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Calculations and FOP Consumption Rate

Calculations and FOP Consumption Rate

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## 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 6, 2008, 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 201 producers/exporters of the subject merchandise to the United States. The period of review (POR) is February 1, 2006, through January 31, 2007. 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."

**DATES:** *Effective Date:* July 15, 2008.

**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 201 producers/exporters.<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 "Final Results of Review" section of this notice.

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

On March 6, 2008, 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 Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 12103 (Mar. 6, 2008) (*Preliminary Results*).

We invited parties to comment on our preliminary results of review. In April 2008, we received case briefs from the petitioner (*i.e.*, the Ad Hoc Shrimp Trade Action Committee), the respondents (*i.e.*, Devi, Falcon, and Uniroyal Marine Exports Limited, a company not selected for individual review), and the Louisiana Shrimp Association (LSA). Also in April 2008, we received rebuttal briefs from the petitioner, Devi, and Falcon.

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, 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 February 1, 2006, through January 31, 2007.

#### Partial Rescission of Review

In February 2007, the Department received timely requests, in accordance with 19 CFR 351.213(b)(1), from the petitioner and the LSA to conduct a review of many Indian producers/exporters, including four affiliated Indian producers/exporters of subject merchandise collectively known as “the Kadalkanny Group” (*i.e.*, Kadalkanny Frozen Foods (Kadalkanny), Edhayam Frozen Foods Pvt. Ltd. (Edhayam), Diamond Seafood Exports (Diamond), and Theva & Co. (Theva)). The Department initiated a review of these four companies and requested that they supply data on the quantity and value (Q&V) of their exports of shrimp during the POR. See *Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp From Brazil, Ecuador, India and Thailand*, 72 FR 17100 (Apr. 6, 2007). On April 23, 2007, the Kadalkanny Group submitted a consolidated response to the Department’s Q&V questionnaire, in which it indicated that only one of its members (*i.e.*, Kadalkanny) exported subject merchandise to the United States during the POR.

Both the petitioner and the LSA withdrew their administrative review requests for Kadalkanny. Moreover, we confirmed with U.S. Customs and Border Protection (CBP) the claims made by two additional members of this group, Diamond and Theva, that they had no shipments of subject merchandise during the POR. Finally, on January 17 and February 7, 2008, we received information from Edhayam which demonstrated that its sole entry of subject merchandise during the POR was not a reportable transaction because it was a free sample, for which Edhayam received no remuneration. 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 the Kadalkanny Group. 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).

#### Successor-in-Interest

As noted in the *Preliminary Results*, in April and May 2007, two of the producers/exporters named in the notice of initiation, Asvini Fisheries Limited and Surya Marine Exports (Surya Marine), informed the Department that, prior to the POR, they changed their names and are now doing business under the names Asvini

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

Fisheries Private Limited (Asvini) and Suryamitra Exim Private Limited (Suryamitra), respectively. Based on Asvini's and Suryamitra's submissions 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 these companies' organizational structure, management, production facilities, supplier relationships, and customers have remained essentially unchanged. Further, we found that Asvini operates as the same business entity as Asvini Fisheries Limited with respect to the production and sale of shrimp and that Suryamitra operates as the same business entity as Surya Marine. Therefore, we preliminarily determined that Asvini and Suryamitra are the successors-in-interest to Asvini Fisheries Limited and Surya Marine, respectively. *See Preliminary Results*, 73 FR at 12105–06.

Since the preliminary results, no party to this proceeding has commented on this issue, and we have received no new information with respect to this issue. As a result, we continue to find that Asvini and Suryamitra are the successors-in-interest to Asvini Fisheries Limited and Surya Marine, respectively.

#### Facts Available

In the preliminary results, we determined that, in accordance with sections 776(a)(2)(A) and (C) of the Act, the use of facts available was appropriate as the basis for the dumping margins for 127 producers/exporters. *See Preliminary Results*, 73 FR at 12107–08. These companies are listed in the "Final Results of Review" section of this notice under the heading "AFA Rate Applicable to the Following Companies."

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;

<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 59721 (Oct. 13, 2005).

