

▲N282063

January 18, 2017

CLA-2-03:OT:RR:NC:N4:231

CATEGORY: Classification

TARIFF NO.: [0306.17.0009](#)

Mr. Juan Rodriguez
Rod International
11445 Paramount Boulevard
Suite A
Downey, CA 90241

RE: The tariff classification, marking and country of origin of Frozen Wild Caught Shrimp from Argentina

Dear Mr. Rodriguez:

In your letter dated December 14, 2016 you requested a tariff classification, marking and country of origin ruling on behalf of Rod International (West Westport, CT).

The subject merchandise is frozen wild caught shrimp of the pleoticus muelleri species. Per the description provided, the shrimp will be purchased from suppliers in Argentina and transported to China for further processing. The processing will consist of defrosting, sorting, removal of the head, deveining and a knife cut along the back side of the shrimp. Upon completion, the shrimp will be individually quick frozen and packaged in a polyethylene bag which will have a total net weight of 2 pounds. Each master case will contain 10 bags which in turn will have a total net weight of 20 pounds per master case. The product will be labeled "Wild Caught Frozen Shrimp IQF Headless Tail on, Shell on" (Size 21/25). The product will be sold to wholesalers and retailers.

The applicable subheading for the Frozen Wild Caught Shrimp will be [0306.17.0009](#), Harmonized Tariff Schedule of the United States (HTSUS), which provides for Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine: Frozen: Other shrimps and prawns: Shell-on, imported in accordance with statistical note 1 to this chapter: Count size (headless weight) 46-55 per kg (21-25s). The rate of duty will be Free.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on World Wide Web at <https://hts.usitc.gov/current>.

This merchandise may be subject to additional requirements administered by the following agencies, whose addresses are provided for your reference:

U.S. Department of State
Bureau of Oceans & Int'l. Environmental & Scientific Affairs
Office of Marine Conservation
2201 C Street, NW
Washington, DC 20520
Telephone: (202) 647-2335

U.S. Food and Drug Administration (FDA)
Division of Import Operations and Policy
12420 Parklawn Drive (Room 3109)
Rockville, MD 20857
Telephone: (301) 796-0356
Email address: FDAImportsInquiry@FDA.hhs.gov

The imported products may be subject to antidumping duties or countervailing duties. Written decisions regarding the scope of AD/CVD orders are issued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by Customs and Border Protection. You can contact them at <http://www.trade.gov/ia/> (click on "Contact Us"). For your information, you can view a list of current AD/CVD cases at the United States International Trade Commission website at <http://www.usitc.gov> (click on "Antidumping and countervailing duty investigations"), and you can search AD/CVD deposit and liquidation messages using the AD/CVD Search tool at <http://addcvd.cbp.gov/>. This merchandise is subject to The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (The Bioterrorism Act), which is regulated by the Food and Drug Administration (FDA). Information on the Bioterrorism Act can be obtained by calling FDA at 301-575-0156, or at the Web site www.fda.gov/oc/bioterrorism/bioact.html.

With regard to country of origin, Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.

Part 134, Customs Regulations (19 CFR Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304. Pursuant to 19 CFR Section 134.1(b), the country of origin is the country of manufacture, production or growth of any article of foreign origin entering the U.S. Further work or material added to an article in another country must effect a substantial transformation in order to render such country the country of origin within the meaning of Part 134 of the regulations. A substantial transformation occurs when a new and different article of commerce emerges from a process with a new name, character or use different from that possessed by the article prior to processing. See *United States v. Gibson-Thomsen Co., Inc.*, 27 C.C.P.A. 267 (C.A.D. 98) (1940). In the present case, we find that the processing undertaken by the means you outline at the facility in China does not effect a substantial transformation. Accordingly, we find that the frozen wild caught shrimp retain their initial country of origin status and is a product of Argentina for U.S. Customs and Border Protection marking purposes. This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Ekeng Manczuk at Ekeng.Manczuk@cbp.dhs.gov.

Sincerely,

Steven A. Mack
Director
National Commodity Specialist Division

▲N289554

September 21, 2017

MAR-2 OT:RR:NC:N2:231

CATEGORY: MARKING

Ms. Sonia Medina
Flegenheimer International
227 W. Grand Avenue
El Segundo, CA 90245

RE: THE COUNTRY OF ORIGIN MARKING OF FROZEN EZ PEEL SHRIMP

Dear Ms. Medina:

This is in response to your letter dated August 22, 2017 on behalf of Eastern Fish Company, LLC (Teaneck, NJ) in which you requested a country of origin ruling for Frozen EZ Peel Shrimp.

You have outlined a scenario in which raw, frozen headless shrimp of the *pleoticus muelleri* species from Argentina will be shipped to China for processing into easy-to-peel shrimp. The processing will consist of thawing, grading, a knife cut across the back of the shrimp, deveining, washing, soaking in food additive and salt. Subsequently, the product will be rewashed, graded by size, frozen and packed for shipping. The shrimp will be imported into the United States in plastic bags with a total net weight of 2 pounds. Each master case will contain 10 bags which in turn will have a total net weight of 20 pounds per master case. You seek a determination as to the proper country of origin for marking purposes of the processed shrimp.

