

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 publication of this notice. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs. See 19 CFR 351.309(d)(1). Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged 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, HCHB Room 1870, 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 Promarisco, because it reported the entered value of all of its U.S. sales, we will calculate an importer-specific *ad valorem* duty assessment rate 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. We will calculate a single importer-specific assessment rate for Promarisco, consistent with our practice in *AR2 Final Results; see also Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and Singapore: Final Results of the Antidumping Administrative Reviews, Rescission of Administrative Review in part, and Determination Not to Revoke*

*Order in Part*, 68 FR 35623 (June 16, 2003), and accompanying Issues and Decision Memorandum at Comment 9B; *Notice of Final Results of Antidumping Duty Administrative Review and Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products From Canada*, 69 FR 75921 (December 20, 2004), and accompanying Issues and Decision Memorandum at Comment 13.

Regarding Songa, 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 examination, we will calculate an assessment rate based on the weighted average of the margin rates calculated for the companies selected for individual examination 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 or customer-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). 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.

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 in effect during the POR 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

On August 15, 2007, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the Uruguay Round Agreements Act (URAA), the U.S. Trade Representative, after consulting with the Department and Congress, directed the Department to implement its determination to revoke the antidumping duty order on certain frozen warmwater shrimp from Ecuador. See *Section 129 Final Results*. Accordingly, the antidumping duty order on certain frozen warmwater shrimp from Ecuador was revoked effective August 15, 2007. As a result, the collection of cash deposits of antidumping duties on entries of the subject merchandise is no longer required.

#### 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.

March 2, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-533-840

#### Certain Frozen Warmwater Shrimp From India: Preliminary Results and Preliminary 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 (shrimp) from

India with respect to 170 companies.<sup>1</sup> The respondents which the Department selected for individual review are Devi Sea Foods Limited (Devi) and Falcon Marine Exports Limited (Falcon). The respondents which were not selected for individual review are listed in the "Preliminary Results of Review" section of this notice. This is the third administrative review of this order. The period of review (POR) is February 1, 2007, through January 31, 2008.

We preliminarily determine that sales made by Devi have not been made at below normal value (NV), while those made by Falcon have. In addition, based on the preliminary results for the respondents selected for individual review, we have preliminarily determined a margin for those companies that the Department did not select for individual review.

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, 2009.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood or Henry Almond, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3874 or (202) 482-0049, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

In February 2005, the Department published in the **Federal Register** an antidumping duty order on certain frozen warmwater shrimp from India. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147 (Feb. 1, 2005) (*Shrimp Order*). On February 4, 2008, 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 India for the period February 1, 2007, through January 31, 2008. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 6477 (Feb. 4, 2008). In response to timely requests from interested parties pursuant to 19 CFR 351.213(b)(1) and

(2) to conduct an administrative review of the U.S. sales of certain frozen warmwater shrimp by numerous producers/exporters, the Department published a notice of initiation of administrative review for 336 companies. See *Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, and Thailand: Notice of Initiation of Administrative Reviews*, 73 FR 18754, 18757-18762 (Apr. 7, 2008) (*Initiation Notice*).

In our initiation notice we indicated that we would select mandatory respondents for review based upon CBP entry data, and that we would limit the respondents selected for individual review in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act). See *Initiation Notice*, 73 FR at 18765. In April 2008, we received comments on the issue of respondent selection from Devi, Falcon, and the petitioner.<sup>2</sup>

In April and May 2008, we received statements from 18 companies that indicated that they had no shipments of subject merchandise to the United States during the POR.

In May 2008, after considering 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 was requested. As a result, we selected the two largest producers/exporters of certain frozen warmwater shrimp from India during the POR (i.e., Devi and Falcon) for individual review in this segment of this proceeding (see the May 27, 2008, Memorandum to James Maeder from Elizabeth Eastwood entitled, "2007-2008 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India: Selection of Respondents for Individual Review"), and we issued the antidumping duty questionnaire to them.

In July 2008 we received responses from Devi and Falcon to section A of the questionnaire (i.e., the section related to general information), as well as to sections B and C (i.e., the sections covering comparison market and U.S. sales, respectively) and D (i.e., the section covering cost of production (COP)). Also in July 2008, the petitioner submitted comments regarding the appropriate third-country comparison market for Falcon, and it withdrew its review requests for 144 companies, in accordance with 19 CFR 351.213(d)(1).

In September 2008, we selected Japan as the third country comparison market for Falcon. For a discussion, see the

September 3, 2008, memorandum to James Maeder, Director, Office 2, AD/CVD Operations from the team entitled, "2007-2008 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India - Selection of the Appropriate Third Country Market for Falcon Marine Exports Limited" (Third Country Market Memo). As Devi had only one viable comparison market, Canada, no further market selection process was necessary for Devi.

