



February 11, 2021

PUBLIC VERSION

OT:RR:BSTC:PEN H314879 SJS

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Re: Enforce and Protect Act (“EAPA”) Case Number 7356; 19 U.S.C. § 1517;
Minh Phu Group

Dear Mr. Cameron, Mr. Barringer, Ms. Hodgins, Mr. Fleischer, and Mr. Rickard:

This decision is in response to a request for *de novo* administrative review of a determination of evasion dated October 13, 2020, made by the Trade Remedy & Law Enforcement Directorate (“TRLED”), Office of Trade (“OT”), U.S. Customs and Border Protection (“CBP”), pursuant to 19 U.S.C. § 1517(c), in Enforce and Protect Act (“EAPA”) Case Number 7356 (hereinafter referred to as the “October 13 Determination”).¹

One request for administrative review was submitted to CBP, OT, Regulations and Rulings (“RR”) by Morris, Manning & Martin LLP as counsel on behalf of their client the Minh Phu Group (“MPG” or “Minh Phu”), including Minh Phu Seafood Joint Stock Company (“MSJSC”) and its affiliated importer MSeafood Corporation (“MSeafood”), on November 10, 2020, pursuant to 19 U.S.C. § 1517(f) and 19 C.F.R. § 165.41(a). The request for administrative review was submitted to RR within 30 business days after the issuance of the initial determination of evasion, consistent with 19 C.F.R. § 165.41(d).

On November 25, 2020, the Ad Hoc Shrimp Trade Enforcement Committee (“AHSTEC”), a committee comprised of 18 domestic producers² of shrimp that filed the initial allegations of

¹ Letter from Brian M. Hoxie, Director, Enforcement Operations Division, Trade Remedy & Law Enforcement Directorate, Office of Trade, U.S. Customs & Border Protection re: *Notice of Determination as to Evasion in EAPA Case Number 7356* (dated Oct. 13, 2020).

² The 18 members of AHSTEC are: (1) the Southern Shrimp Alliance; (2) Bosarge Boats Inc.; (3) Versaggi Shrimp Co.; (4) Craig Wallis; (5) Trico Shrimp Co.; (6) Dubberly Seafood; (7) B.F. Millis and Son Inc.; (8)

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evasion against the importers, submitted a timely response to the request for administrative review, pursuant to 19 C.F.R. § 165.42.

For the reasons set forth below, there is *not* substantial record evidence that MPG, entered “covered merchandise,” as that term is defined in 19 U.S.C. § 1517(a)(3), into the commerce of the United States, on entries of shrimp from India, by means of evasion, as defined in 19 U.S.C. § 1517(a)(5)(A). Therefore, the October 13 Determination is reversed.

I. BACKGROUND

A. FACTS

Inasmuch as the facts in this case were fully set forth in the October 13 Determination,³ we will not repeat the entire factual history in this decision.

In brief, on September 18, 2019, TRLED acknowledged receipt of properly filed allegations of evasion submitted by the allegor, AHSTEC, against the importer, MPG. AHSTEC alleged that the importer, MPG, evaded the payment of cash deposits required by antidumping duty order A-533-840, by importing certain frozen warmwater shrimp from India, and transshipped through Vietnam, into the United States.

As a result, on October 9, 2019, TRLED initiated an EAPA investigation against MPG. The allegation reasonably suggested that certain frozen warmwater shrimp produced in India was being transshipped from Vietnam and imported into the United States to evade antidumping duties on Indian-origin shrimp. After evaluating the information in the record, TRLED concluded there was reasonable suspicion to believe that MPG evaded antidumping duty (“AD”) A-533-840 order by importing Indian-origin frozen warmwater shrimp into the United States through Vietnam.

On October 13, 2020, TRLED issued its final determination of evasion in EAPA case number 7356. The October 13 Determination stated that there is substantial evidence that MPG engaged in evasion as defined by the EAPA because MPG as the importer entered covered merchandise subject to AD order A-533-840 into the United States by transshipping Indian-origin shrimp through Vietnam. As a result, insufficient cash deposits were applied to the merchandise at the time of entry.

On November 10, 2020, MPG submitted a properly filed request for administrative review to RR and that same day, RR sent an email to the parties notifying them of the assignment of RR case number H314879.⁴ This email constituted notice to all parties of the commencement of the administrative review process pursuant to 19 C.F.R. 165.41.

Beaufort Inland Seafood; (9) Sea Eagle Market; (10) Frank Parker; (11) Faith Family Shrimp Co. LLC; (12) Robert Nguyen; (13) Zimco Marine LLC; (14) Poteet Seafood; (15) the North Carolina Fisheries Association; (16) the Georgia Shrimp Association; (17) the Texas Shrimp Association; and (18) the South Carolina Shrimp Association.