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

In April 2007, 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 23, 2007. Of the 319 companies initially subject to review, numerous companies did not respond to the Department's initial requests for information. Subsequently, in May 2007 and then again in June 2007, the Department issued letters to these companies affording them additional opportunities to submit a response to the Department's Q&V questionnaire. However, 126 companies also failed to respond to the Department's final requests for Q&V data.<sup>4</sup> On February 25, 2008, 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, Senior Analyst, entitled, "Placing Delivery Information on the Record of the 2006–2007 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India," dated February 25, 2008. 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 finds that the use of total facts available is warranted.

Further, one additional company, Gajula, claimed that it made no shipments of subject merchandise to the United States during the POR. However, because we were unable to confirm the accuracy of Gajula's claim with CBP, we requested further information/clarification from this exporter. Gajula responded to the Department's inquiry via e-mail on August 16, 2007, but did not indicate if its submission contained either public or business proprietary information. Therefore, on August 16, 2007, we informed Gajula via e-mail of the Department's filing requirements. *See* the memorandum to the File from Nichole Zink, Analyst, entitled, "Placing E-mail to Gajula Exim (P) Ltd. on the Record in the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater

<sup>4</sup>These companies are listed in the "Final Results of Review" section of this notice under the heading "AFA Rate Applicable to the Following Companies."

Shrimp from India," dated August 16, 2007. On August 22, 2007, Gajula submitted a hard copy of its response, but again failed to follow the Department's filing requirements and failed to indicate if the submission contained business proprietary or public information. On September 7, 2007, we issued a letter to Gajula again informing the company of the Department's filing requirements, providing information regarding the treatment of proprietary information and the preparation of a public version of a response, and requiring it to properly file its response. On September 29, 2007, Gajula faxed a letter to the Department in which it stated that the information contained in its August submission should be treated as business proprietary information. However, Gajula did not indicate the specific information in the August submission which should be designated as business proprietary. As a result, on October 1 and 17, 2007, we provided Gajula additional detailed instructions regarding the treatment of proprietary information and the preparation of a public version of a response, and we again required it to properly file its submissions on the record of this proceeding. *See* the memorandum to the File from Elizabeth Eastwood, Senior Analyst, entitled, "Placing October E-Mail Correspondence with Gajula Exim (P) Ltd. on the Record of the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India," dated October 17, 2007. Gajula failed to respond to the Department's October communications and did not remedy the deficiencies in its August submission.

Although the Department afforded Gajula multiple opportunities to correct the procedural deficiencies in its response, it failed to do so. By failing to respond to the Department's requests, Gajula withheld requested information and significantly impeded the proceeding. Consequently, pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department finds that the use of total facts available for Gajula is appropriate.

#### 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, at 870 (1994), reprinted in 1994 U.S.C.A.N. 4040, 4199. 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*, 62 FR 27296, 27340 (May 19, 1997). See also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003) (*Nippon*) (“the statute does not contain an intent element”). We find that 126 of the 127 companies listed under the heading “AFA Rate Applicable to the Following Companies” in the “Final Results of Review” section of this notice, below, did not act to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act, because it is reasonable to expect companies to possess information about their own export activities, but these 126 companies failed to respond to the Department’s requests for this information. The 127th company, Gajula, failed to respond to the Department’s requests to correct the procedural deficiencies in its response, discussed in the “Fact Available” section of this notice, above. Therefore, an adverse inference is warranted in selecting facts otherwise available for all 127 companies. See *Nippon*, 337 F.3d at 1382–83.

Section 776(b) of the Act provides that the Department may use as AFA information derived from: (1) The petition; (2) the final determination in the investigation; (3) any previous review; or (4) any other information placed on the record.

The Department’s practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to

provide the Department with complete and accurate information in a timely manner.” *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, 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 110.90 percent, which was the highest rate alleged in the petition, as adjusted at the initiation of the less-than-fair-value (LTFV) investigation, to the 127 companies listed below. See *Notice of Initiation of Antidumping Duty Investigations: Certain Frozen and Canned Warmwater Shrimp From Brazil, Ecuador, India, Thailand, the People’s Republic of China and the Socialist Republic of Vietnam*, 69 FR 3876, 3880 (Jan. 27, 2004). 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*, 73 FR at 12108. See also the July 7, 2008, memorandum from Henry Almond to the file entitled, “Corroboration of Adverse Facts Available Rate for the Final Results in the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India.”

