

publication date, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise produced and exported by Grobest, the cash-deposit rate will be that established in these final results of reviews and (2) for subject merchandise exported by Grobest, but manufactured by any other party, the cash deposit rate will be Vietnam-wide rate (*i.e.*, 25.76 percent).

Further, the following cash deposit requirements will be effective upon publication of the final results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Fish One, the cash-deposit rate will be that established in these final results of review; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other Vietnam exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash-deposit rate will be Vietnam-wide rate of 25.76 percent; (4) for all non-Vietnam exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the Vietnam exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review, the new shipper reviews and this notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act, and 19 CFR 351.213(g), 351.214(h) and 352.221(b)(4).

Dated: February 28, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**A-331-802**

#### **Certain Frozen Warmwater Shrimp from Ecuador: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Ecuador with respect to 23 companies.<sup>1</sup> The respondents which the Department selected for individual review are OceanInvest, S.A. (OceanInvest) and Promarisco, S.A. (Promarisco). The respondents which were not selected for individual review are listed in the "Preliminary Results of Review" section of this notice. This is the first administrative review of this order. The period of review (POR) covers August 4, 2004, through January 31, 2006.

We preliminarily determine that sales made by OceanInvest and Promarisco have been made below normal value (NV). In addition, based on the preliminary results for the respondents selected for individual review, we have preliminarily determined a weighted-average margin for those companies that were not selected for individual review but were responsive to the Department's requests for information. For those companies which were not responsive to the Department's requests for information, we have preliminarily assigned to them a margin based on adverse facts available (AFA).

If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

**EFFECTIVE DATE:** March 9, 2007.

#### **FOR FURTHER INFORMATION CONTACT:**

David Goldberger or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-3773, respectively.

<sup>1</sup>This figure does not include the company for which the Department is rescinding the administrative review. See "Partial Rescission of Review" section for further discussion.

## SUPPLEMENTARY INFORMATION:

### Background

In February 2005, the Department published in the **Federal Register** an antidumping duty order on certain frozen warmwater shrimp from Ecuador. See *Notice of Amended Final Determination and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Ecuador*, 70 FR 5156 (February 1, 2005) (*Shrimp Order*). On February 1, 2006, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain frozen warmwater shrimp from Ecuador for the period August 4, 2004, through January 31, 2006. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 5239 (February 1, 2006). On February 28, 2006, the petitioner<sup>2</sup> submitted a letter timely requesting that the Department conduct an administrative review of the sales of certain frozen warmwater shrimp made by numerous companies during the POR, pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Act), and in accordance with 19 CFR 351.213(b)(1). Also, on February 28, 2006, the Department received timely requests under 19 CFR 351.213(b)(2) to conduct an administrative review of the sales of certain frozen warmwater shrimp from the following producers/exporters of subject merchandise: Empacadora del Pacifico S.A., Empacadora Dufer Cia. Ltda., Exporklore, S.A., Promarisco, and Sociedad Nacional de Galapagos C.A.

On April 7, 2006, the Department published a notice of initiation of administrative review for 71 companies and requested that each provide data on the quantity and value of its exports of subject merchandise to the United States during the POR for mandatory respondent selection purposes. These companies are listed in the Department's notice of initiation. See *Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India and Thailand*, 71 FR 17819 (April 7, 2006) (*Notice of Initiation*).

During the period April 27, 2006, through June 13, 2006, we received responses to the Department's quantity and value questionnaire from 59 companies. A number of these companies reported that their names

<sup>2</sup>The petitioner is the Ad Hoc Shrimp Trade Action Committee.

were duplicated in the *Notice of Initiation*.

Subsequently, the Department received withdrawal requests with respect to many of the companies. However, based upon our consideration of the responses to the quantity and value questionnaire and the resources available to the Department, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review request remained. As a result, on July 11, 2006, we selected the two largest remaining producers/exporters by export volume of certain frozen warmwater shrimp from Ecuador during the POR, OceanInvest and Promarisco, as the mandatory respondents in this review. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from Irene Darzenta Tzafolias, Acting Director, Office 2, AD/CVD Operations, entitled "Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Ecuador: Selection of Respondents," dated July 11, 2006. On this same date, we issued the antidumping questionnaire to OceanInvest and Promarisco.

On July 20, 2006, we published a notice rescinding the administrative review with respect to 47 companies for which the requests for an administrative review were withdrawn in a timely manner,<sup>3</sup> in accordance with 19 CFR 351.213(d)(1). See *Certain Frozen Warmwater Shrimp from Ecuador; Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 41198 (July 20, 2006).