³ October 13 Determination at 1-3.

⁴ We note that on December 3, 2020 counsel for MPG emailed RR to request a meeting to discuss MPG’s request for administrative review. On December 4, 2020, RR declined MPG’s request for a meeting during the administrative review process citing 19 C.F.R. § 165.41(f) and 19 C.F.R. § 165.44.

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On November 25, 2020, the AHSTEC submitted a response to the request for administrative review presenting its counterarguments.

B. THE ORDER AND THE SCOPE

The U.S. Department of Commerce (“Commerce”) has issued an antidumping duty order (A-533-840) on imports of frozen warmwater shrimp from India (the “India Order”).⁵

Commerce defined the scope of the Order as follows:

The scope of this order includes certain warmwater shrimp and prawns, whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off, deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Marcobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: 1) breaded shrimp and prawns (HTS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell-on or peeled (HTS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain

⁵ See *Notice of Amended Final Determination of Sale at Less than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147 (February 1, 2005).

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battered shrimp. Dusted shrimp is a shrimp-based product: 1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; 2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; 3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; 4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and 5) that is subjected to individually quick frozen (IQF) freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classifiable under the following HTS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

Similarly, on February 1, 2005, Commerce issued the affirmative amended final determination and antidumping order on certain frozen warmwater shrimp from Vietnam.⁶ MPG was the mandatory respondent to the original less than fair value investigation for Vietnam and subject to the Vietnam Order. On July 18, 2016, Commerce revoked the Vietnam Order with respect to MPG.⁷ As a result, MPG is no longer required to pay antidumping duties on shrimp that originates in Vietnam. Meanwhile, in accordance with the India Order, MPG is still subject to a 10.17% antidumping duty rate on shrimp that originates in India.

II. DISCUSSION

A. LAW

Title 19 U.S.C. § 1517(c)(1) provides, in relevant part, as follows:

(1) Determination of Evasion.

(A) In general.

Except as provided in subparagraph (B), not later than 300 calendar days after the date on which the Commissioner [of CBP] initiates an investigation under subsection (b) with respect to covered merchandise, the Commissioner shall make a determination, based on substantial evidence, with respect to whether such covered merchandise was entered into the customs territory of the United States through evasion.

⁶ See *Notice of Amended Final Determination of Sales at Less Than Fair Value Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) (hereinafter the “Vietnam Order”).

⁷ See *id.*

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The term “evasion” is defined in 19 U.S.C. § 1517(a)(5), as follows:

(5) Evasion.

(A) In general.

Except as provided in subparagraph (B), the term “evasion” refers to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.

See also 19 C.F.R. § 165.1.

Examples of evasion could include, but are not limited to, the misrepresentation of the merchandise’s true country of origin (e.g., through false country of origin markings on the product itself or false sales), false or incorrect shipping and entry documentation, or misreporting of the merchandise’s physical characteristics. *See Investigation of Claims of Evasion of Antidumping and Countervailing Duties, Interim Regulations*, 81 Fed. Reg. 56477, 56478 (August 22, 2016).

Additionally, the term “covered merchandise” is defined as “merchandise that is subject to a countervailing duty order (“CVD”) issued under section 706, Tariff Act of 1930, as amended (19 U.S.C. § 1671e), and/or an antidumping order (“AD”) issued under section 736, Tariff Act of 1930, as amended (19 U.S.C. § 1673e).” 19 C.F.R. § 165.1.

“Substantial evidence” is not defined by statute. However, the “substantial evidence” standard has been reviewed by the courts in relation to determinations by other agencies. “Substantial evidence requires more than a mere scintilla, but is satisfied by something less than the weight of the evidence.”⁸

Therefore, based on substantial evidence, CBP must determine whether a party has entered merchandise that is subject to an AD or CVD order into the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or duties being collected on such merchandise.

B. ARGUMENTS MADE BY MINH PHU IN ITS REQUEST FOR ADMINISTRATIVE REVIEW

MPG requests that CBP reverse the October 13 Determination with regard to the Minh Phu entries subject to the EAPA 7356 investigation.

⁸ *See Altex, Inc. v. United States*, 370 F.3d 1108, 1116 (Fed. Cir. 2004) (internal citations and quotation marks omitted).

