

conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice of final results of this administrative review and new shipper review are issued and published in accordance with sections 751(a)(2)(C) and 777(i) of the Act and 19 CFR 351.221(b)(5) and 351.214(j).

Dated: September 5, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

## Appendix I

### I. General Issues

- Comment 1: Shrimp Surrogate Value  
 Comment 2: Surrogate Financial Companies  
 A. Multiple Financial Statements from a Single Company  
 B. Zero/Negative Profit  
 C. Subsidies  
 Comment 3: Zeroing  
 Comment 4: Exclusion of "Aberrational" Bangladeshi Import Data from Surrogate Values  
 Comment 5: Surrogate Value for Labor  
 Comment 6: By-Product Surrogate Value  
 Comment 7: Truck Freight Surrogate Value

### II. Company-Specific Issues

- Comment 8: Application of Partial Adverse Facts Available to Fish One's "Salt2" and Marinade Factors of Production  
 Comment 9: Leaflet Surrogate Value for Fish One  
 Comment 10: Fish One's STPP Calculation  
 Comment 11: Grobest's Shrimp Surrogate Value

[FR Doc. E7-17991 Filed 9-11-07; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-840]

### Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** On March 9, 2007, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India. This review covers 70 producers/exporters of the subject merchandise to the United States. The period of review (POR) is August 4, 2004, through January 31, 2006. We are rescinding the review with respect to four companies because these companies had no

reportable shipments of subject merchandise during the POR.

Based on our analysis of the comments received, we have made certain changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** September 12, 2007.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood, 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.

### SUPPLEMENTARY INFORMATION:

#### Background

This review covers 70 producers/exporters.<sup>1</sup> The respondents which the Department selected for individual review are Devi Marine Food Exports Private Limited, Kader Investment and Trading Company Private Limited, Premier Marine Products, Kader Exports Private Limited, Universal Cold Storage Private Limited, and Liberty Frozen Foods Private Limited (collectively, "the Liberty Group"); Falcon Marine Exports Limited (Falcon); and Hindustan Lever Limited (HLL). The respondents which were not selected for individual review are listed in the "Final Results of Review" section of this notice.

On March 9, 2007, the Department published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on shrimp from India. See *Certain Frozen Warmwater Shrimp from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10658 (March 9, 2007) (*Preliminary Results*).

In April 2007, we received a certification of accuracy from a company official employed at Kadalkanny Frozen Foods (Kadalkanny) related to Kadalkanny's April 28, 2006, quantity and value (Q&V) questionnaire response. Because Kadalkanny provided an adequate explanation as to why the Department did not receive this in a timely manner, we accepted it as a one-time exception. For further discussion, see the "Facts Available" section of this notice, below.

We invited parties to comment on our preliminary results of review, as well as on the additional information noted

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

above. In April and May 2007, we received case and rebuttal briefs from the petitioner (*i.e.*, the Ad Hoc Shrimp Trade Action Committee) and the respondents (*i.e.*, Falcon, HLL, and the Liberty Group).

On May 29, 2007, we held a hearing at the request of Falcon, HLL, and the Liberty Group.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

### 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>2</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

<sup>2</sup> "Tails" in this context means the tail fan, which includes the telson and the uropods.

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. 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.

#### Period of Review

The POR is August 4, 2004, through January 31, 2006.

#### Partial Rescission of Review

Four of the companies that responded to the Department's Q&V questionnaire stated that they had no shipments/entries of subject merchandise into the United States during the POR. These companies are Balaji Seafoods Exports (India) Ltd., Innovative Foods Limited, Sharat Industries Limited, and Triveni Fisheries Pvt. Ltd. However, based on information obtained from U.S. Customs and Border Protection (CBP), it appeared that these companies did, in fact, have shipments or entries of subject merchandise entered into the

United States during the POR. As a result, we requested that each of these companies explain the entries in question.

In response to the Department's solicitation, the companies demonstrated that the entries at issue were not reportable transactions because they were either: 1) a non-paid sample; or 2) reported by another company in its Q&V response based on knowledge of destination. Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with the Department's practice, we are rescinding our review with respect to Balaji Seafoods Exports (India) Ltd., Innovative Foods Limited, Sharat Industries Limited, and Triveni Fisheries Pvt. Ltd. *See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 70 FR 67665, 67666 (Nov. 8, 2005) (where we rescinded the administrative review for companies that demonstrated they had no shipments during the POR).

