

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.

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

Further, the following deposit requirements will be effective for all shipments of shrimp from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of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 7.05 percent, the "All Others" rate established in the LTFV investigation. 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 final results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: September 5, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

#### Appendix Issues in Decision Memorandum

##### General Issues

1. Offset for Productivity Losses from Viral Infection
2. Zeroing Negative Margins

#### Company-Specific Issues

##### Compescal:

3. Calculation of Offset for Losses from Viral Infection
4. Calculation of Constructed Value Profit
5. Depreciation on Fixed Asset Revaluations
6. Treatment of Prime Quality Shrimp

##### Aquatica:

7. Adjustment Methodology for Losses from Viral Infection
8. Aquatica's Shrimp Cost Allocation Methodology
9. Changes in Inventories in Cost Calculation
10. Purchases from Affiliates
11. CV Profit and Selling Rates
12. Foreign Exchange Loss
13. Treatment of Broken Shrimp

##### Valença:

14. Adverse Facts Available Rate Assigned to Valença da Bahia Maricultura S.A.
15. Corroboration of the Adverse Facts Available Rate Assigned to Valença da Bahia Maricultura S.A.

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-549-822]

#### Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final 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 Thailand. This review covers 24 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 five 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:** Irina Itkin, 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) 482-0656.

**SUPPLEMENTARY INFORMATION:**

### Background

This review covers 24 producers/exporters.<sup>1</sup> The respondents which the Department selected for individual review are Good Luck Product Co., Ltd. (Good Luck Product); Pakfood Public Company Limited and its affiliated subsidiaries, Asia Pacific (Thailand) Company Limited, Chaopraya Cold Storage Company Limited, Okeanos Company Limited, and Takzin Samut Company Limited (collectively "Pakfood"); and Thai I-Mei Frozen Foods Co., Ltd. (Thai I-Mei). 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 Thailand. See *Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10669 (Mar. 9, 2007) (Preliminary Results).

On March 12, 2007, we received a quantity and value (Q&V) questionnaire response from Fortune Frozen Foods (Thailand) Co., Ltd. (Fortune Frozen Foods). Because Fortune Frozen Foods: 1) had previously submitted a timely Q&V questionnaire response that was rejected by the Department due to procedural deficiencies; and 2) provided an adequate explanation as to why the Department did not receive its re-filed Q&V questionnaire response in a timely manner, we accepted Fortune Frozen Foods' Q&V questionnaire response. For further discussion, see the "Facts Available" section of this notice, below.

In addition, on March 12 and 14, 2007, Anglo-Siam Seafoods Co., Ltd. (Anglo-Siam Seafoods) contacted the Department regarding the rate based on adverse facts available (AFA) that it was assigned in the preliminary results. Further on March 27, 2007, Gallant Ocean (Thailand) Co., Ltd. (Gallant Ocean), which also was assigned a rate

based on AFA in the preliminary results, submitted a Q&V questionnaire response. However, because Anglo-Siam Seafoods and Gallant Ocean had not attempted to respond to the Department's Q&V questionnaire prior to the deadline, we informed them that the deadline for submitting new factual information had passed and we would not accept their Q&V questionnaire responses. On April 2, 2007, we returned Gallant Ocean's Q&V questionnaire response. For further discussion, see the "Facts Available" section of this notice, below.

We invited parties to comment on our preliminary results, as well as on the additional information noted above. In April 2007, we received case briefs from the petitioner (*i.e.*, the Ad Hoc Shrimp Trade Action Committee), Fortune Frozen Foods, Gallant Ocean, Good Luck Product, Pakfood, and Thai I-Mei. In May 2007, we received rebuttal briefs from the petitioner, Pakfood, Surapon Nichirei Foods Co., Ltd. (Surapon Nichirei), and Thai I-Mei.

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.

<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.