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First, MPG asserts that TRLED's application of adverse inferences to Minh Phu was unlawful and was not supported by substantial evidence on the record.⁹ MPG claims it cooperated with all of CBP's requests for information throughout the course of the investigation, submitting voluminous documentation of its sales and export processes, all inventory and production records, detailed information regarding its accounting practices, and detailed explanations and demonstrations of its tracing system, which ensures that Indian shrimp is not exported to the United States.¹⁰ MPG asserts that TRLED's determination to the contrary is based on its own preconceptions and demonstrates a fundamental misunderstanding of how MPG's system functions.¹¹

Moreover, MPG argues that Minh Phu acted to the best of its ability to comply with CBP's requests for information in the investigation. MPG asserts that TRLED's determination was not based on actual evidence because TRLED dismissed MPG's system of segregation and tracing of raw domestic Vietnamese shrimp and imported Indian shrimp, and TRLED based its determination on adverse facts available. In doing so, MPG argues that TRLED did not directly address any actual or perceived deficiencies in Minh Phu's tracing system. Furthermore, MPG asserts that there is more than one way to implement a verifiable system of segregation and tracing of shrimp.

Second, MPG argues that the October 13 Determination is not supported by substantial evidence. MPG asserts that Minh Phu's alleged "history" of commingling shrimp is irrelevant to a determination of evasion during the period of investigation. Furthermore, MPG argues that MPG does not commingle Vietnamese and imported shrimp such that imported shrimp loses its identity as imported shrimp. Additionally, MPG asserts that the fact that MPG imports Indian shrimp into Vietnam is not substantial evidence of evasion. MPG also asserts that Minh Phu did not "refuse" to provide traces of Indian shrimp imports; instead, Minh Phu has a tracing system in place which allows Minh Phu to trace imported shrimp from entry into inventory through sale. Specifically, MPG explains that its tracing system is to segregate imported (i.e. Indian-origin) shrimp upon importation to Vietnam, and to keep the imported shrimp segregated throughout the production process. MPG further explains that all imported shrimp is stored in a segregated warehouse and later is withdrawn for production on an as needed basis and placed into bins handmarked with an "XH" to denote that the bins contain imported shrimp for thawing. Once thawed, the imported shrimp is weighed and subdivided by size and grade and placed into corresponding baskets marked "XH." The baskets are then taken to different production lines, where they are further processed as they come in. If some, but not all, baskets for the same order contain an "XH" mark, then these shrimp are mixed during further processing with the domestic shrimp from other baskets for the same order but retain the "XH" designation. MPG claims this is the first time that imported shrimp comes into contact with domestic shrimp, and this intermingling occurs for orders designated as containing imported shrimp. As such, MPG claims that no accidental intermixing/commingling of shrimp occurs. Lastly,

⁹ Request for Administrative Review of the Minh Phu Group, EAPA Investigation Case No. 7356, November 10, 2020, at 12.

¹⁰ *Id.*

¹¹ *Id.*

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MPG's disclosure that it mistakenly sold a de minimis quantity of Indian shrimp to the United States is not substantial evidence of evasion and instead, represents a clerical error.

C. AD HOC SHRIMP TRADE ENFORCEMENT COMMITTEE'S RESPONSE TO THE REQUEST FOR ADMINISTRATIVE REVIEW

AHSTEC asserts that most of the salient facts of this proceeding are undisputed. AHSTEC states that there is no question that MSeafood imported shrimp from its affiliated producer/exporter, Minh Phu, and that there is no argument that the shrimp imported by MSeafood from Minh Phu was not entered as subject to the India Order. Moreover, AHSTEC asserts that there is no opposition to the factual findings that Minh Phu (1) imported frozen shrimp from India during the period of investigation; (2) used Indian-origin shrimp in the production of its frozen shrimp products; and (3) commingled Indian-origin and Vietnamese-origin in the production of some orders fulfilled during the period of investigation. AHSTEC argues that the only issue upon which there is any disagreement is whether Minh Phu's internal tracking system establishes that Indian-origin and Vietnamese-origin shrimp are not commingled in the company's exports of covered merchandise to the United States. AHSTEC notes that on this point, Minh Phu has conceded that its internal tracking system indicates that the company exported commingled India-origin and Vietnam-origin shrimp to the United States during the period of investigation.

