g.*, sale of Merchandise Exports from India Scheme (‘MEIS’)) for the 2016-2017 and 2017-2018 fiscal periods in the Falcon Marine Exports Limited and Asvini Fisheries Private Limited 2017-2018 audited financial statements. Commerce has previously determined MEIS to be a countervailable subsidy.” (footnotes omitted)).

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maintain substantial discretion for the agency to address this particular form of a countervailable subsidy.

The Southern Shrimp Alliance is grateful for the opportunity to provide our comments on the Department's proposed modification of two regulations pertaining to the determination of benefit and specificity in countervailing duty proceedings and looks forward to the agency's additional efforts to improve the efficacy of our unfair trade laws.

Sincerely,

A handwritten signature in black ink, appearing to read "John Williams". The signature is written in a cursive style with a large, stylized initial "J".

John Williams
Executive Director