#### Cost of Production

As discussed in the preliminary results, we conducted an investigation to determine whether Devi and Falcon 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. See *Preliminary Results*, 73 FR at 12111–12112. For these final results,

we performed the cost test following the same methodology as in the *Preliminary Results*, except as discussed in the Issues and Decision Memorandum (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)(1)–(2) of the Act.

Therefore, for purposes of these final results, we found that Devi and Falcon 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 pursuant to section 773(b)(1) of the Act.

#### 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 1117, 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 February 1, 2006, through January 31, 2007:

Manufacturer/Exporter	Percent margin
Devi Sea Foods Limited .....	*0.35
Falcon Marine Exports Limited .....	1.69
Review-Specific Average Rate Applicable to the Following Companies: <sup>5</sup>	
Ananda Aqua Exports (P) Ltd. ....	1.69

Manufacturer/Exporter	Percent margin
Ananda Foods .....	1.69
Andaman Sea Foods Pvt. Ltd. ....	1.69
Angelique International Ltd. ....	1.69
Apex Exports .....	1.69
Asvini Exports .....	1.69
Asvini Fisheries Limited/Asvini Fisheries Private Limited .....	1.69
Avanti Feeds Limited .....	1.69
Bhatsons Aquatic Products .....	1.69
Bluepark Seafoods Pvt. Ltd. ....	1.69
Calcutta Seafoods .....	1.69
Castlerock Fisheries Pvt. Ltd. ....	1.69
Choice Canning Company .....	1.69
Choice Trading Corporation Pvt. Ltd. ....	1.69
Coreline Exports .....	1.69
Devi Fisheries Limited .....	1.69
Digha Sea Food Exports .....	1.69
Five Star Marine Exports Private Limited .....	1.69
GVR Exports Pvt. Ltd. ....	1.69
Gayatri Sea Foods .....	1.69
HariPriya Marine Export Pvt. Ltd. ....	1.69
Hindustan Lever, Ltd. ....	1.69
IFB Agro Industries Limited .....	1.69
ITC Limited, International Business Division .....	1.69
Jaya Satya Marine Exports Pvt. Ltd. ....	1.69
Jaya Lakshmi Sea Foods Pvt. Ltd. ....	1.69
K V Marine Exports .....	1.69
Kings Marine Products .....	1.69
Konark Aquatics & Exports Pvt. Ltd. ....	1.69
Magnum Estate Private Limited .....	1.69
Magnum Export .....	1.69
Magnum Sea Foods Private Limited .....	1.69
Mangala Marine Exim India Pvt. Ltd. ....	1.69
Mangala Sea Products .....	1.69
NGR Aqua International .....	1.69
Navayuga Exports Ltd. ....	1.69
Nekkanti Sea Foods Limited .....	1.69
Nila Sea Foods Pvt. Ltd. ....	1.69
Penver Products (P) Ltd. ....	1.69
RVR Marine Products Private Limited .....	1.69
Raa Systems Pvt. Ltd. ....	1.69
Raju Exports .....	1.69
Ram's Assorted Cold Storage Ltd. ....	1.69
S A Exports .....	1.69
Sagar Grandhi Exports Pvt. Ltd. ....	1.69
Sai Marine Exports Pvt. Ltd. ....	1.69
Sandhya Marines Limited .....	1.69
Satya Seafoods Private Limited .....	1.69
Seagold Overseas Pvt. Ltd. ....	1.69
Selvam Exports Private Limited .....	1.69
Sprint Exports Pvt. Ltd. ....	1.69
Sri Chandrakantha Marine Exports .....	1.69
Sri Sakthi Marine Products P Ltd. ....	1.69
Star Agro Marine Exports Private Limited .....	1.69
Sun-Bio Technology Limited .....	1.69
Surya Marine Exports/Suryamitra Exim Private Limited .....	1.69
Suvarna Rekha Exports Private Limited .....	1.69
Suvarna Rekha Marines P Ltd. ....	1.69
The Liberty Group (Devi Marine Food Exports Private Limited/Kader Exports Private Limited/Kader Investment and Trading Company Private Limited/Liberty Frozen Foods Private Limited/Liberty Oil Mills Limited/Premier Marine Products/Universal Cold Storage Private Limited) .....	1.69
The Waterbase Ltd. ....	1.69
Usha Seafoods .....	1.69
Veejay IMPEX .....	1.69
Vinner Marine .....	1.69
Wellcome Fisheries Limited .....	1.69
AFA Rate Applicable to the Following Companies:	
A.S. Marine Industries Pvt. Ltd. ....	110.90
Adani Exports Ltd. ....	110.90
Aditya Udyog .....	110.90
Agri Marine Exports Ltd. ....	110.90
Al Mustafa Exp & Imp .....	110.90
Alapatt Marine Exports .....	110.90
All Seas Marine P. Ltd. ....	110.90
Alsa Marine & Harvests Ltd. ....	110.90