AHSTEC explains that in the agency's investigation into frozen warmwater shrimp imported by MSeafood, CBP provided Minh Phu with numerous opportunities to demonstrate that the company did not commingle Indian-origin and Vietnamese-origin shrimp in its shipments to the United States through a full trace of Indian-origin shrimp from importation, through processing, and to export sale. AHSTEC explains that Minh Phu was unable to make such a demonstration and, as such, Minh Phu is reduced to arguing in its request for administrative review that CBP cannot reasonably request such information and that the agency must accept the company's characterization of its internal recordkeeping processes. AHSTEC asserts that there is no legal support for Minh Phu's insistence that CBP is obligated to accept the company's claims in the absence of an actual ability to track India-origin frozen shrimp used as raw material from importation through export. AHSTEC insisted that CBP should confirm the affirmative final determination in its administrative review because there exists substantial record evidence demonstrating that MSeafood has engaged in evasion of the India Order.

Therefore, AHSTEC argues that the findings in the October 13 Determination should be affirmed *in toto*.

D. ADMINISTRATIVE REVIEW ANALYSIS

Pursuant to 19 U.S.C. § 1517(f)(1) and 19 C.F.R. § 165.45, the Office of Trade, Regulations and Rulings, will apply a *de novo* standard of review under the law, based solely upon the facts and circumstances on the administrative record in the proceeding. In making our determination, we reviewed: (1) the entire administrative record upon which the initial October 13 Determination was made by TRLED; and (2) the timely and properly filed

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request for review and response. RR did not request additional written information from the parties to the investigation pursuant to 19 C.F.R. § 165.44. Pursuant to 19 C.F.R. § 165.45, our administrative review of this case has been completed in a timely manner, within 60 business days of the commencement of the review.

The term “evasion” under the EAPA refers to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.¹²

The term “covered merchandise” means merchandise that is subject to a CVD order issued under section 706, Tariff Act of 1930, as amended (19 U.S.C. § 1671e), and/or an AD order issued under section 736, Tariff Act of 1930, as amended (19 U.S.C. § 1673e).¹³

“Substantial evidence” is not defined by statute. However, the “substantial evidence” standard has been reviewed by the courts in relation to determinations by other agencies. “Substantial evidence requires more than a mere scintilla, but is satisfied by something less than the weight of the evidence.”¹⁴ While some evidence may detract from the determination, so long as the finding is reasonable and supported by the record as a whole, the October 13 Determination must be affirmed.¹⁵

A review of the administrative record raises significant questions as to whether MPG engaged in evasion by transshipping Indian-origin frozen shrimp through Vietnam to the United States. The record evidence includes documentation of sales and export processes, all of MPG’s inventory and production records, information regarding MPG’s accounting practices, and explanations of MPG’s segregation and tracing system implemented to prevent the commingling of Indian-origin shrimp with Vietnamese-origin shrimp in entries destined for the United States. Extensive documentation in support of MPG’s arguments against evasion was provided by MPG and this documentation has not been shown to be unreliable. Instead, TRLED relied on MPG’s inability to produce the specifically requested documents including a “bill of lading report” (i.e. tracing imported shrimp’s bills of lading to specific exported shrimp) to conclude that MPG did not act to the best of its ability to comply with CBP’s requests for information during the investigation, and as a result, applied adverse inferences against MPG. On the contrary, in our view, this created a situation where there is not substantial evidence that evasion occurred, as discussed further below. The record reflects that CBP and MPG did not meet pursuant to these information requests and that CBP did not conduct a site visit (due to the pandemic restricting travel).

¹² 19 U.S.C. § 1517(a)(5)(A).

¹³ 19 U.S.C. § 1517(c)(1) and 19 C.F.R. § 165.1.

¹⁴ See *Altex, Inc. v. United States*, 370 F.3d 1108, 1116 (Fed. Cir. 2004) (internal citations and quotation marks omitted).

¹⁵ See *Nucor Corp. v. United States*, 34 C.I.T. 70, 72 (2010) (citing *Nippon Steel Corp. v. United States*, 458 F.3d 1345, 1352 (Fed. Cir. 2006)).

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The October 13 Determination finding of evasion in this case appears to rest significantly upon the use of facts otherwise available due to the purported insufficient responses to TRLED's requests for information provided by MPG during the course of the EAPA investigation.¹⁶ As a result of these perceived deficiencies, TRLED applied adverse inferences on the basis that MPG failed to cooperate and comply to the best of its ability in response to requests for information from CBP.¹⁷

In its request for administrative review, MPG argues that “[i]t cannot be the case that if a company’s system makes it impossible for it to report data in a specific way requested by CBP, that it is then *per se* not cooperating to the best of its ability if it can achieve the same result by a different method.”¹⁸ Even though MPG was unable to trace imported shrimp in the exact manner requested by CBP, MPG was able to reach the same result by demonstrating that MPG tracks imported shrimp throughout the production and sales process through its use of an “XH” marking to ensure that imported shrimp is not shipped to the United States.¹⁹ Moreover, MPG reconciled its purchases of imported shrimp to its withdrawals of imported shrimp from inventory into production and reconciled its withdrawals from the finished goods inventory of imported shrimp to export sales containing imported shrimp.²⁰ As such, MPG was not unresponsive to CBP’s requests for information but rather, responded to the best of its ability given the practical difficulties of directly tracing imported shrimp throughout the production process from specific import bills of lading to specific export sales.²¹