Also in September 2008, we requested that Falcon provide additional information regarding its relationship with an affiliated shrimp producer, KR Enterprises, in order to determine whether it was appropriate to collapse these two companies (i.e., treat them as a single entity) for purposes of our analysis. In addition, we issued a supplemental questionnaire covering section D to Devi, as well as supplemental questionnaires covering sections A and D to Falcon.

On October 8, 2008, the Department postponed the preliminary results in this review until no later than March 2, 2008. See *Certain Frozen Warmwater Shrimp from Ecuador, India, the People's Republic of China, and Thailand: Notice of Extension of Time Limits for the Preliminary Results of the Third Administrative Reviews*, 73 FR 58931 (Oct. 8, 2008).

In October 2008, the Department issued supplemental questionnaires covering sections A through C for Devi and sections B and C for Falcon. In October and November 2008, Devi and Falcon responded to these supplemental questionnaires, as well as to the supplemental questionnaires issued in September 2008, and Falcon also provided the additional information requested by the Department with respect to its relationship with KR Enterprises.

Also in October 2008, the Department issued a memorandum indicating that it intended to rescind the administrative review with respect to 168 respondent companies, and it invited comments on this action from interested parties. See the October 16, 2008 memorandum to the file from Elizabeth Eastwood entitled, "Intent to Rescind in Part the 2007-2008 Antidumping Duty Administrative Review on Frozen Warmwater Shrimp from India" (Intent to Rescind Memo). In response, the Department received comments from: 1) Ananda Aqua Exports (AAE), Ananda Foods (AF), and Ananda Aqua Applications (AAA) (collectively, the "Ananda Group") objecting to the rescission with respect to AF and AAA; 2) Sai Marine Exports Pvt. Ltd.

<sup>1</sup> This figure does not include those companies for which the Department is rescinding the administrative review.

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

confirming the proper address for that company; 3) 32 U.S. producers opposing the rescission with respect to 144 companies for which the petitioner withdrew its review request; and 4) the petitioner objecting to the opposition by the 32 U.S. producers.

In November 2008, the Department requested, and received, information regarding the relationship among the Ananda Group during the POR, in order to permit the Department to perform a collapsing analysis.

In December 2008, we published a notice rescinding the administrative review with respect to 166 companies,<sup>3</sup> based on the following reasons: 1) timely withdrawals of the review requests; 2) confirmed statements of no shipments during the POR; and/or 3) duplicated names and/or addresses in our notice of initiation. See *Certain Frozen Warmwater Shrimp from India: Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 77610 (Dec. 19, 2008) (*Partial Rescission Notice*). See also the Intent to Rescind Memo. In rescinding the review with respect to the companies for which the petitioner withdrew its review request, we disregarded the 32 U.S. producers' opposition because the underlying review requests were made on behalf of the petitioner, and not on behalf of any individual U.S. producer. See *Partial Rescission Notice*, 73 FR at 77612.

From December 2008 through January 2009, we conducted a sales verification of Devi's U.S. affiliate, Devi Seafoods, Inc., as well as sales and cost verifications of Devi and Falcon.

In February 2009, we requested that AAEC provide additional information about its ownership in order to facilitate the Department's collapsing analysis. Also in this month, we determined that it was appropriate to collapse Falcon and its affiliate KR Enterprises, and thus we are treating these companies as the same entity for purposes of this proceeding. For further discussion, see the February 19, 2009, memorandum from The Team to James Maeder, Director, Office 2, entitled, "Whether to Collapse KR Enterprises and Falcon Marine Exports Limited in the 2007–2008 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India" (Falcon Collapsing Memo).

In February 2009, at the request of the Department, Falcon submitted revised U.S. and third country sales databases.

<sup>3</sup> The Department did not rescind this review with respect to the two Ananda Group Companies listed in the Intent to Rescind Memo, based on their objection. For further discussion see the "Collapsing Certain Respondents" section of this notice.

### 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 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 (HTSUS 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 (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain battered shrimp.

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

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

As noted above, on April 7, 2008, the Department initiated this review with respect to 336 companies. With respect to two of these companies, Asvini Fisheries Limited and Surya Marine Exports, we stated that we intended to rescind the review for these two companies if we found in the final results of the 2006–2007 administrative review that these companies are the successors-in-interest to two additional Indian shrimp exporters included in this review. See Initiation Notice, 73 FR at 18761–18762. In the final results of the 2006–2007 administrative review, we found Asvini Fisheries Private Limited to be the successor-in-interest to Asvini Fisheries Limited and found Suryamitra Exim (P) Ltd. to be the successor-in-interest to Surya Marine Exports. See *Certain Frozen Warmwater Shrimp From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 40492, 40493–40494 (July 15, 2008) (2006–2007 Final Results). Accordingly, consistent with our stated intention in our Initiation Notice, we are rescinding this administrative review with respect to Asvini Fisheries Limited and Surya Marine Exports.