We received responses to section A of the questionnaire from Promarisco and OceanInvest on August 8 and August 15, 2006, respectively.

On August 11, 2006, the petitioner submitted comments regarding third country market selection with respect to Promarisco.

On August 25, 2006, the Department postponed the preliminary results in this review until no later than February 28, 2007. See *Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, the Socialist Republic of Vietnam, the People's Republic of China, and Thailand: Notice of Extension of Time Limits for the Preliminary Results of the First Administrative Reviews and New Shipper Reviews*, 71 FR 50387 (August 25, 2006).

We received responses to sections B and C of the questionnaire from

OceanInvest and Promarisco on September 6, 2006. In addition, on this date Promarisco submitted a response to section D of the questionnaire.

On September 19, 2006, we published a notice amending the initiation and partial rescission of the administrative review to include an additional company which was inadvertently omitted. See *Certain Frozen Warmwater Shrimp From Ecuador; Notice of Amended Initiation and Amended Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 54797 (September 19, 2006).

On September 20, 2006, the petitioner requested that the Department initiate a sales-below-cost investigation of OceanInvest. On October 20, 2006, we initiated this investigation. See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled "Petitioner's Allegation of Sales Below the Cost of Production for OceanInvest S.A.," dated October 20, 2006 (OceanInvest COP Initiation Memo). On that date, we instructed OceanInvest to respond to the Department's section D questionnaire.

We issued a supplemental section A, B, and C questionnaire to OceanInvest on September 21, 2006, and received responses on October 13 and 17, 2006. We issued a supplemental section A, B, and C questionnaire to Promarisco on October 3, 2006, along with an additional information request on October 16, 2006, and received responses on October 11, 23, and 27, 2006.

On October 17, 2006, the petitioner submitted additional comments on the appropriate comparison market to be used for Promarisco. Promarisco responded to these comments in its October 23, 2006, submission.

On November 6, 2006, we determined that Spain constitutes the appropriate comparison market with respect to Promarisco. See Memorandum to James Maeder, Director Office 2, AD/CVD Operations, from The Team entitled "Selection of the Appropriate Third Country Market for Promarisco," dated November 6, 2006.

OceanInvest submitted its response to section D of the questionnaire on November 16, 2006. In response to Department requests, OceanInvest also submitted additional information concerning its section B and C questionnaire responses on November 9, 20, and 28, 2006.

We issued a section D supplemental questionnaire to Promarisco on November 21, 2006, and to OceanInvest on December 19, 2006. On December 22, 2006, and January 18, 2007, respectively, we received responses to

these supplemental questionnaires. We issued additional supplemental section D questionnaires to OceanInvest on January 24 and February 5, 2007, and to Promarisco on February 9, 2007. OceanInvest submitted its responses on February 2 and 12, 2007, and Promarisco submitted its response on February 21, 2007.

We conducted a verification of OceanInvest's reported sales data in December 2007, and issued our verification report on January 18, 2007. In response to our January 22, 2007, request, OceanInvest submitted revised third-country and U.S. sales data bases reflecting certain verification findings on January 30, 2007.

On January 23, 2007, we published a correction to the scope of the order in which we clarified that the scope does not cover warmwater shrimp in non-frozen form. See *Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam; Amended Orders*, 72 FR 2857 (January 23, 2007).

We conducted a verification of OceanInvest's reported cost data in February 2007. Our cost verification report will be issued following the preliminary results.

#### Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,<sup>4</sup> 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 (HTSUS), 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 (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted

<sup>3</sup> Among the 47 companies referenced in the rescission notice is one company we determined was a duplicate name for another company included in the review.

<sup>4</sup> "Tails" in this context means the tail fan, which includes the telson and the uropods.

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 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 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 classified under the following HTSUS 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 HTSUS 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.

### Partial Rescission of Review

In response to our quantity and value data solicitation, Studmark, S.A. claimed that the only shipment of subject merchandise it made during the POR was being reviewed in the context of a new shipper review that was initiated prior to the initiation of this administrative review.<sup>5</sup> Having confirmed the accuracy of this claim with CBP, and having issued final results in the new shipper review covering Studmark's single shipment, we are rescinding this review with respect to Studmark, S.A.

### Application of Facts Available

Section 776(a) of the Act provides that the Department will apply "facts otherwise available" if, *inter alia*, necessary information is not available on the record or an interested party: 1) withholds information that has been requested by the Department; 2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

Doblertel, S.A., Pacfish, S.A. (*Pacfish*), and Sociedad Atlantico Pacifico, S.A. claimed that they made no shipments of subject merchandise to the United States during the POR. However, because we were unable to confirm the accuracy of these companies' claims with CBP, we requested further information/clarification from them. Pacfish responded to our request,<sup>6</sup> but Doblertel, S.A. and Sociedad Atlantico Pacifico, S.A. failed to provide the requested information/clarification. By doing so, these companies withheld requested information and significantly impeded the proceeding. Therefore, pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department preliminarily finds that the use of total facts available is appropriate.