#### Successor-in-Interest

As noted in the *Preliminary Results*, in April 2006, one of the producers/exporters named in the notice of initiation, Coastal Corporation Ltd. (Coastal Corp.), informed the Department that, prior to the POR, it operated under the name Coastal Trawlers Limited (Coastal Trawlers). Based on Coastal Corp.'s submission addressing the four factors with respect to this change in corporate structure (*i.e.*, management, production facilities for the subject merchandise, supplier relationships, and customer base),<sup>3</sup> in the preliminary results we preliminarily found that Coastal Corp.'s organizational structure, management, production facilities, supplier relationships, and customers have remained essentially unchanged. Further, we found that Coastal Corp. operates as the same business entity as Coastal Trawlers with respect to the production and sale of shrimp. Therefore, we preliminarily determined that Coastal Corp. was the successor-in-interest to Coastal Trawlers. *See Preliminary Results*, 72 FR at 10660–61.

Since the preliminary results, we requested additional information from

<sup>3</sup> *See Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 70 FR 50299, 50300-01 (Aug. 26, 2005) (setting forth the four factors to be considered for successorship determinations), unchanged in *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 70 FR 54721 (Oct. 13, 2005).

Coastal Corp. to substantiate its assertions regarding the four factors. Although Coastal Corp. did respond to the Department's requests for further information, this response was neither properly filed nor accompanied by a public version, as required by 19 CFR 351.304(c). Thus, we are unable to consider this information for purposes of the final results. As a result, we find that there is insufficient evidence on the record to support our preliminary finding that Coastal Corp. is the successor-in-interest to Coastal Trawlers, and thus we have treated these companies as separate entities for purposes of this administrative review. Because the companies responded to the Department's request for Q&V data in this review, we have assigned both Coastal Corp. and Coastal Trawlers the review-specific average rate as separate entities.

#### Facts Available

In the preliminary results, we determined that, in accordance with section 776(a)(2)(A) of the Act, the use of facts available was appropriate as the basis for the dumping margins for the following producer/exporters: Amison Foods Ltd., Amison Seafoods Ltd., Baby Marine (Eastern) Exports, Baby Marine Exports, and Baby Marine Products Cherukattu Industries (Marine Div), Global Sea Foods & Hotels Ltd, HA & R Enterprises, InterSea Exports Corporation, Kadalkanny Frozen Foods, Lotus Sea Farms, National Steel, National Steel & Agro Ind, Nsil Exports, Premier Marine Foods, R F. Exports, and Vaibhav Sea Foods (Vaibhav). *See Preliminary Results*, 72 FR at 10661–62.

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; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

In April 2006, the Department requested that all companies subject to review respond to the Department's Q&V questionnaire for purposes of mandatory respondent selection. The original deadline to file a response was April 28, 2006. Because numerous companies did not respond to this initial request for information, in May 2006 the Department issued letters to these companies affording them a second opportunity to submit a response to the Department's Q&V

questionnaire. However, the following companies failed to respond to the Department's second request for Q&V data: Amison Foods Ltd., Amison Seafoods Ltd., Cherukattu Industries (Marine Div), Global Sea Foods & Hotels Ltd, HA & R Enterprises, InterSea Exports Corporation, Lotus Sea Farms, National Steel, National Steel & Agro Ind, Nsil Exports, Premier Marine Foods, R F. Exports, and Vaibhav. On February 6, 2007, the Department placed documentation on the record confirming delivery of the questionnaires to each of these companies. See the Memorandum to the File from Elizabeth Eastwood entitled, "Placing Delivery Information on the Record of the 2004–2006 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India," dated February 6, 2007. By failing to respond to the Department's Q&V questionnaire, these companies withheld requested information and significantly impeded the proceeding. Thus, pursuant to sections 776(a)(2)(A) and (C) of the Act, because these companies did not respond to the Department's questionnaire, the Department preliminarily found that the use of total facts available was warranted.