### Period of Review

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

### Partial Rescission of Review

Eight of the producers/exporters 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: Bangkok Dehydrated Marine Product Co., Ltd. (Bangkok Dehydrated Marine Product), NR Instant Produce,<sup>3</sup> Siam Intersea Co., Ltd. (Siam Intersea), Siam Ocean, Surapon Nichirei, Tep Kinsho, Thai Agri, and Thai World Imports and Exports.<sup>4</sup> 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 into the United States during the POR. As a result, we requested that seven of these companies explain the entries in question. We did not request information from Bangkok Dehydrated Marine Product because, based on CBP information, we found that the merchandise (*i.e.*, dried shrimp) was outside the scope of the order.

In response to the Department's solicitation and/or based on information from CBP, we continue to find that the entries at issue were not reportable transactions for four of the eight companies because they were either: 1) non-subject merchandise (*i.e.*, dried shrimp); 2) a non-paid sample; or 3) 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 Bangkok Dehydrated Marine Product, Siam Ocean, Tep Kinsho, and Thai Agri. *See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65083 (Nov. 7, 2006).

One of the remaining exporters/producers, Siam Intersea, provided additional information to the Department indicating that it did, in fact, have a reportable transaction during the POR. We are not rescinding the administrative review with respect to this company and are assigning to it

the weighted-average margin calculated for the companies selected for individual review because we find: 1) the discrepancy between the Q&V questionnaire response and the CBP data appeared to be an inadvertent oversight; 2) the quantity of the exports in question was so small that it would not have impacted our selection of respondents; and 3) the company has been responsive to our requests for information.

In addition, the remaining two exporters/producers, NR Instant Produce and Surapon Nichirei, stated that they did not report the entries in question because they claimed that the entries were of non-subject merchandise. We preliminarily found that, because these companies' merchandise entered into the United States as subject merchandise and there was insufficient evidence on the record to conclude otherwise, the merchandise in question was included within the scope of the order. *See Preliminary Results*, 72 FR at 10672. Regarding NR Instant Produce, because we have received no further information demonstrating that the merchandise exported by this company is not subject to the order, we are continuing to assign it the weighted-average margin calculated for the companies selected for individual review. Regarding Surapon Nichirei, however, we have now determined that this merchandise constitutes a prepared meal based on information provided by Surapon Nichirei and is, therefore, excluded from the scope of the order. Consequently, in accordance with 19 CFR 351.213(d)(3), and consistent with the Department's practice we are rescinding the review with respect to Surapon Nichirei. For further information, see the Issues and Decision Memorandum (Decision Memo) accompanying this notice at Comment 4.

Finally, the remaining exporter/producer, Thai World Imports and Exports, failed to respond to the Department's request for additional information and, thus, we find that it failed to act to the best of its ability. Therefore, we are not rescinding the administrative review with respect to Thai World Imports and Exports. For further information, see the "Facts Available" section of this notice.

### 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: Anglo-

Siam Seafoods, Fortune Frozen Foods, Gallant Ocean, Li-Thai Frozen Foods Co., Ltd. (Li-Thai), Queen Marine Food Co., Ltd. (Queen Marine Foods), Smile Heart Foods, and Thai World Imports and Exports. *See Preliminary Results*, 72 FR at 10673-74.

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: Anglo-Siam Seafoods, Gallant Ocean, Li-Thai, Queen Marine Foods, and Smile Heart Foods. On January 31, 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 Brianne Riker* entitled, "Placing Delivery Information on the Record of the 2004-2006 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Thailand," dated January 31, 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.

Moreover, in May 2006, Thai World Imports and Exports claimed that it made no shipments of subject merchandise to the United States during the POR. Because we were unable to confirm the accuracy of this claim with CBP, we requested further information/clarification from this producer/exporter. However, Thai World Imports

<sup>3</sup> We note that the response from this company indicated that its name is NR Instant Produce Co., Ltd.