<sup>5</sup> The final results of this new shipper review were published on September 20, 2006. See *Notice of Final Results of New Shipper Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from Ecuador*, 71 FR 54977 (September 20, 2006) (NSR).

<sup>6</sup> Pacfish's response states that it erred in initially reporting that it made no shipments during the POR and acknowledges that it made a small quantity of sales during the POR. See "Pacfish Response Submission to Department's September 19, 2006, Letter," and Memorandum to the File dated October 31, 2006. This information was generally consistent with the data obtained from CBP. Accordingly, we have determined that Pacfish was responsive to the Department's request for information, and therefore, are assigning to Pacfish the rate applied to other non-mandatory respondents in this review.

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. See also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103-316, Vol. 1, at 870 (1994) (SAA), reprinted in 1994 U.S.C.C.A.N. 4040, 4198-99. Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); see also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon*). We preliminarily find that Doblertel, S.A. and Sociedad Atlantico Pacifico, S.A. did not act to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act, because they failed to respond to the Department's requests for information. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to these companies. See *Nippon*, 337 F.3d at 1382-83.

Section 776(b) of the Act provides that the Department may use as AFA, information derived from: 1) the petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record. The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See, e.g., *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative*

*Review in Part*, 71 FR 65082, 65084 (November 7, 2006).

In selecting an appropriate AFA rate, the Department considered: 1) the rates alleged in the petition (*see Notice of Initiation of Antidumping Duty Investigations: Certain Frozen and Canned Warmwater Shrimp From Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam*, 69 FR 3876, 3879 (January 27, 2004)); 2) the rates calculated in the final determination of the investigation, which ranged from 2.48 to 4.42 percent (*see Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Ecuador*, 70 FR 5156, 5157 (February 1, 2005) (*LTFV Amended Final Determination and Order*)); and 3) the rate calculated in the NSR, 9.20 percent. As discussed further below, we do not find that the rates alleged in the petition have probative value for purposes of this review. In addition, we find that the weighted-average rates calculated for respondents in previous segments of this proceeding, as well as in the instant review, are not sufficiently high as to effectuate the purpose of the facts available rule (*i.e.*, we do not find that any of these rates are high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act). Therefore, we have preliminarily assigned a rate of 48.61 percent as AFA, which is the highest transaction-specific rate calculated for a respondent in this review. The Department has applied this methodology in previous proceedings, such as *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and the accompanying Issues and Decision Memorandum at Comment 15; and *Certain Cut-to-Length Carbon-Quality Steel Plate Products From Italy: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 39299 (July 12, 2006), and the accompanying Issues and Decision Memorandum at Comment 3. We consider the 48.61 percent rate to be sufficiently high so as to encourage participation in future segments of this proceeding.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Department's regulations provide that "corroborate" means that the

Department will satisfy itself that the secondary information to be used has probative value. *See* 19 CFR 351.308(d); *see also SAA* at 870. With respect to consideration of the rates alleged in the petition, information from prior segments of the proceeding constitutes secondary information and to the extent practicable, the Department will examine the reliability and relevance of the information to be used.

Because the companies did not submit information to the Department or participate in a previous segment of this proceeding, we do not have such information to consider in determining whether the petition rate is relevant to each of them. To determine whether the margin is reliable and relevant in this administrative review, we examined the transaction-specific rates of the respondents in this administrative review compared to the petition rates and found that they were not relevant for use in this administrative review. The highest transaction-specific rate calculated for a respondent in this review was 48.61 percent, which is substantially lower than the lowest margin alleged in the petition. We then examined the elements of the export price (EP) and NV calculations on which the margins in the petition were based. The petitioner based EP on the average unit values (AUVs) for Ecuadorian shrimp of various count sizes as calculated from CBP data and reported on a headless, shell-on (HLSO) basis. The petitioner based NV on an Italian price list for head-on, shell-on (HOSO) shrimp of various count sizes and made several adjustments to those prices, including conversion from an HOSO to an HLSO basis. We compared the EPs and NVs in the petition to entered values in the U.S. sales listings for both respondents, and gross unit prices for HLSO shrimp in the Italian market from OceanInvest's sales listing, respectively. Although we found the U.S. entered values reported in this review to be comparable to the AUVs in the petition, OceanInvest's POR sales prices in the Italian market were substantially different from the NVs in the petition. *See* Memorandum to the File entitled "Procedures Conducted to Corroborate Data Contained in Petition for Assignment of Appropriate Adverse Facts Available Rate," dated February 28, 2007, for further discussion. Therefore, we cannot conclude that the petition rates have probative value for AFA assignment purposes in this review.