Furthermore, three additional companies (*i.e.*, Baby Marine (Eastern) Exports, Baby Marine Exports, and Baby Marine Products) claimed that they made no shipments of subject merchandise to the United States during the POR. Because we were unable to confirm the accuracy of their claims with CBP, we requested further information/clarification from these exporters. However, these companies failed to provide the requested information.

By failing to respond to the Department's requests, these companies withheld requested information and significantly impeded the proceeding. Therefore, as in the preliminary results, the Department finds that the use of total facts available for Amison Foods Ltd., Amison Seafoods Ltd., Baby Marine (Eastern) Exports, Baby Marine Exports, and Baby Marine Products, Cherukattu Industries (Marine Div), Global Sea Foods & Hotels Ltd, HA & R Enterprises, InterSea Exports Corporation, Lotus Sea Farms, National Steel, National Steel & Agro Ind, Nsil Exports, Premier Marine Foods, and R F. Exports is appropriate pursuant to sections 776(a)(2)(A) and (C) of the Act. See *Preliminary Results*, 72 FR at 10661–62.

However, we are reversing our preliminary decision to base the margin for Vaibhav on total facts available. In

the preliminary results, we assigned Vaibhav a margin based on total facts available because the company did not respond to the Department's Q&V questionnaire. In its case brief, Vaibhav provided information documenting that it did not respond to the Q&V questionnaire because the company never received it. In fact, Vaibhav demonstrated that it ceased operations before the date on which Federal Express delivered the Q&V questionnaire to it. Because we find that Vaibhav has demonstrated that its failure to respond to the Department's Q&V questionnaire was due to circumstances beyond its control, we are reversing our preliminary decision to base the margin for Vaibhav on total facts available. Thus, we are now assigning Vaibhav the review-specific average rate. For further discussion, see the Issues and Decision Memorandum (the Decision Memo) at Comment 10.

Finally, we are also reversing our preliminary decision to base the margin for Kadalkanny on total facts available. In the preliminary results, we assigned Kadalkanny a margin based on total facts available because the company failed to properly file its Q&V questionnaire response when it did not submit a company official certification either with its submission or in response to the Department's subsequent request that it do so. On April 10, 2007, we received the certification of accuracy Kadalkanny related to Kadalkanny's April 28, 2006, Q&V questionnaire response. In this submission, Kadalkanny informed the Department that it intended to send the required certification of accuracy via Federal Express, where it could be tracked; however, a company employee instead inadvertently sent the document via Indian first-class mail and thus Kadalkanny was unaware that the Department had not received its certification until the preliminary results. Because we find Kadalkanny's explanation adequate, we accepted Kadalkanny's submission pursuant to 19 CFR 351.302(b). Thus, we now have a copy of Kadalkanny's certification of accuracy on the record of this administrative review and we are reversing our preliminary decision to base the margin for Kadalkanny on total facts available. Consequently, we are now assigning Kadalkanny the review-specific average rate.

#### Adverse Facts Available

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested

party failed to cooperate by not acting to the best of its ability to comply with the request for information. See, *e.g.*, *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (Sept. 13, 2005); see also *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 (Aug. 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 (1994), at 870. 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 (Fed. Cir. 2003) (*Nippon*). We find that Amison Foods Ltd., Amison Seafoods Ltd., Baby Marine (Eastern) Exports, Baby Marine Exports, and Baby Marine Products Cherukattu Industries (Marine Div), Global Sea Foods & Hotels Ltd, HA & R Enterprises, InterSea Exports Corporation, Lotus Sea Farms, National Steel, National Steel & Agro Ind, Nsil Exports, Premier Marine Foods, and R F. Exports 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 facts otherwise available. 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." *Carbon and Certain Alloy Steel Wire Rod from Brazil: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances*, 67 FR 55792, 55796 (Aug. 30, 2002); see also *Notice*

of *Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (Feb. 23, 1998).