## Collapsing Certain Respondents

### A. The Ananda Group

As noted above, on October 28, 2008, AAE informed the Department that it is affiliated with two producers/exporters of shrimp in India listed in the Department's Intent to Rescind Memo, and it requested that the Department: 1) maintain the review with respect to these two companies; and 2) treat itself and these two companies as a single entity for purposes of this administrative review.

In order to assess the merits of the Ananda Group's claim, on November 7, 2008, we requested information regarding the relationship between AAE, AF, and AAA during the POR. In response, on November 25, 2008, the Ananda Group provided information demonstrating that the three companies had numerous common members on their boards of directors, and that two of the companies shared common ownership. Moreover, the Ananda Group indicated that the companies had intertwined operations via common management and shared sales and production information. Finally, the Ananda Group indicated that two of the three companies had production facilities capable of producing in-scope merchandise, while the third sold in-scope merchandise to the United States and abroad.

In February 2009, we requested that the Ananda Group provide additional information with respect to the ownership of the three companies and the relationships among the owners. This information was not received in time to consider for purposes of the preliminary results. Nonetheless, we intend to consider it for the final results and will revise the analysis presented below, if necessary.

After considering the information currently on the record, we have preliminarily determined that, in accordance with 19 CFR 351.401(f), it is appropriate to collapse the companies in the Ananda Group for purposes of this proceeding because: 1) entities within the group are affiliated and two of these entities have production facilities for identical or similar merchandise that would not require significant retooling in order to restructure manufacturing priorities; and 2) a significant potential for manipulation exists due to common ownership, overlapping management and board of directors, and intertwined operations. For the analysis underlying these conclusions, see the March 2, 2009, memorandum from The Team to James Maeder, Director, Office 2, entitled, "Whether to Collapse Ananda

Aqua Exports, Ananda Foods, and Ananda Aqua Applications in the 2007–2008 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India." Therefore, we have preliminarily treated the three companies as a single entity and assigned them the same antidumping duty rate (*i.e.*, the weighted-average rate assigned to companies not selected for individual review) as outlined below.

### B. Falcon

As noted above, in its July 11, 2008, response to section A of the questionnaire, Falcon informed the Department that it was affiliated during the POR with another shrimp producer, KR Enterprises. On September 11, 2008, we requested further information regarding the relationship between Falcon and KR Enterprises, in order to permit the Department to perform a collapsing analysis. In response, on October 1, 2008, Falcon stated that the two companies are affiliated via familial relationships among their directors, shareholders, and partners. Further, Falcon indicated the two companies share administrative and production facilities.

After an analysis of this information, we determined that, in accordance with 19 CFR 351.401(f), it is appropriate to collapse these entities for purposes of this review because: 1) Falcon and KR Enterprises are affiliated and have production facilities for identical or similar merchandise that would not require significant retooling in order to restructure manufacturing priorities; and 2) a significant potential for manipulation exists due to common ownership, overlapping management and board of directors, and intertwined operations. For further discussion, see the Falcon Collapsing Memo. Therefore, we have treated these companies as a single entity and have assigned them the antidumping duty rate calculated for Falcon, as outlined below.

### Comparisons to Normal Value

To determine whether sales of certain frozen warmwater shrimp from India to the United States were made at less than NV, we compared the export price (EP) or constructed export price (CEP) to the NV, as described in the "Constructed Export Price/Export Price" and "Normal Value" sections of this notice.

Pursuant to sections 773(a)(1)(B)(i) and 777A(d)(2) of the Act, for Devi and Falcon, we compared the EPs or CEPs of individual U.S. transactions, as applicable, to the weighted-average NV of the foreign like product in the appropriate corresponding calendar month 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)(A) of the Act, we considered all products produced by Devi and Falcon 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 of shrimp to sales of shrimp made in Canada (for Devi) and Japan (for Falcon) within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. 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, according to section 771(16)(B) of the Act, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. For Devi and Falcon, where there were no sales of identical or similar merchandise, we made product comparisons using constructed value (CV). See section 773(a)(4) of the Act.

In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Devi and Falcon 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.

### Constructed Export Price/Export Price

For all U.S. sales made by Falcon, and for certain U.S. sales made by Devi, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of record.