As noted above, we do not find the weighted-average rates calculated for respondents in this and previous segments of this proceeding to be

sufficiently adverse. Therefore, we are applying the highest transaction-specific rate calculated for the mandatory respondents in this review. With respect to corroboration of a rate calculated in a segment of a proceeding, we note that, unlike other types of information, such as input costs or selling expenses, there are no independent sources from which the Department can derive dumping margins. The only source for calculated dumping margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total AFA a calculated dumping margin from the current or a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. *See, e.g., Anhydrous Sodium Metasilicate from France: Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 44283, 44284 (July 28, 2003) (unchanged in final). Therefore, given that we are using the highest of the transaction-specific rates calculated for the mandatory respondents in this administrative review, it is not necessary to question the reliability of this rate.

The Department will, however, consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin. *See, e.g., Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest calculated margin as AFA because the margin was based on a company's uncharacteristic business expense resulting in an unusually high margin). Therefore, we examined whether any information on the record would discredit the selected rate as reasonable facts available and have found none. Because we did not find evidence indicating that the margin used as facts available in this proceeding is not appropriate, we have determined that the the highest transaction-specific rate calculated for any mandatory respondent in this administrative review is appropriate as AFA and are assigning this rate to Doblertel, S.A. and Sociedad Atlantico Pacifico, S.A.

#### Comparisons to Normal Value

To determine whether sales of certain frozen warmwater shrimp by OceanInvest and Promarisco to the United States were made at less than

NV, we compared EP to the NV, as described in the "Export Price" and "Normal Value" sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the "Cost of Production Analysis" section below.

### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by OceanInvest and Promarisco covered by the description in the "Scope of the Order" section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Pursuant to 19 CFR 351.414(e)(2), we compared U.S. sales to sales made in Italy for OceanInvest and Spain for Promarisco within the contemporaneous window period, which extends from three months prior to the month of the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by OceanInvest and Promarisco in the following order: cooked form, head status, count size, organic certification, shell status, vein status, tail status, other shrimp preparation, frozen form, flavoring, container weight, presentation, species, and preservative.

With respect to Promarisco's U.S. sales of broken shrimp, we compared them to constructed value (CV), as Promarisco did not make any sales of broken shrimp in its comparison market.

### Export Price

For all U.S. sales made by OceanInvest and Promarisco, we applied the EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price (CEP) methodology was not otherwise warranted based on the facts of record.

#### A. OceanInvest

We based EP on FOB or delivered, duty-paid (DDP) prices to the first unaffiliated purchaser in the United

States. Where appropriate, we made adjustments to the starting price for billing adjustments. We also made deductions to the starting price for demurrage expenses, foreign inland freight expenses, Ecuadorian brokerage and handling expenses, ocean freight expenses, U.S. customs duties (including *merchandise processing and harbor maintenance fees*), and U.S. brokerage and handling expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

OceanInvest reported certain price adjustments and demurrage expenses as direct selling expenses. We reclassified these items as billing adjustments and movement expenses, respectively.

As noted in the sales verification report (see "Verification of the Sales Response of OceanInvest S.A. in the 2004-2006 Antidumping Administrative Review of Frozen Warmwater Shrimp from Ecuador," Memorandum to the File dated January 18, 2007 (OceanInvest SVR)) at page 18, OceanInvest inadvertently reported many adjustments for glazed sales on a glaze-inclusive basis rather than glaze-exclusive basis. We recalculated the per-unit amounts to reflect a glaze-exclusive basis using the methodology outlined in the verification report.

Based on our sales verification findings, we made minor revisions to the movement expenses reported for a small number of U.S. sales. See Memorandum to the File entitled "OceanInvest S.A., Preliminary Results Notes and Margin Calculation," dated February 28, 2007 (OceanInvest Preliminary Results Memo).

#### B. Promarisco

We based EP on CIF or DDP prices to the first unaffiliated purchaser in the United States. We made deductions to the starting price for foreign inland freight expenses, ocean freight expenses, marine insurance expenses, U.S. customs duties (including *merchandise processing and harbor maintenance fees*), U.S. brokerage and handling expenses, and U.S. warehousing expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

### Normal Value

#### A. Home Market Viability and Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in

accordance with section 773(a)(1)(C) of the Act.