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, we have assigned a rate of 82.30 percent, which was the lowest rate alleged in the petition, as adjusted at the initiation of the less-than-fair-value (LTFV) investigation, to Amison Foods Ltd., Amison Seafoods Ltd., Baby Marine (Eastern) Exports, Baby Marine Exports, and Baby Marine Products Cherukattu Industries (Marine Div), Global Sea Foods & Hotels Ltd, HA & R Enterprises, InterSea Exports Corporation, Lotus Sea Farms, National Steel, National Steel & Agro Ind, Nsil Exports, Premier Marine Foods, and R F. Exports.<sup>4</sup> The Department finds that this rate is sufficiently high as to effectuate the purpose of the AFA rule (*i.e.*, we find that this rate is high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act).

For the reasons stated in the *Preliminary Results*, we continue to find that the information upon which this margin is based has probative value and thus satisfies the corroboration requirements of section 776(c) of the Act. *See Preliminary Results*, 72 FR at 10662–63. *See also* the September 5, 2007, memorandum from Nichole Zink to the file entitled, “Corroboration of Adverse Facts Available Rate for the Final Results in the 2004–2006 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India.”

#### **Collapsing the Liberty Group and Liberty Oil Mills Limited (LOML)**

The Liberty Group has an affiliate, LOML, which exported some of the shrimp produced by the Liberty Group during the POR. In its August 9, 2006, section A response, as well as its February 15, 2007, response and at verification, the Liberty Group provided information regarding the relationship between these entities during the POR. After an analysis of this information, we preliminarily determined that, in accordance with 19 CFR 351.401(f), it is appropriate to collapse these entities for purposes of this review because: 1) certain of the directors of LOML are also directors of Liberty Group companies, and the family which owns the Liberty Group owns a majority of the shares in LOML; 2) LOML exported shrimp

produced by the Liberty Group to the United States during the POR; and 3) the operations of LOML and the Liberty Group are intertwined. *See* 19 CFR 351.401(f)(2). Thus, in our preliminary results, we found that there is significant potential for manipulation of price if LOML does not receive the same antidumping duty rate as the Liberty Group. For further discussion, see the *Preliminary Results*, 72 FR at 10661.

Since the preliminary results, no party to this proceeding has commented on this issue and we have found no additional information that would compel us to reverse our preliminary finding. Thus, we continue to find that it is appropriate to collapse these entities for purposes of this review.

#### **Cost of Production/Constructed Value (CV)**

As discussed in the preliminary results, we conducted an investigation to determine whether Falcon, HLL, and the Liberty Group made third country sales of the foreign like product during the POR at prices below their costs of production (COP) within the meaning of section 773(b) of the Act. For these final results, we performed the cost test following the same methodology as in the *Preliminary Results*, except as discussed in the Decision Memo.

We found 20 percent or more of each respondent's sales of a given product during the reporting period were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in “substantial quantities” within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. *See* sections 773(b)(2)(B) - (D) of the Act.

Therefore, for purposes of these final results, we found that Falcon, HLL, and the Liberty Group made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for each respondent and used the remaining sales as the basis for determining normal value (NV) pursuant to section 773(b)(1) of the Act.

Based on the results of the cost test for Falcon and in accordance with section 773(a)(4) of the Act, we are now basing NV on CV for certain products when we were unable to compare Falcon's U.S. sales to a comparison market sale of an identical or similar product. In calculating CV, we relied on the data reported by Falcon, adjusted as

described in the *Preliminary Results* and the Decision Memo. We calculated a weighted-average CV based on the sum of the Falcon's materials and fabrication costs, selling, general, and administrative (SG&A) expenses, including interest expenses, packing costs, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Falcon in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the comparison market. We based selling expenses on weighted-average actual comparison market direct and indirect selling expenses.

We made adjustments to CV for differences in circumstances of sale in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to export price, 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.

#### **Analysis of Comments Received**

All issues raised in the case briefs by parties to this administrative review, and to which we have responded, are listed in the Appendix to this notice and addressed in the Decision Memo, which is adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memo are identical in content.

#### **Changes Since the Preliminary Results**

Based on our analysis of the comments received, we have made certain changes in the margin calculations. These changes are discussed in the relevant sections of the Decision Memo.

#### **Final Results of Review**

We determine that the following weighted-average margin percentages exist for the period August 4, 2004, through January 31, 2006:

<sup>4</sup> We note that we were unable to corroborate the other margins alleged in the petition, and thus we

were unable to consider them as acceptable sources

of facts available information. For further discussion, see *Preliminary Results*, 72 FR at 10662.