For the remaining U.S. sales made by Devi, we calculated CEP in accordance with section 772(b) of the Act because the subject merchandise was sold for the account of this company by its subsidiary in the United States to unaffiliated purchasers. With respect to one CEP sale, however, we discovered at verification that Devi had inadvertently failed to include this transaction in its U.S. sales listing. Therefore, we based the margin for this transaction on facts

available. As facts available, we assigned the weighted-average margin calculated on Devi's reported U.S. sales, in accordance with our practice. *See, e.g., Certain Frozen Warmwater Shrimp From Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 50933 (Aug. 29, 2008), and accompanying Issues and Decision Memorandum at Comment 14.

**We revised the data reported by Devi to take into account minor corrections found at verification.**

**A. Devi**

We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price for discounts in accordance with 19 CFR 351.401(c). We also made deductions from the starting price for foreign inland freight expenses, export inspection agency (EIA) fees, foreign brokerage and handling expenses, various foreign miscellaneous shipment charges, international freight expenses, terminal handling charges, marine insurance expenses, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. brokerage and handling expenses, U.S. warehousing expenses, and U.S. inland freight expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for discounts in accordance with 19 CFR 351.401(c). We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight expenses, EIA fees, foreign brokerage and handling expenses, various foreign miscellaneous shipment charges, international freight expenses, terminal handling charges, marine insurance expenses, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. brokerage and handling expenses, U.S. inland freight expenses (including both freight from port to warehouse and

freight from warehouse to the customer), and U.S. warehousing expenses.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses and other direct selling expenses), commissions, sales and marketing allowance expenditures, and indirect selling expenses (including inventory carrying costs and other indirect selling expenses). Finally, where commissions were paid in the U.S. market but not in the comparison market, we offset these commissions by the lesser of: 1) the amount of commission paid in the U.S. market; or 2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the comparison market.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Devi and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

**B. Falcon**

We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price for discounts in accordance with 19 CFR 351.401(c). We also made deductions from the starting price for cold storage expenses, loading and unloading expenses, trailer hire expenses, foreign inland freight expenses, port charges, export survey charges, terminal and handling charges, other miscellaneous shipment charges, foreign brokerage and handling expenses, international freight expenses, marine insurance expenses, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), and U.S. brokerage and handling 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.

We determined that the aggregate volume of home market sales of the foreign like product for Devi and Falcon was insufficient to permit a proper comparison with U.S. sales of the subject merchandise. For Devi, as noted above, we used Canada as the comparison market because this was Devi's only viable comparison market during the POR. For Falcon, we selected Japan as the comparison market because, among other things, sales of foreign like product in Japan were the most similar to the subject merchandise. See the Third Country Market Memo for further discussion. Therefore, we used sales to Canada and Japan as the basis for comparison market sales for Devi and Falcon, respectively, 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 activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *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 (Nov. 19, 1997) (*Plate from South Africa*). In order to determine whether the comparison market 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>5</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 Tech., Inc. v. United States*, 243 F.3d 1301, 1314–16 (Fed. Cir. 2001).

<sup>5</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 (G&A) expenses, and profit for CV, where possible.

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 possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP 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 possible), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See, e.g., 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. *Devi*

*Devi* reported that it made sales through two channels of distribution in the United States (*i.e.*, EP sales made directly to unaffiliated customers and CEP sales via an affiliated reseller); however, it stated that the selling activities it performed and the relative level of intensity of each selling activity did not vary by channel of distribution. *Devi* reported performing the following selling functions for its U.S. sales: sales planning, personnel training, sales promotion, packing, inventory maintenance in India, handling of sales inquiries, order processing, freight and delivery services (including pre-shipment inspection, foreign transportation, and export customs clearance), extension of credit to U.S. customers, providing discounts and rebates, and providing post-sale warranties and guarantees. These selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and, 4) warranty and technical support. Accordingly, based on the selling functions, we find that *Devi* performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for all U.S. sales. Because *Devi*'s selling

activities did not vary by distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to Canada, *Devi* reported that it made sales through a single channel of distribution (*i.e.*, sales made directly to unaffiliated customers) and that all selling functions were performed at the same levels of intensity as in the U.S. market. We examined the selling activities performed for third country sales and found that *Devi* performed the following selling functions: sales planning, personnel training, sales promotion, packing, inventory maintenance in India, handling of sales inquiries, order processing, freight and delivery services (including pre-shipment inspection and foreign transportation), extension of credit to Canadian customers, providing discounts and rebates, and providing post-sale warranties and guarantees. Accordingly, based on the selling functions noted above, we find that *Devi* performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical services for third country sales. Because all third country sales are made through a single distribution channel and the selling activities to *Devi*'s customers did not vary within this channel, we preliminarily determine that there is one LOT in the third country market for *Devi*.

Finally, we compared the U.S. LOT to the third country market LOT and found that the selling functions performed for U.S. and third country market customers do not differ, as *Devi* performed the same selling functions at the same relative level of intensity in both markets. Therefore, we determine that sales to the U.S. and third country markets during the POR were made at the same LOT, and as a result, no LOT adjustment or CEP offset is warranted.