In the less-than-fair-value (LTFV) investigation segment of this proceeding, the Department determined that a particular market situation existed which rendered the Ecuadorian market inappropriate for purposes of determining NV for the three respondents in the LTFV investigation, including Promarisco. See Memorandum dated June 7, 2004, entitled "Home Market as Appropriate Comparison Market," as included at Exhibit A-2 of Promarisco's August 8, 2006, section A Questionnaire response. Promarisco reported that the particular market situation still applies to its home market sales and there is no information on the record to suggest otherwise. Accordingly, although the aggregate volume of Promarisco's home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, because of the particular market situation, we could not rely on Promarisco's home market sales for determining NV. Therefore, we used Promarisco's sales to Spain, Promarisco's largest third country market, as the basis for comparison-market sales. See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled "Selection of the Appropriate Third Country Market for Promarisco," dated November 8, 2006, for a more detailed discussion of this issue.

Furthermore, based on our analysis of OceanInvest's questionnaire responses, we determined that OceanInvest's aggregate volume of home market sales of the foreign like product was insufficient to permit a proper comparison with U.S. sales of the subject merchandise.<sup>7</sup> Therefore, with respect to OceanInvest, we used sales to Italy, which is OceanInvest's largest third country market, as the basis for comparison-market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

#### B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling

<sup>7</sup> Because OceanInvest's sales in the home market did not meet the viability threshold, it was unnecessary to address whether a particular market situation existed with respect to such sales.

activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. See, *id.* See also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),<sup>8</sup> we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *Plate from South Africa*, 62 FR at 61732–33.

In this administrative review, we obtained information from each respondent regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

### 1. OceanInvest

OceanInvest sold frozen warmwater shrimp to distributors and traders in the U.S. market, and distributors in the Italian market. OceanInvest reported that it made EP sales in the U.S. market through two channels of distribution: FOB sales, and DDP. We examined the selling activities performed for these channels, and found that OceanInvest performed the following selling functions for both channels: packing, order input/processing, direct sales personnel services, and claim services (*i.e.*, billing adjustments). In addition, for DDP sales, OceanInvest made freight and delivery arrangements. These selling activities can be generally grouped into two core selling function categories for analysis: 1) sales and marketing (*e.g.*, order input/processing, direct sales personnel services, claim services); and 2) freight and delivery. Accordingly, based on the core selling functions, we find that OceanInvest performed sales and marketing for all U.S. sales, and freight and delivery services as well for certain U.S. sales. We do not find that the provision of freight and delivery services for one channel of distribution is sufficient to distinguish it as a separate LOT. Accordingly, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the Italian market, OceanInvest reported one channel of distribution, FOB sales. We examined the selling activities performed for this channel, and found that OceanInvest performed the following selling functions: packing, order input/processing, direct sales personnel services, payment of commissions, and claim services (*i.e.*, billing adjustments). These selling activities can be generally grouped into one core selling function for analysis: sales and marketing. Accordingly, we find that OceanInvest performed the core selling function of sales and marketing for all customers in the Italian market. Because all sales in the Italian market are made through a single distribution channel, we preliminarily determine that there is one LOT in the Italian market.

Finally, we compared the EP LOT to the comparison market LOT and found that, with the exception of freight and delivery services performed on some U.S. sales, and the payment of commissions on Italian sales, the core selling functions performed for U.S. and Italian market customers are virtually identical. Therefore, we determined that sales to the U.S. and Italian markets during the POR were made at the same

LOT, and as a result, no LOT adjustment was warranted.

### 2. Promarisco

Promarisco made direct sales of frozen warmwater shrimp to retailers, food processors, restaurant chains, and distributors in the U.S. market, and food processors and distributors in the Spanish market. Promarisco reported that it made EP sales in the U.S. market on a CIF or DDP basis through one channel of distribution. We examined the selling activities performed for this channel, and found that Promarisco performed the following selling functions: sales forecasting, sales promotion, order input/processing, technical assistance, pay commissions, freight and delivery, and claim services. These selling activities can be generally grouped into two core selling function categories for analysis: 1) sales and marketing (*e.g.*, order input/processing, sales promotion, claim services); and 2) freight and delivery. Accordingly, we find that Promarisco performed the core selling functions of sales and marketing, and freight and delivery for all customers in the U.S. market. Because all sales in the U.S. market are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the Spanish market, Promarisco reported that it made sales on an FOB, C&F, or CIF basis through one channel of distribution. We examined the selling activities performed for this channel, and found that Promarisco performed the following selling functions: sales forecasting, sales promotion, order input/processing, technical assistance, pay commissions, freight and delivery, and claim services. These selling activities can be generally grouped into two core selling function categories for analysis: 1) sales and marketing (*e.g.*, order input/processing, sales promotion, claim services); and 2) freight and delivery. Accordingly, based on the core selling functions, we find that Promarisco performed sales and marketing for all Spanish sales, and freight and delivery services as well for certain Spanish sales. We do not find that the provision of freight and delivery services for some sales is sufficient to distinguish it as a separate LOT. Accordingly, we preliminarily determine that there is one LOT in the Spanish market.