With regard to country of origin, Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.

Part 134, Customs Regulations (19 CFR Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304. Pursuant to 19 CFR Section 134.1(b), the country of origin is the country of manufacture, production or growth of any article of foreign origin entering the U.S. Further work or material added to an article in another country must effect a substantial transformation in order to render such country the country of origin within the meaning of Part 134 of the regulations. A substantial transformation occurs when a new and different article of commerce emerges from a process with a new name, character or use different from that possessed by the article prior to processing. See *United States v. Gibson-Thomsen Co., Inc.*, 27 C.C.P.A. 267 (C.A.D. 98) (1940). In the present case, we find that the processing undertaken by the means you outline at the facility in China does not effect a substantial transformation. Accordingly, we find that the Frozen EZ Peel Shrimp retain their initial country of origin status and is a product of Argentina for U.S. Customs and Border Protection marking purposes. This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 CFR Part 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist

Ekeng Manczuk at Ekeng.Manczuk@cbp.dhs.gov.

Sincerely,

Steven A. Mack

Director

National Commodity Specialist Division

▲N302051

February 1, 2019

MAR-2 OT:RR:NC:N2:231

CATEGORY: MARKING

Ms. Sonia Medina
Flegenheimer International Inc.
227 W Grand Avenue
El Segundo, CA 90745

RE: THE COUNTRY OF ORIGIN MARKING OF PEELED SHRIMP

Dear Ms. Medina:

This is in response to your letter dated December 3, 2018 requesting a country-of-origin ruling on behalf of your client, Eastern Fish Company (Teaneck, NJ).

You have outlined a scenario in which frozen, raw, unprocessed, wild caught Argentine Red shrimp (*Pleoticus muelleri*) will be shipped to China for further processing. In China, the frozen shrimp will be thawed, graded, beheaded, deveined, washed, soaked in the food additive Carnal 659S and salt. The product is then rinsed, graded by size, arranged on trays, and frozen. You have stated that the end result of the aforementioned processes will be "EZ Peel Shrimp" or "Peeled and Deveined Shrimp." The frozen trays will be packed into 2-pound plastic bags then shipped to the United States. You seek a determination as to the proper country of origin of the processed shrimp.

The marking statute, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. As provided in section 134.41(b), Customs Regulations (19 CFR 134.41(b)), the country of origin marking is considered conspicuous if the ultimate purchaser in the U.S. is able to find the marking easily and read it without strain. With regard to the permanency of a marking, section 134.41(a), Customs Regulations (19 CFR 134.41(a)), provides that as a general rule marking requirements are best met by marking worked into the article at the time of manufacture. For example, it is suggested that the country of origin on metal articles be die sunk, molded in, or etched. However, section 134.44, Customs Regulations (19 CFR 134.44), generally provides that any marking that is sufficiently permanent so that it will remain on the article's container until it reaches the ultimate purchaser unless deliberately removed is acceptable.

Part 134, CBP Regulations (19 C.F.R. §134) implements the country of origin marking requirements of 19 U.S.C. §1304. 19 C.F.R. §134.1(b) defines "country of origin" as: [T]he country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin" within the meaning of [the marking regulations]... A substantial transformation occurs when an article emerges from a process with a new name, character or use different from that possessed by the article prior to processing. *United States v. Gibson-Thomsen Co., Inc.*, 27 CCPA 267, C.A.D. 98 (1940); *National Hand Tool Corp. v. United States*, 16 CIT 308 (1992), *aff'd*, 989 F. 2d 1201 (Fed. Cir. 1993). However, if the manufacturing or combining process is merely a minor one that leaves the identity of the article intact, a substantial transformation has not occurred. *Uniroyal, Inc. v. United*

States, 3 CIT 220, 542 F. Supp. 1026, 1029 (1982), aff'd, 702 F.2d 1022 (Fed. Cir. 1983). U.S. Customs and Border Protection (CBP) has previously ruled that the processing of shrimp by means you outline (i.e., beheading, peeling, de-veining) does not effect a substantial transformation. In the case of the "EZ Peel Shrimp" or "Peeled and Deveined Shrimp," we find that the Argentine Red shrimp is not substantially transformed as a result of the processing in China. Accordingly, we find that the products retain their initial country-of-origin status for CBP marking purposes. Therefore, the packages of processed shrimp entering the United States must be marked to indicate that their contents are products of the original country, e.g., "Product of Argentina."

Please note that seafood is subject to the Mandatory Country of Origin Labeling ("COOL") requirements administered by the USDA's Agricultural Marketing Service (AMS), we advise you to check with that agency for their further guidance on your scenario. Contact information for AMS is as follows:

USDA-AMS-LS-SAT

Room 2607-S, Stop 0254

1400 Independence Avenue, SW

Washington, DC 20250-0254

Tel. (202) 720-4486

Website: www.ams.usda.gov/COOL

Email address for inquiries: COOL@usda.gov

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 CFR Part 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Ekeng Manczuk at ekeng.b.manczuk@cbp.dhs.gov.

Sincerely,

Steven A. Mack

Director

National Commodity Specialist Division