Manufacturer/Producer/Exporter	Margin Percentage
Falcon Marine Exports Limited .....	4.39
Hindustan Lever Limited .....	18.83
The Liberty Group (Devi Marine Food Exports Private Limited, .....	4.03
Kader Investment and Trading Company Private Limited,, Premier Marine Products, Kader Exports Private Limited,, Universal Cold Storage Private Limited, Liberty Frozen. Foods Private Limited) and Liberty Oil Mills Limited. Review-Specific Average Rate Applicable to the Following Companies: <sup>5</sup> .	

<sup>5</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
Allanasons Ltd. ....	7.22
Amalgam Foods & Beverages Limited .....	7.22
Amulya Seafoods .....	7.22
Ayshwarya Seafood Private Limited .....	7.22
Baby Marine International .....	7.22
Baraka Overseas Traders .....	7.22
Bhatsons Aquatic Products .....	7.22
Calcutta Seafoods .....	7.22
Castlerock Fisheries Ltd. ....	7.22
Coastal Corporation Ltd. ....	7.22
Coastal Trawlers Ltd. ....	7.22
Cochin Frozen Food Exports Pvt. Ltd. ....	7.22
Coreline Exports .....	7.22
Gajula Exim P Ltd. ....	7.22
Haripriya Marine Food Exports .....	7.22
IFB Agro Industries Ltd. (Aquatic & Marine Products Div.) .....	7.22
ITC Ltd. ....	7.22
K R M Marine Exports Ltd. ....	7.22
Kadalkanny Frozen Foods .....	7.22
Kalyanee Marine .....	7.22
Kings Marine Products .....	7.22
Konark Aquatics & Exports Pvt. Ltd. ....	7.22
MSC Marine Exporters .....	7.22
Magnum Estate Private Limited .....	7.22
Magnum Exports .....	7.22
Magnum Seafoods Pvt. Ltd. ....	7.22
Mangala Marine Exim India Pvt. Ltd. ....	7.22
Mangala Sea Products .....	7.22
N.G.R Aqua International .....	7.22
Navayuga Exports Ltd. ....	7.22
Nila Seafoods Pvt. Ltd. ....	7.22
Penver Products (P) Ltd. ....	7.22
Raa Systems Pvt. Ltd. ....	7.22
Raju Exports .....	7.22
Ram's Assorted Cold Storage Ltd. ....	7.22
Saanthi Seafoods Ltd. ....	7.22
Seagold Overseas Pvt. Ltd. ....	7.22
Sri Chandranantha Marine Exports, Ltd. ....	7.22
Sri Sakthi Marine Products P Ltd. ....	7.22
Sun-Bio Techonology Limited .....	7.22
Suvarna Rekha Exports Private Limited .....	7.22
Survarna Rekha Marines P Ltd. ....	7.22
Uniroyal Marine Exports Ltd. ....	7.22
Vaibhav Sea Foods .....	7.22
Veejay Impex .....	7.22
Victoria Marine & Agro Exports Ltd. ....	7.22
AFA Rate Applicable to the Following Companies:.	

Manufacturer/Exporter	Percent Margin
Amison Foods Ltd. ....	82.30
Amison Seafoods Ltd. ....	82.30
Baby Marine (Eastern) Exports .....	82.30
Baby Marine Exports .....	82.30
Baby Marine Products .....	82.30
Cherukattu Industries (Marine Div) .....	82.30
Global Sea Foods & Hotels Ltd .....	82.30
HA & R Enterprises .....	82.30
InterSea Exports Corporation .....	82.30
Lotus Sea Farms .....	82.30

Manufacturer/Exporter	Percent Margin
National Steel .....	82.30
National Steel & Agro Ind .....	82.30
Nsil Exports .....	82.30
Premier Marine Foods .....	82.30
R F. Exports .....	82.30

### Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.

Pursuant to 19 CFR 351.212(b)(1), for Falcon, HLL, and the Liberty Group, because these companies reported the entered value for some of their U.S. sales, we have calculated 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 which entered value was reported. For Falcon, HLL, and the Liberty Group's U.S. sales reported without entered values, we have calculated 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 have calculated importer-specific *ad valorem* ratios based on the estimated entered value.