Finally, we compared the EP LOT to the comparison-market LOT and found that the core selling functions performed for U.S. and Spanish market customers are virtually identical. Therefore, we determined that sales to the U.S. and Spanish markets during the

<sup>8</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (SG&A) expenses, and profit for CV, where possible.

POR were made at the same LOT, and as a result, no LOT adjustment was warranted.

### C. Cost of Production Analysis

Based on our analysis of the petitioner's allegations, we found that there were reasonable grounds to believe or suspect that OceanInvest's sales of frozen warmwater shrimp in the third-country market were made at prices below their cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation to determine whether OceanInvest's sales were made at prices below their respective COPs. See OceanInvest

#### COP Initiation Memo.

In the LTFV investigation, the most recently completed segment of this proceeding as of April 7, 2006, the publication date of the initiation of this review, we found that Promarisco had made sales below the cost of production. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From Ecuador*, 69 FR 47091 (August 4, 2004); unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Ecuador*, 69 FR 76913 (December 23, 2004), and *LTFV Amended Final Determination and Order*. Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Promarisco made sales in the third-country market at prices below the cost of producing the merchandise in the current review period. Accordingly, we instructed Promarisco to respond to the section D (Cost of Production) questionnaire.

#### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondents' COP based on the sum of their costs of materials and conversion for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses (see "Test of Comparison Market Sales Prices" section below for treatment of third country selling expenses). The Department relied on the COP data submitted by each respondent in its most recent supplemental section D questionnaire response for the COP calculation, except for the following instances where the information was not appropriately quantified or valued.

#### a. OceanInvest

We made an adjustment to OceanInvest's reported costs of manufacture to account for unreconciled costs. Our revision to OceanInvest's COP data is discussed in the Memorandum from Laurens van Houten, Accountant, to Neal Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - OceanInvest, S.A.," dated February 28, 2007.

#### b. Promarisco

We recalculated Promarisco's G0z7 A expense ratio to include research and development expenses. Our revision to Promarisco's COP data are discussed in the Memorandum from Frederick W. Mines, Accountant, to Neal Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Promarisco S.A.," dated February 28, 2007.

#### 2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the third country sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices (inclusive of billing adjustments, where appropriate) were exclusive of any applicable movement charges, and direct and indirect selling expenses and packing expenses, revised where appropriate, as discussed below under the "Price-to-Price Comparisons" section.

#### 3. Results of the COP Test

In determining whether to disregard third country sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) or the Act: 1) whether, within an extended period of time, such sales were made in substantial quantities; and 2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Where less than 20 percent of the respondent's third country sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given

product are at prices less than the COP, we disregard the below-cost sales because: 1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act, and 2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain specific products, more than 20 percent of OceanInvest's and Promarisco's third country sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For those U.S. sales of subject merchandise for which there were no useable third country sales in the ordinary course of trade, we compared EPs to the CV in accordance with section 773(a)(4) of the Act. See "Calculation of Normal Value Based on Constructed Value" section below.

#### D. Calculation of Normal Value Based on Comparison Market Prices

##### 1. OceanInvest

We based NV for OceanInvest on FOB prices to unaffiliated customers in Italy. We made adjustments, where appropriate, to the starting price for billing adjustments. We made deductions, where appropriate, from the starting price for foreign inland freight and Ecuadorian brokerage and handling expenses, under section 773(a)(6)(B)(ii) of the Act.

We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale (COS) for imputed credit expenses, bank fees, testing fees, bill of lading fees, and international courier fees. As discussed above under "Export Price," we recalculated the per-unit amounts for these expenses to reflect a glaze-exclusive basis. We also made adjustments in accordance with 19 CFR 351.410(e) for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not the other. Specifically, as commissions were

granted in the Italian market but not in the U.S. market, we made an upward adjustment to NV for the lesser of 1) the amount of commission paid in the Italian market, or 2) the amount of indirect selling expenses incurred in the U.S. market.

We also deducted comparison-market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

OceanInvest reported certain price adjustments relevant to Italian sales as direct selling expenses. We reclassified these items as billing adjustments. We also recalculated the imputed credit expense for both U.S. and Italian sales to account for these items.

