

### Intent to Rescind Administrative Review, in Part

The Department's regulations provide that the Department "may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise, as the case may be." See 19 CFR 351.213(d)(3). On December 11, 2002, Nantong Shengfa informed the Department that it did not export or produce for export to the United States, nor did it produce and sell subject merchandise through others to the United States, during the POR. In addition, on January 2, 2002, Weishan Zhenyu informed the Department that it did not have any direct or indirect export sales of the subject merchandise to the United States during the POR. The Department reviewed data on entries under the order during the period of review from the BCBP, and found no reportable U.S. entries, exports, or sales of subject merchandise by Nantong Shengfa or Weishan Zhenyu during the POR. Therefore, absent the submission of any evidence that these companies had reportable U.S. entries, exports, or sales of subject merchandise, the Department intends to rescind the administrative review with respect to these companies, in accordance with 19 CFR 351.213(d)(3).

### Scope of the Antidumping Duty Order

The product covered by this antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the BCBP in 2000, and HTS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

### Shanghai Taoen

The Department has identified a significant discrepancy between the quantity and value data Shanghai Taoen reported in its questionnaire response and the quantity and value information that the Department identified through BCBP data queries. The Department contacted BCBP about this issue and will be working closely with it to determine the cause of this discrepancy. In addition, the Department will further examine this issue for the final results by requesting additional information from Shanghai Taoen.

### Application of Facts Available

#### 1. Shouzhou Huaxiang

As further discussed below, pursuant to sections 776(a)(2)(A),(B) and (D) and section 776(b) of the Act, the Department determines that the application of total adverse facts available is warranted for respondent Shouzhou Huaxiang. Sections 776(a)(2)(A) and 776(a)(2)(B) of the Act provide for the use of facts otherwise available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. Section 776(a)(2)(D) of the Act warrants the use of facts otherwise available in reaching a determination when information is provided, but cannot be verified. Shouzhou Huaxiang requested an extension of the August 8, 2003 deadline for responding to the second supplemental questionnaire on August 6, 2003. See *Letter from Shouzhou Huaxiang*, at 1 (August 6, 2003). The Department granted a 12-day extension, to August 20, 2003. See *Letter to Shouzhou Huaxiang*, at 1 (August 8, 2003). However, Shouzhou Huaxiang never submitted its response. Thus, because Shouzhou Huaxiang failed to respond to the Department's second supplemental questionnaire, pursuant to sections 776(a)(2)(A) and (B) of the Act, the Department determines that the application of facts otherwise available is warranted.

The Department further finds that the application of facts available is also warranted pursuant to section 776(a)(2)(D) of the Act, because Shouzhou Huaxiang's questionnaire responses could not be verified. On June 4, 2002, Shouzhou Huaxiang informed the Department that "due {sic} the continuing impact of the recent flooding of the Huaihe river, Shouzhou Huaxiang, the company {sic} will not be able to participate in the verification scheduled to begin on August 29, 2003."

See *Letter from Shouzhou Huaxiang*, at 1 (August 18, 2003). On August 15, 2003, the Department left messages with counsel for Shouzhou Huaxiang to convey the Department's continued willingness to try to work with Shouzhou Huaxiang, and to offer to consider any alternative proposals for conducting verification (such as by shuffling the order in which each of the three entities Shouzhou Huaxiang, and its two producers would be visited). See *Memorandum to the File: Shouzhou Huaxiang Foodstuffs Co., Ltd.'s Refusal to Allow Verification*, (September 29, 2003) (*Shouzhou Huaxiang Memo*).

On August 18, 2003, prior to the extended deadline for responding to the second supplemental questionnaire, the Department again contacted counsel for Shouzhou Huaxiang, to convey the Department's continued willingness to try to work with Shouzhou Huaxiang, and to offer to consider any alternative proposals for conducting verification. The Department also asked whether Shouzhou Huaxiang's producers, Yancheng Yaou and Hubei Houhu, could still be verified. *Id.* at 3. Counsel for Shouzhou Huaxiang indicated that they would discuss the matter with Shouzhou Huaxiang, and then get back to the Department on August 19, 2003. *Id.* On August 19, 2003, the Department again contacted counsel for Shouzhou Huaxiang to find out whether they had received any feedback from Shouzhou Huaxiang, concerning the Department's offer to consider any alternative proposals for conducting verification, or whether Shouzhou Huaxiang's producers, Yancheng Yaou and Hubei Houhu, would agree to be verified. *Id.* Shouzhou Huaxiang never offered any alternative proposals for conducting verification, and never changed its position that it would not participate in verification. This decision prevented the verification of information placed on the record. Thus, the information submitted by Shouzhou Huaxiang cannot serve as a reliable basis for reaching a determination since verification provides the Department with an opportunity to check the accuracy of the information submitted by the respondent. Because Shouzhou Huaxiang did not respond to the Department's second supplemental questionnaire, and refused to allow verification, sections 782(d) and (e) of the Act are not applicable.

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a respondent, if it determines that a party has failed to cooperate to the best of its ability. The Department finds that