<sup>4</sup> We note that the responses from these companies indicated that their names are Siam Ocean Frozen Foods Co., Ltd., Tep Kinsho Foods Co., Ltd., Thai Agri Foods Co., Ltd., and Thai World Imports and Exports Co., Ltd., respectively.

and Exports failed to provide the requested information. Thus, pursuant to sections 776(a)(2)(A) and (C) of the Act, because Thai World Import and Export did not respond to the Department's request for additional information, the Department also preliminarily found that the use of total facts available was warranted for it.

By failing to respond to the Department's requests, the above-mentioned 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 Anglo-Siam Seafoods, Gallant Ocean, Li-Thai, Queen Marine Foods, Smile Heart Foods, and Thai World Imports and Exports is appropriate pursuant to sections 776(a)(2)(A) and (C) of the Act. *See Preliminary Results*, 72 FR at 10673-74. We note that, while Anglo-Siam Seafoods and Gallant Ocean attempted to provide Q&V questionnaire responses after the preliminary results, we did not accept this information because it was untimely, pursuant to 19 CFR 351.302(d)(1)(i). Therefore, we find that these companies were not responsive to the Department's requests for information. For further discussion regarding Gallant Ocean, see the Decision Memo at Comment 8.

Finally, we are reversing our preliminary decision to base the margin for Fortune Frozen Foods on total facts available. In the preliminary results, we assigned Fortune Frozen Foods a margin based on total facts available because the company failed to properly file its Q&V questionnaire response. On March 2, 2007, Fortune Frozen Foods contacted the Department regarding its rejected Q&V submission. Subsequently, on March 12, 2007, Fortune Frozen Foods submitted a Q&V questionnaire response, as well as a request that the Department consider it for purposes of the final results. In this submission, Fortune Frozen Foods explained to the Department that it re-filed its original Q&V questionnaire response before the deadline given by the Department; however, a company employee inadvertently sent the document via Thai first-class mail rather than an international courier service. Because: 1) Fortune Frozen Foods had previously submitted a timely Q&V questionnaire response that was rejected by the Department due to procedural deficiencies; 2) we find Fortune Frozen Foods' explanation plausible; and 3) we now have a copy of Fortune Frozen Foods' Q&V questionnaire response on the record of this administrative review, we are accepting Fortune Frozen Foods

Q&V questionnaire response. Therefore, we will not base the margin for Fortune Frozen Foods on total facts available. Rather, we have now assigned Fortune Frozen Foods the weighted-average margin calculated for the companies selected for individual review. For further information, see the Decision Memo at Comment 7.

#### 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). 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 Anglo-Siam Seafoods, Gallant Ocean, Li-Thai, Queen Marine Foods, Smile Heart Foods, and Thai World Imports and Exports did not act to the best of their ability 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." *See 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 57.64 percent, which was the highest rate alleged in the petition, as adjusted at the initiation of the less-than-fair-value (LTFV) investigation, to Anglo-Siam Seafoods, Gallant Ocean, Li-Thai, Queen Marine Foods, Smile Heart Foods, and Thai World Imports and Exports. 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). We continue to find that the information upon which this margin is based has probative value and thus satisfies the requirements of section 776(c) of the Act. *See Preliminary Results*, 72 FR at 10673-74. For further information regarding corroboration of the AFA rate, see the Decision Memo at Comment 2.

#### Cost of Production

As discussed in the preliminary results, we conducted an investigation to determine whether Good Luck Product and Pakfood made home market sales of the foreign like product during the POR at prices below their costs of production (COPs) within the meaning of section 773(b)(1) of the Act. We performed the cost test for these final results following the same methodology as in the *Preliminary Results*.

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 Good Luck

Product and Pakfood 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.

Regarding Thai I-Mei, as discussed in the preliminary results, we based NV on constructed value in accordance with section 773(a)(4) of the Act because there was no viable home or third country market. Therefore, we did not perform the cost test for this company.

#### 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. Because the margin calculations for Good Luck Product and Pakfood have not changed from the preliminary results, the preliminary calculations placed on the record of this administrative review are adopted as the final margin calculations.