Manufacturer/Exporter	Percent margin
Ameena Enterprises	110.90
Anjani Marine Traders	110.90
Aqua Star Marine Foods	110.90
Arsha Seafood Exports Pvt. Ltd.	110.90
ASF Seafoods	110.90
Ashwini Frozen Foods	110.90
Aswin Associates	110.90
Balaji Seafood Exports I Ltd.	110.90
Baraka Overseas Traders	110.90
Bell Foods (Marine Division)	110.90
Bharat Seafoods	110.90
Bhisti Exports	110.90
Bilal Fish Suppliers	110.90
Capital Freezing Complex	110.90
Cham Exports Ltd.	110.90
Cham Ocean Treasures Co., Ltd.	110.90
Cham Trading Organization	110.90
Chand International	110.90
Danda Fisheries	110.90
Dariapur Aquatic Pvt. Ltd.	110.90
Deepmala Marine Exports	110.90
Dhanamjaya Impex P. Ltd.	110.90
Dorothy Foods	110.90
El-Te Marine Products	110.90
Excel Ice Services/Chirag Int'l	110.90
Firoz & Company	110.90
Freeze Engineering Industries (Pvt. Ltd.)	110.90
Gajula Exim (P) Ltd.	110.90
Gausia Cold Storage P. Ltd.	110.90
Goan Bounty	110.90
Gold Farm Foods (P) Ltd.	110.90
Golden Star Cold Storage	110.90
Gopal Seafoods	110.90
Gtc Global Ltd.	110.90
Hanswati Exports P. Ltd.	110.90
HMG Industries Ltd.	110.90
Honest Frozen Food Company	110.90
India CMS Adani Exports	110.90
India Seafoods	110.90
Indian Seafood Corporation	110.90
Interfish	110.90
J R K Seafoods Pvt. Ltd.	110.90
Kaushalya Aqua Marine Product Exports Pvt. Ltd.	110.90
Keshodwala Foods	110.90
Key Foods	110.90
King Fish Industries	110.90
Konkan Fisheries Pvt. Ltd.	110.90
Lakshmi Marine Products	110.90
Lansea Foods Pvt. Ltd.	110.90
Laxmi Narayan Exports	110.90
M K Exports	110.90
M.R.H. Trading Company	110.90
Malabar Marine Exports	110.90
Mamta Cold Storage	110.90
Marina Marine Exports	110.90
Marine Food Packers	110.90
Miki Exports International	110.90
Mumbai Kamgar MGSM Ltd.	110.90
N.C. Das & Company	110.90
Naik Ice & Cold Storage	110.90
Nas Fisheries Pvt Ltd.	110.90
National Seafoods Company	110.90
New Royal Frozen Foods	110.90
Noble Aqua Pvt. Ltd.	110.90
Omsons Marines Ltd.	110.90
Padmaja Exports	110.90
Partytime Ice Pvt Ltd.	110.90
Philips Foods India Pvt Ltd.	110.90
Premier Exports International	110.90
R K Ice & Cold Storage	110.90
Rahul Foods (GOA)	110.90
Rahul International	110.90
Raj International	110.90
Ramalmgeswara Proteins & Foods Ltd.	110.90