We recalculated the reported per-unit commission expenses applicable to Italian sales based on our verification findings. See OceanInvest SVR at page 23 and OceanInvest Preliminary Results Memo.

We recalculated indirect selling expenses to include the cost of a product sample. See OceanInvest Preliminary Results Memo.

## 2. Promarisco

We calculated NV based on CIF, C&F or FOB prices to unaffiliated customers in the Spanish market. We made adjustments, where appropriate, to the starting price for billing adjustments. We made deductions from the starting price for movement expenses, including inland freight, marine insurance, and international freight, under section 773(a)(6)(B)(ii) of the Act.

We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in COS for imputed credit expenses. We also made adjustments in accordance with 19 CFR 351.410(e) for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of 1) the amount of commission paid in the U.S. market, or 2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology.

We also deducted comparison market packing costs and added U.S. packing

costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

In response to the Department's inquiry, Promarisco submitted a letter on February 14, 2007, explaining that three transactions reported in the Spanish sales data base with missing payment dates were actually free product samples. As this information was received too late for consideration in the preliminary results and did not include any supporting documentation, we have included these transactions in our calculation of NV and set the payment date equal to February 28, 2007, the date of the preliminary results, for purposes of calculating imputed credit expenses.

Promarisco reported in its December 22, 2006, questionnaire response that it did not recalculate the imputed credit expense after revisions were made to the Spanish market sales file to include certain missing payment dates in its October 27, 2006, questionnaire response. Accordingly, we recalculated the imputed credit expense for the Spanish market sales to account for the revised payment dates, based on Promarisco's methodology described in its response.

Promarisco reported certain movement-related insurance expenses incurred on sales to Spain as direct selling expenses. We reclassified these expenses as movement expenses. In addition, we have corrected and recalculated these expenses and marine insurance expenses incurred on certain Spanish sales, in accordance with the information provided in Promarisco's February 12, 2007, submission.

We recalculated indirect selling expenses to include certain expenses Promarisco excluded from its indirect selling expense calculation. See Memorandum to the File entitled "Promarisco, S.A. Preliminary Results Notes and Margin Calculation," dated February 28, 2007.

### F. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for those frozen warmwater shrimp products for which we could not determine the NV based on comparison-market sales because there were no useable sales of a comparable product, we based NV on the CV.

Section 773(e) of the Act provides that the CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. For each respondent, we

calculated the cost of materials and fabrication based on the methodology described in the "Cost of Production Analysis" section, above. We based SG&A and profit for each respondent on the actual amounts incurred and realized by the respondents in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on comparison-market sales from, and adding U.S. direct selling expenses to, CV.

### Currency Conversion

We did not make any currency conversions pursuant to section 773A of the Act and 19 CFR 351.415 because all sales and cost data for both respondents were reported in U.S. dollars.

### Preliminary Results of the Review

We preliminarily determine that weighted-average dumping margins exist for the respondents for the period August 4, 2004, through January 31, 2006, as follows:

Manufacturer/Exporter	Percent Margin
OceanInvest, S.A. ....	4.54
Promarisco, S.A. ....	1.02

### Review-Specific Average Rate Applicable to the Following Companies:<sup>9</sup>

Manufacturer/Exporter	Percent Margin
Agrol S.A. ....	2.25
Camarones (Camarones Del Mar COBUS S.A.) ....	2.25
Comercializadora del Mar COMAR Cia. Ltda. ....	2.25
Empacadora y Exportadora Calvi Cia. Ltda. ....	2.25
Emprede S.A. ....	2.25
Exportadora del Oceano Oceanexa C. A. ....	2.25
Fortumar Ecuador S.A.	2.25
Gambas del Pacifico ...	2.25
Hectorosa S.A. ....	2.25
Inepexa S.A. ....	2.25
Jorge Luis Benitez Lopez ....	2.25

<sup>9</sup> This rate is based on the weighted-average of the margins calculated for those companies selected for individual review, excluding *de minimis* margins or margins based entirely on AFA.



Manufacturer/Exporter	Percent Margin
Luis Loaiza Alvarez .....	2.25
Mardex Cia. Ltda. ....	2.25
Marines C.A. ....	2.25
Pacfish, S.A. ....	2.25
PCC Congelados & Frescos SA .....	2.25
Pescazul S.A. ....	2.25
Productos Cultivados del Mar "Proculmar" Cia. Ltda. ....	2.25
Promarosa S.A. ....	2.25

AFA Rate Applicable to the Following Companies:

Manufacturer/Exporter	Percent Margin
Doblertel S.A. ....	48.61
Sociedad Atlantico Pacífico, S.A. ....	48.61

### Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Interested parties may submit case briefs not later than 30 days after the date of issuance of the last verification report in this case. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of issuance of the last verification report in this case. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: 1) a statement of the issue; 2) a brief summary of the argument; and 3) a table of authorities.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. Requests should contain: 1) the party's name, address and telephone number; 2) the number of participants; and 3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the respective case briefs.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

### Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate

entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisal instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

Regarding OceanInvest, for those sales where it reported the entered value of its U.S. sales, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. For those sales where OceanInvest did not report the entered value of its U.S. sales, we will calculate importer-specific per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate importer-specific *ad valorem* ratios based on the estimated entered value.