Furthermore, in its request for administrative review, MPG asserts it was able to demonstrate the effectiveness of its internal tracking system and accounting reconciliation system by identifying one shipment to the United States customs territory which erroneously contained a de minimis amount of imported Indian-origin shrimp (approximately []) commingled with Vietnamese-origin shrimp.²² MPG explains that this shipment was the result of a mistake by MPG’s production team, [], and this misconception was later discovered by MPG’s sales team.²³ Moreover, MPG asserts that this misconception was corrected at the time of its occurrence and further claims “the mistake was not repeated.”²⁴ Due to insufficient documentary evidence on the record regarding this single shipment containing a de minimis amount of Indian-origin shrimp exported to [], CBP cannot speak to whether this shipment qualifies as a clerical error under the EAPA. However, we note that MPG asserts in its request for review that “MPG disclosed the

¹⁶ October 13 Determination at 9-10.

¹⁷ *Id.*

¹⁸ Request for Administrative Review of the Minh Phu Group, EAPA Investigation Case No. 7356, November 10, 2020, at 12 (footnote and citations omitted).

¹⁹ *Id.* at 13. See also Minh Phu Supplemental RFI Response at 13-18.

²⁰ Minh Phu Supplemental RFI Response at Exhibits 34 and 36.

²¹ See Request for Administrative Review of the Minh Phu Group, EAPA Investigation Case No. 7356, November 10, 2020, at 15-17.

²² Request for Administrative Review of the Minh Phu Group, EAPA Investigation Case No. 7356, November 10, 2020, at 28-30.

²³ *Id.* at 28. See also Minh Phu Supplemental RFI Response at 8-10.

²⁴ Request for Administrative Review of the Minh Phu Group, EAPA Investigation Case No. 7356, November 10, 2020, at 28.

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mistake to CBP and stands ready to pay the duties owed on this shipment.”²⁵ Notably, while MPG was unable to tie the imported shrimp to a specific import bill of lading as requested by CBP, MPG’s ability to identify the sale of a de minimis amount of imported shrimp from India commingled with Vietnamese-origin shrimp to [] serves as reliable evidence that MPG’s internal system is effective, though not without flaws. Additionally, the record evidence does not illustrate any other definite instance of exports of commingled shrimp to the United States occurring during the period of investigation. In the absence of evidence to the contrary, MPG’s internal tracking system of imported shrimp in place during the period of investigation as well as its accounting reconciliation methods have not been proven to be unreliable by CBP. Therefore, there is insufficient evidence that Indian-origin shrimp was contained in MPG’s entries during the period of investigation.

Consequently, the record evidence as a whole is inconclusive to demonstrate that MPG’s entries to the customs territory of the United States during the period of investigation contained covered merchandise subject AD order A-533-840 (i.e. Indian-origin shrimp) and therefore, the application of adverse inferences against MPG is inappropriate in this case. Given these findings, we do not find it necessary to address the remaining arguments made by MPG in its request for review. Therefore, based on the documentation and information provided in the record, there is not substantial evidence that MPG entered shrimp from India by means of evasion by transshipment through Vietnam during the period of investigation.

III. DECISION

Based upon our *de novo* review of the administrative record in this case, including the timely and properly filed request for administrative review submitted by MPG on November 10, 2020, as well as the response thereto, the October 13 Determination of evasion under 19 U.S.C. § 1517(c) is REVERSED.

A copy of this determination is being provided to TRLED so TRLED can determine whether the interim measures should be modified, consistent with this decision. TRLED may also take any other appropriate actions consistent with this decision.

This decision does not preclude CBP or other agencies from pursuing additional enforcement actions or penalties. Pursuant to 19 C.F.R. § 165.46(a), this final administrative determination is subject to judicial review pursuant to section 421 of the EAPA.

Sincerely,

Paul Pizzeck
Chief, Penalties Branch
Regulations & Rulings
Office of Trade
U.S. Customs & Border Protection

²⁵ *Id.* at 29.

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Approved by:

Joanne R. Stump
Acting Executive Director, Regulations & Rulings
Office of Trade
U.S. Customs & Border Protection