#### 2. *Falcon*

*Falcon* reported that it made EP sales in the U.S. market to trading companies and distributors. Because *Falcon* reported no difference in the selling activities it performed or the relative level of intensity of each selling activity for these two customer categories, we find that there is only one channel of distribution for *Falcon*'s EP sales. We examined the selling activities performed for this channel and found that *Falcon* performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight and the provision of customs clearance/brokerage services (in India and the United States); cold storage and inventory maintenance;

quality-assurance-related activities; and banking-related activities. These selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the selling functions, we find that *Falcon* performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for U.S. sales. Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the third country market, *Falcon* reported that it made sales to trading companies and that all selling functions were performed at the same levels of intensity as in the U.S. market. We examined the selling activities performed for third country sales, and found that *Falcon* performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight and the provision of customs clearance/brokerage services (in India); cold storage and inventory maintenance; quality-assurance-related activities; and banking-related activities. Accordingly, based on the selling functions, we find that *Falcon* performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for all third country sales. Because all third country sales are made through a single distribution channel and the selling activities to *Falcon*'s customers did not vary within this channel, we preliminarily determine that there is one LOT in the third country market for *Falcon*.

Finally, we compared the EP LOT to the third country market LOT and found that the selling functions performed for U.S. and third country market customers do not differ, as *Falcon* performed the same selling functions at the same relative level of intensity in both markets. Therefore, we determine that sales to the U.S. and third country markets during the POR were made at the same LOT, and as a result, no LOT adjustment is warranted.

#### C. Cost of Production Analysis

We found that *Devi* and *Falcon* made sales below the COP in the most recently completed segment of this proceeding, as of the date of initiation of this review, in which each respondent was examined, and such sales were disregarded. *See Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of*

*Antidumping Duty Administrative Review*, 72 FR 52055, 52058 (Sept. 12, 2007) (finding that Falcon made below-cost sales); and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India*, 69 FR 76916 (Dec. 23, 2004) (*LTFV Final Determination*) (finding that Devi made below-cost sales). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Devi and Falcon made sales in the third country market at prices below the cost of producing the merchandise in the current review period.

### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondents' COPs based on the sum of their costs of materials and conversion for the foreign like product, plus amounts for 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 recently submitted cost database for the COP calculation, except for the following instances:

#### a. Devi

- i. In calculating Devi's G&A expense ratio, we included the loss on the sale of fixed assets in the numerator, and we offset the numerator for proceeds from the sale of shrimp heads and shell waste.
- ii. We recalculated Devi's financial expense ratio to reclassify certain Export Credit Guaranteed Corporation (ECGC) fees related to sales activity as selling expenses.

For further discussion of these adjustments, see the memorandum from Laurens van Houten, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Devi Sea Foods Limited," dated March 2, 2009.

#### b. Falcon

- i. We recalculated Falcon's G&A expense ratios to: 1) include wealth and fringe benefit taxes as G&A expenses; and 2) use cost of goods sold as the denominator.
- ii. We recalculated Falcon's financial expense ratio to use cost of goods

sold as the denominator.

- iii. We recalculated KR Enterprises' G&A expense ratio to: 1) include fringe benefit taxes and insurance expenses as G&A expenses; and 2) use cost of goods sold as the denominator.
- iv. We recalculated KR's financial expense ratio to: 1) include letter of credit opening charges as financial expenses; and 2) use cost of goods sold as the denominator.

For further discussion of these adjustments, see the memorandum from Ji Young Oh, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results Falcon Marine Exports Limited," dated March 2, 2009.

### 2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the comparison market sales prices 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, discounts, direct and indirect selling expenses and packing expenses.

### 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) of 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. In accordance with section 773(b)(2)(C)(i) of the Act, 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 when: 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 products, more than 20 percent of Devi's and Falcon'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 third country sales in the ordinary course of trade, we compared CEPs or EPs, as appropriate, to 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. Devi

For Devi, we calculated NV based on delivered prices to unaffiliated customers in Canada. We made adjustments to the starting price, where appropriate, for discounts in accordance with 19 CFR 351.401(c). We also made deductions for foreign inland freight expenses, foreign brokerage and handling expenses, various foreign miscellaneous shipment charges and international freight expenses (including terminal handling charges) under section 773(a)(6)(B) of the Act.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including bank charges, ECGC fees, EIA fees, imputed credit expenses, and other direct selling expenses), and commissions. 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. See 19 CFR 351.410(e). If the commissions were granted in the comparison 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 comparison market; or 2) the amount of indirect selling expenses incurred in the U.S. market. *Id.*