Manufacturer/Exporter	Percent margin
Rameshwar Cold Storage .....	110.90
Ravi Frozen Foods Ltd. ....	110.90
Regent Marine Industries .....	110.90
Relish Foods .....	110.90
Royal Link Exports .....	110.90
Rubian Exports .....	110.90
Ruby Marine Foods .....	110.90
Ruchi Worldwide .....	110.90
S K Exports (P) Ltd. ....	110.90
SLS Exports Pvt. Ltd. ....	110.90
S S International .....	110.90
Sabri Food Products .....	110.90
Sagar Samrat Seafoods .....	110.90
Salet Seafoods Pvt Ltd. ....	110.90
Samrat Middle East Exports (P) Ltd. ....	110.90
Sarveshwari Ice & Cold Storage P Ltd. ....	110.90
Satyam Marine Exports .....	110.90
Sea Rose Marines (P) Ltd. ....	110.90
Sealand Fisheries Ltd. ....	110.90
Seaperl Industries .....	110.90
Sharat Industries Ltd. ....	110.90
Shimpo Exports .....	110.90
Shipper Exporter National Steel .....	110.90
Siddiq Seafoods .....	110.90
Skyfish .....	110.90
Sonia Fisheries .....	110.90
Sourab .....	110.90
Sreevas Export Enterprises .....	110.90
Sri Sidhi Freezers & Exporters Pvt. Ltd. ....	110.90
Star Fish Exports .....	110.90
Supreme Exports .....	110.90
The Canning Industries (Cochin) Ltd. ....	110.90
Tony Harris Seafoods Ltd. ....	110.90
Tri Marine Foods Pvt. Ltd. ....	110.90
Trinity Exports .....	110.90
Tri-Tee Seafood Company .....	110.90
Ulka Seafoods (P) Ltd. ....	110.90
Uniroyal Marine Exports Ltd. ....	110.90
Upasana Exports .....	110.90
V Marine Exports .....	110.90
Varnita Cold Storage .....	110.90
Veraval Marines & Chemicals P Ltd. ....	110.90
Vijayalaxmi Seafoods .....	110.90
Winner Seafoods .....	110.90
Z A. Food Products .....	110.90

\* *de minimis*.

## Assessment

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

Pursuant to 19 CFR 351.212(b)(1), because Devi and Falcon reported the entered value for some or all 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'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,

<sup>5</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 AFA.

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: July 7, 2008.

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

### Appendix—Issues in Decision Memorandum

#### General Issues

1. Offsetting of Negative Margins.
2. Whether the Department's Decision to Select Only Two Mandatory Respondents was Supported by Evidence on the Record.
3. Continuing to Apply AFA to Uncooperative Respondents for the Final Results.
4. Ministerial Errors in the Preliminary Results.

#### Company-Specific Issues

5. What Date to Assign to Unpaid U.S. Sales for Devi.
6. Devi's Raw Material Costs.
7. Devi's Compliance with Indian Licensing Requirements.
8. Whether to Include in Margin Calculations Previously Reviewed U.S. Sales for Falcon Which Entered during the Period of Review.
9. Falcon's Raw Material Costs.
10. Whether to Base the Final Margin for Uniroyal Marine Exports on AFA.

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-557-813]

### Polyethylene Retail Carrier Bags from Malaysia: Notice of Rescission of Administrative Review

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

**SUMMARY:** In response to requests by interested parties, the Department of Commerce (Department) initiated an administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from Malaysia with respect to three producers/exporters of the subject merchandise. The period of review (POR) is August 1, 2006, through July

31, 2007. The Department is now rescinding this administrative review in its entirety.

**EFFECTIVE DATE:** July 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Lyn Johnson or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5287 and (202) 482-4477, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On May 6, 2008, the Department published a *Notice of Partial Rescission of the Administrative Review and Intent to Rescind the Administrative Review*, 73 FR 24941 (May 6, 2008) (*Intent to Rescind*), where it rescinded the review of the antidumping duty order on PRCBs from Malaysia with respect to King Pac and announced its intent to rescind the review with respect to Euro Plastics Malaysia Sdn. Bhd. and its affiliate Eplastics Procurement Center Sdn. Bhd. (Euro Plastics) and with respect to Zhin Hin Plastic Manufacturer Sdn. Bhd. (also known as Chin Hin Plastic Manufacture) (Zhin Hin).

#### Scope of the Order

The merchandise subject to this antidumping duty order is PRCBs which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches (15.24 cm) but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that