Regarding Promarisco, because it reported the entered value of all of its U.S. sales, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer.

For the responsive companies which were not selected for individual review, we will calculate an assessment rate based on the weighted-average of the cash deposit rates calculated for the companies selected for individual review excluding any which are *de minimis* or determined entirely on AFA.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent). See 19 CFR 351.106(c)(1). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and*

*Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the "All Others" rate if there is no rate for the intermediary involved in the transaction. See *Assessment Policy Notice* for a full discussion of this clarification.

### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; 2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.58 percent, the "All Others" rate made effective by the LTFV investigation. See *Shrimp Order*. These requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties

occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: February 28, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E7-4295 Filed 3-8-07; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-337-806

#### **Certain Individually Quick Frozen Red Raspberries from Chile: Notice of Extension of Time Limit for 2005-2006 Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** March 9, 2007.

**FOR FURTHER INFORMATION CONTACT:** Yasmin Nair or Nancy Decker, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3813 or (202) 482-0196, respectively.

#### **Statutory Time Limits**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department of Commerce ("Department") to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

#### **Background**

On August 30, 2006, the Department published in the **Federal Register** a notice of initiation of administrative review of the antidumping duty order on individually quick frozen red raspberries from Chile, covering the period July 1, 2005, through June 30, 2006. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in*

*Part*, 71 FR 51573 (August 30, 2006).

The preliminary results for this administrative review are currently due no later than April 2, 2007.

#### **Extension of Time Limits for Preliminary Results**

The Department requires additional time to review, analyze, and verify the sales and cost information submitted by the parties in this administrative review. Moreover, the Department requires additional time to issue supplemental questionnaires and fully analyze the responses. Thus, it is not practicable to complete this review within the original time limit (*i.e.*, April 2, 2007). Therefore, the Department is extending the time limit for completion of the preliminary results to not later than July 31, 2007, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 05, 2007.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E7-4318 Filed 3-8-07; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-357-809]

#### **Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina: Notice of Rescission of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On September 29, 2006, the U.S. Department of Commerce ("the Department") published a notice of initiation of an administrative review of the antidumping duty order on small diameter seamless carbon and alloy steel standard, line and pressure pipe ("seamless line and pressure pipe") from Argentina. The review covers one manufacturer/exporter, Siderca S.A.I.C. ("Siderca"). The period of review ("POR") is August 1, 2005, through July 31, 2006. Following the receipt of a certification of no shipments by Siderca, we notified the domestic interested party of the Department's intent to rescind this review and provided an opportunity to comment on the rescission. We received no comments. Therefore, we are rescinding this administrative review.

**EFFECTIVE DATE:** March 9, 2007.

#### **FOR FURTHER INFORMATION CONTACT:**

Helen Kramer or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0405 and (202) 482-3019, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On August 1, 2006, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on seamless line and pressure pipe from Argentina for the period August 1, 2005, through July 31, 2006. *See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 43441 (August 1, 2006). On August 31, 2006, United States Steel Corporation ("U.S. Steel"), a domestic producer of the subject merchandise, made a timely request that the Department conduct an administrative review of Siderca. On September 29, 2006, in accordance with section 751(a) of the Tariff Act of 1930, as amended ("the Act"), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Notice of Initiation of Antidumping Duty and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006). On October 4, 2006, the Department issued its antidumping duty questionnaire to Siderca. On October 18, 2006, Siderca submitted a letter to the Department, certifying that the company made no shipments or entries for consumption in the United States of the subject merchandise during the POR. Siderca also certified that the company's U.S. affiliate, Tenaris Global Services U.S.A. Corporation, also did not sell, enter, or import subject merchandise for consumption into the United States during the POR.

##### **Scope of the Order**

The antidumping duty order on imports from Argentina covers small diameter seamless carbon and alloy standard, line, and pressure pipes ("seamless pipes") produced to the American Standard for Testing and Materials ("ASTM") standards A-335, A-106, A-53, and American Petroleum Institute ("API") standard API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this order also includes all products used in standard, line, or pressure pipe physical applications and meeting the physical