For comparisons to CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses (*i.e.*, imputed credit expenses and other direct selling expenses), commissions, sales and marketing allowance expenditures, and indirect selling expenses (including inventory carrying costs and other indirect selling expenses). 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. *See* 19 CFR 351.410(e). 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. *Id.*

For all price-to-price comparisons, 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. We also deducted third country packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

2. *Falcon*

We based NV for Falcon on delivered prices to unaffiliated customers in Japan. We made adjustments, where appropriate, to the starting price for discounts in accordance with 19 CFR 351.401(c). We also made deductions, where appropriate, from the starting price for cold storage expenses, loading and unloading expenses, trailer hire expenses, foreign inland freight expenses, port charges, export survey charges, terminal and handling charges, foreign miscellaneous shipment charges, foreign brokerage and handling expenses, and international freight expenses, under section 773(a)(6)(B)(ii) of the Act.

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 for commissions, imputed credit expenses, bank fees, EIA fees, ECGC premiums, outside inspection/lab expenses, letter of credit amendment charges, and other miscellaneous selling expenses. For those U.S. sales for which Falcon had not received payment as of the date of the sales verification, we recalculated U.S. credit expenses using the date first day of verification as the date of payment. Finally, 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 (including inventory carrying costs) incurred in the comparison market. *See* 19 CFR 351.410(e). 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. *Id.*

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

E. 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 all sales of the comparable products failed the COP test, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative (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 it 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 circumstances of sale in accordance with section 773(a)(6)(iii) and (a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made circumstance-of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses to, CV. *See* 19 CFR 351.410(c). For comparisons to Devi’s CEP, we made circumstance-of-sale adjustments by deducting comparison market direct selling expenses from CV. *Id.* We also made adjustments, when applicable, for comparison market indirect selling expenses to offset U.S. commissions in

EP and CEP comparisons. *See* 19 CFR 351.410(e).

Currency Conversion

We made currency conversions into U.S. dollars for all spot transactions by Devi and Falcon in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. In addition, both Devi and Falcon reported that they purchased forward exchange contracts which were used to convert the currency in which certain sales transactions were made into home market currency. Under 19 CFR 351.415(b), if a currency transaction on forward markets is directly linked to an export sale under consideration, the Department is directed to use the exchange rate specified with respect to such foreign currency in the forward sale agreement to convert the foreign currency. *See LTFV Final Determination and accompanying Issues and Decision Memorandum at Comment 6; see also Certain Frozen Warmwater Shrimp from India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 12103, 12113 (Mar. 6, 2008), unchanged in *2006–2007 Final Results*. Therefore, for Devi and Falcon we used the reported forward exchange rates for currency conversions where applicable.

Preliminary Results of the Review

We preliminarily determine that weighted-average dumping margins exist for the respondents for the period February 1, 2006, through January 31, 2007, as follows:

Manufacturer/Exporter	Percent Margin
Devi Sea Foods Limited .....	0.39
Falcon Marine Exports Limited/ KR Enterprises .....	0.79

Review-Specific Average Rate Applicable to the Following Companies:<sup>6</sup>

Manufacturer/Exporter	Percent Margin
Abad Fisheries .....	0.79
Accelerated Freeze-Drying Co.	0.79
Allana Frozen Foods Pvt. Ltd. ....	0.79
Allanasons Ltd. ....	0.79
AMI Enterprises .....	0.79
Amulya Sea Foods .....	0.79
Anand Aqua Exports .....	0.79

<sup>6</sup> This rate is based on the weighted average of the margins calculation for those companies selected for individual review, excluding *de minimis* margins or margins based entirely on adverse facts available (AFA).