For the responsive companies which were not selected for individual review, we have calculated 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.

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 Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of 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). 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 their merchandise was destined for the

United States. This clarification will also apply to POR entries of subject merchandise produced by companies for which we are rescinding the review based on certifications of no shipments, because these companies certified that they made no POR shipments of subject merchandise for which they had knowledge of U.S. destination. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate established in the LTFV investigation if there is no rate for the intermediate company(ies) involved in the transaction.

### Cash Deposit Requirements

Further, the following deposit requirements will be effective for all shipments of shrimp from India entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: 1) the cash deposit rates for the reviewed companies will be the rates shown above, except if the rate is less than 0.50 percent, *de minimis* within the meaning of 19 CFR 351.106(c)(1), the cash deposit will be zero; 2) for previously investigated companies not listed above, 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 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 established in the LTFV investigation. 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, 5148 (Feb. 1, 2005). These deposit requirements shall remain in effect until further notice.

### Notification to Importers

This notice serves as a final 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.

### Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: September 5, 2007.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

### Appendix Issues in Decision Memorandum

#### General Issues

1. Offsetting of Negative Margins
2. Ministerial Errors in the Preliminary Results

#### Company-Specific Issues

3. Calculation of the Weighted-Average Payment Date for One of Falcon's U.S. Sales
4. Reallocation of Falcon's Costs for Cultivating Shrimp
5. Calculation of Per-Unit Packaging Costs for Falcon
6. Calculation of HLL's General and Administrative Expense Ratio
7. Calculation of HLL's Net Interest Expense Ratio
8. Valuing the Cold Storage Services Provided to the Liberty Group by Liberty Cold Storage Private Limited
9. Collapsing of all Liberty Group Entities for Purposes of Calculating the Group's Interest Expense Ratio
10. Whether to Based the Final Margin for Vaibhav on AFA
11. Whether to Base the Final Margin for National Steel and Agro Industries Ltd.

and NSIL Exports Limited of India on AFA

12. Whether to Assess at the Antidumping Rate of the Producer Where a Producer Sells through an Exporter

[FR Doc. E7-18006 Filed 9-11-07; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-838]

#### Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** On March 9, 2007, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from Brazil. This review covers 11 producers/exporters of the subject merchandise to the United States. The period of review (POR) is August 4, 2004, through January 31, 2006. We are rescinding the review with respect to three companies. One company was inadvertently omitted from the list of companies for which the administrative review was rescinded in July 2006, and the other two companies were duplicate names for a company for which the administrative review was also rescinded in July 2006.

Based on our analysis of the comments received, we have made certain changes to the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** September 12, 2007.

**FOR FURTHER INFORMATION CONTACT:** Kate Johnson or Rebecca Trainor, 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) 482-4929 and (202) 482-4007, respectively.

#### SUPPLEMENTARY INFORMATION:

### Background

This review covers 11 producers/exporters.<sup>1</sup> The respondents which the Department selected for individual review are Aquatica Maricultura do Brasil Ltda ("Aquatica") and Comercio de Pescado Aracatiense Ltda. ("Compescal"). The respondents which were not selected for individual review are listed in the "Final Results of Review" section of this notice. On March 9, 2007, the Department published in the *Federal Register* the preliminary results of administrative review of the antidumping duty order on shrimp from Brazil. See *Certain Frozen Warmwater Shrimp from Brazil: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10680 (March 9, 2007) (Preliminary Results).

We invited parties to comment on our preliminary results of review. On April 23, 2007, we received case briefs from the mandatory respondents (*i.e.*, Aquatica and Compescal) and Valença da Bahia Maricultura (Valença), a respondent which was not selected for individual review. On May 7, we received a rebuttal brief from the petitioner (*i.e.*, the Ad Hoc Shrimp Trade Action Committee). On May 31, 2007, we held a hearing at the request of Aquatica and Compescal.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

### 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>2</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. 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,

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

<sup>2</sup> "Tails" in this context means the tail fan, which includes the telson and the uropods.