Manufacturer/Exporter	Percent Margin	Manufacturer/Exporter	Percent Margin	Manufacturer/Exporter	Percent Margin
Ananda Aqua Exports (P) Ltd./ Ananda Foods/Ananda Aqua Applications .....	0.79	Jaya Satya Marine Exports Pvt. Ltd. ....	0.79	Sita Marine Exports .....	0.79
Andaman Seafoods Pvt. Ltd. ....	0.79	Jayalakshmi Sea Foods Private Limited .....	0.79	Sprint Exports Pvt. Ltd. ....	0.79
Angelique Intl .....	0.79	Jinny Marine Traders .....	0.79	Sri Chandrantha Marine Ex- ports, Ltd. ....	0.79
Anjaneya Seafoods .....	0.79	Jiya Packagings .....	0.79	Sri Sakthi Cold Storage .....	0.79
Apex Exports .....	0.79	K R M Marine Exports Ltd. ....	0.79	Sri Sakthi Marine Products P Ltd. ....	0.79
Asvini Exports .....	0.79	Kalyanee Marine .....	0.79	Sri Satya Marine Exports .....	0.79
Asvini Fisheries Private Limited Avanti Feeds Limited .....	0.79	Kay Kay Exports .....	0.79	Sri Venkata Padmavathi Marine Foods Pvt. Ltd. ....	0.79
Ayshwarya Seafood Private Lim- ited .....	0.79	Kings Marine Products .....	0.79	SSF Ltd. ....	0.79
Baby Marine International .....	0.79	Koluthara Exports Ltd. ....	0.79	Star Agro Marine Exports Private Limited .....	0.79
Baby Marine Sarass .....	0.79	Konark Aquatics & Exports Pvt. Ltd. ....	0.79	Sun Bio-Technology Ltd. ....	0.79
Bhatsons Aquatic Products .....	0.79	Libran Cold Storages (P) Ltd. ....	0.79	Suryamitra Exim (P) Ltd. ....	0.79
Bhavani Seafoods .....	0.79	Magnum Estate Private Limited Magnum Export .....	0.79	Suvarna Rekha Exports Private Limited .....	0.79
Bijaya Marine Products .....	0.79	Magnum Sea Foods Pvt. Ltd. ....	0.79	Suvarna Rekha Marines P Ltd. ..	0.79
Blue Water Foods & Exports P. Ltd. ....	0.79	Malabar Arabian Fisheries .....	0.79	TBR Exports Pvt Ltd. ....	0.79
Bluefin Enterprises .....	0.79	Malnad Exports Pvt. Ltd. ....	0.79	Teekay Maine P. Ltd .....	0.79
Bluepark Seafoods Pvt. Ltd. ....	0.79	Mangala Marine Exim India Pri- vate Ltd. ....	0.79	The Kadalkanny Group (Kadalkanny Frozen Foods, Edhayam Frozen Foods Pvt. Ltd., Diamond Seafoods Ex- ports, and Theva & Company)	0.79
BMR Exports .....	0.79	Mangala Sea Products .....	0.79	The Liberty Group (Devi Marine Food Exports Private Limited/ Kader Exports Private Limited/ Kader Investment and Trading Company Private Limited/Lib- erty Frozen Foods Pvt. Ltd./ Liberty Oil Mills Ltd./Premier Marine Products/Universal Cold Storage Private Limited)	0.79
Britto Exports .....	0.79	Manufacturer Falcon Marine Ex- ports .....	0.79	The Waterbase Limited .....	0.79
Calcutta Seafoods .....	0.79	MSC Marine Exporters .....	0.79	Tejaswani Enterprises .....	0.79
Calcutta Seafoods Pvt. Ltd. ....	0.79	MTR Foods .....	0.79	Usha Seafoods .....	0.79
Castlerock Fisheries Ltd. ....	0.79	Naga Hanuman Fish Packers .....	0.79	V.S Exim Pvt Ltd. ....	0.79
Chemmeens (Regd) .....	0.79	Naik Frozen Foods .....	0.79	Veejay Impex .....	0.79
Choice Canning Company .....	0.79	Navayuga Exports Ltd. ....	0.79	Victoria Marine & Agro Exports Ltd. ....	0.79
Choice Trading Corporation Pvt. Ltd. ....	0.79	Nekkanti Sea Foods Limited .....	0.79	Vinner Marine .....	0.79
Coastal Corporation Ltd. ....	0.79	NGR Aqua International .....	0.79	Vishal Exports .....	0.79
Corlim Marine Exports Pvt. Ltd.	0.79	Nila Sea Foods Pvt. Ltd. ....	0.79	Wellcome Fisheries Limited .....	0.79
Coreline Exports .....	0.79	Overseas Marine Export .....	0.79		
Devi Fisheries Limited .....	0.79	Penver Products (P) Ltd. ....	0.79		
Digha Seafood Exports .....	0.79	Pijikay International Exports P Ltd. ....	0.79		
Esmario Export Enterprises .....	0.79	Pisces Seafood International .....	0.79		
Exporter Coreline Exports .....	0.79	Premier Seafoods Exim (P) Ltd.	0.79		
Five Star Marine Exports Private Limited .....	0.79	Raa Systems Pvt. Ltd. ....	0.79		
Forstar Frozen Foods Pvt. Ltd. ..	0.79	Raju Exports .....	0.79		
Frigerio Conserva Allana Limited	0.79	Ram's Assorted Cold Storage Ltd. ....	0.79		
Frontline Exports Pvt. Ltd. ....	0.79	Raunaq Ice & Cold Storage .....	0.79		
G A Randerian Ltd. ....	0.79	Raysons Aquatics Pvt. Ltd. ....	0.79		
Gadre Marine Exports .....	0.79	Razban Seafoods Ltd. ....	0.79		
Galaxy Maritech Exports P. Ltd.	0.79	RBT Exports .....	0.79		
Gayatri Seafoods .....	0.79	Riviera Exports Pvt. Ltd. ....	0.79		
Geo Aquatic Products (P) Ltd. ....	0.79	Rohi Marine Private Ltd. ....	0.79		
Geo Seafoods .....	0.79	RVR Marine Products Private Limited .....	0.79		
Grandtrust Overseas (P) Ltd. ....	0.79	S A Exports .....	0.79		
GVR Exports Pvt. Ltd. ....	0.79	S Chanchala Combines .....	0.79		
HIC ABF Special Foods Pvt. Ltd.	0.79	S & S Seafoods .....	0.79		
Haripriya Marine Export Pvt. Ltd.	0.79	Safa Enterprises .....	0.79		
Hindustan Lever, Ltd. ....	0.79	Sagar Foods .....	0.79		
Hiravata Ice & Cold Storage .....	0.79	Sagar Grandhi Exports Pvt. Ltd.	0.79		
Hiravati Exports Pvt. Ltd. ....	0.79	Sagarvihar Fisheries Pvt. Ltd. ....	0.79		
Hiravati International Pvt. Ltd. (located at Jawar Naka, Porbandar, Gujarat – 360 575, India) .....	0.79	Sai Marine Exports Pvt. Ltd. ....	0.79		
Hiravati International Pvt. Ltd. (located at APM-Mafco Yard, Sector – 18 Vashi, Navi, Mumbai – 400 705, India) .....	0.79	Sai Sea Foods .....	0.79		
IFB Agro Industries Limited .....	0.79	Sai Sea Foods a.k.a. Sai Marine Exports Pvt. Ltd. ....	0.79		
Indian Aquatic Products .....	0.79	Sandhya Aqua Exports Pvt. Ltd.	0.79		
Indo Aquatics .....	0.79	Sandhya Aqua Exports .....	0.79		
Innovative Foods Limited .....	0.79	Sandhya Marines Limited .....	0.79		
International Freezefish Exports	0.79	Santhi Fisheries & Exports Ltd. ..	0.79		
Interseas .....	0.79	Satya Seafoods Private Limited	0.79		
ITC Ltd. ....	0.79	Sawant Food Products .....	0.79		
Jagadeesh Marine Exports .....	0.79	Seagold Overseas Pvt. Ltd. ....	0.79		
Jaya Satya Marine Exports .....	0.79	Selvam Exports Private Limited	0.79		
		Shippers Exports .....	0.79		
		Shroff Processed Food & Cold ZStorage P Ltd. ....	0.79		
		Silver Seafood .....	0.79		

#### 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). Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs. See 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: 1) a statement of the issue; 2) a brief summary of the argument; and 3) a table of authorities. See 19 CFR 351.309(c)(2) and (d)(2).

Pursuant to 19 CFR 351.310(c), 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 1870, 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. *Id.* Issues raised in the hearing will be limited to those raised in the respective case briefs. *Id.* The Department will issue the final results of this administrative review, including the results of its analysis of the 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(b)(1). 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.

For Devi and Falcon 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 sales. *See* 19 CFR 351.212(b)(1). 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.

For the 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*. 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*. 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. *See* 751(a)(2)(C) of the Act.

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, or the original less-than-fair-value (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 10.17 percent, the all-others rate made effective by the LTFV investigation. *See Shrimp Order*, 70 FR at 5148. These deposit 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) of the Act and 19 CFR 351.221(b)(4).

Dated: March 2, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-549-822

#### Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results 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 Thailand with respect to 136 companies. The two respondents which the Department selected for individual examination are Andaman Seafood Co., Ltd. (Andaman), Wales & Co. Universe Limited, Chanthaburi Frozen Food Co., Ltd. (CFF), Chanthaburi Seafoods Co., Ltd. (CSF), Phattana Seafood Co., Ltd. (PTN), Phattana Frozen Food Co., Ltd. (PFF), Thailand Fishery Cold Storage Public Co., Ltd. (TFC), Thai International Seafoods Co., Ltd. (TIS), and Sea Wealth Frozen Food Co., Ltd. (Sea Wealth) (collectively, the Rubicon Group), and Pakfood Public Company Limited and its affiliates, Asia Pacific (Thailand) Company, Limited and Takzin Samut Company, Limited (collectively, Pakfood). The respondents which were not selected for individual examination are listed in the "Preliminary Results of Review" section of this notice. This is the third administrative review of this order. The review covers the period February 1, 2007, through January 31, 2008.

We preliminarily determine that sales were made by Pakfood and the Rubicon Group below normal value (NV). In addition, based on the preliminary results for the respondents selected for