#### Final Results of Review

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

Manufacturer/Exporter	Percent Margin
Good Luck Product Co., Ltd. ....	10.75
Pakfood Public Company Limited/Asia Pacific (Thailand) Company Limited/Chaopraya Cold Storage Company Limited/Okeanos Company Limited/Takzin Samut Company Limited .....	4.29
Thai I-Mei Frozen Foods Co., Ltd. ....	2.58

Review-Specific Average Rate Applicable to the Following Companies:<sup>5</sup>

Manufacturer/Exporter	Percent Margin
Crystal Frozen Foods Co., Ltd.4.31.	
Far East Cold Storage Co., Ltd.	4.31
Fortune Frozen Foods (Thailand) Co., Ltd. ....	4.31
Inter-Oceanic Resources Co., Ltd. ....	4.31
Kitchens of the Oceans (Thailand), Ltd. ....	4.31
Lee Heng Seafood Co., Ltd. ....	4.31
Narong Seafood Co., Ltd. ....	4.31
NR Instant Produce Co., Ltd. ....	4.31
Pacific Queen Co., Ltd. ....	4.31
Piti Seafood Co., Ltd. ....	4.31
S&D Marine Products Co., Ltd. ..	4.31
Siam Intersea Co., Ltd. ....	4.31
Siamchai International Food Co., Ltd. ....	4.31
SMP Food Product Co., Ltd. ....	4.31
Suratthani Marine Products Co., Ltd. ....	4.31

AFA Rate Applicable to the Following Companies:

Manufacturer/Exporter	Percent Margin
Anglo-Siam Seafoods Co., Ltd.	57.64
Gallant Ocean (Thailand) Co., Ltd. ....	57.64
Li-Thai Frozen Foods Co., Ltd.	57.64
Queen Marine Food Co., Ltd. ....	57.64
Smile Heart Foods .....	57.64
Thai World Imports and Exports Co., Ltd. ....	57.64

#### Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.50 percent). Pursuant to 19 CFR 351.212(b)(1), for certain of Pakfood's U.S. sales and all of Thai I-Mei's U.S. sales, because these companies reported the entered value, 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 for which

<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.

entered value was reported. For certain of Pakfood's U.S. sales without reported entered values and for all Good Luck Product's sales, 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 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 Thailand 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 5.95 percent, the "All Others" rate established in the LTFV investigation. 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.

David M. Spooner,  
Assistant Secretary for Import  
Administration.

#### Appendix – Issues in Decision Memorandum

##### General Issues

1. Offsets for Non-Dumped Sales
2. Corroboration of the Adverse Facts Available (AFA) Rate
3. The Placement of Species Within the Matching Hierarchy
4. Whether Entries Made by NR Instant Produce Co., Ltd. (NR Instant Produce) and Surapon Nichirei Foods Co., Ltd.

(Surapon Nichirei) Are Within the Scope of the Order

##### Company-Specific Issues

5. Final Rate Assigned to Gallant Ocean Co., Ltd. (Gallant Ocean)
6. Home Market Sales Outside the Ordinary Course of Trade for Good Luck Product Co., Ltd. (Good Luck Product)
7. Classification of Certain of Good Luck Product's Selling Expenses as Direct
8. Acceptance of Quantity and Value (Q&V) Data Submitted by Fortune Frozen Foods (Thailand) Co., Ltd. (Fortune Frozen Foods)
9. Verification Changes for Pakfood Public Company, Asia Pacific (Thailand) Company Limited, Takzin Samut Company Limited, Okeanos Company Limited, Chaopraya Cold Storage, and Singkara Company Limited (collectively "Pakfood")
10. Application of the Multinational Corporation (MNC) Provision to Thai I-Mei Frozen Foods Co., Ltd. (Thai I-Mei)
11. Date-of-Sale Methodology for Thai I-Mei
12. Calculation of Warehousing Expenses for Thai I-Mei
13. Constructed Export Price (CEP) Offset for Thai I-Mei
14. Calculation of CEP Profit for Thai I-Mei
15. Source of General and Administrative (G&A) Expense Data for Thai I-Mei
16. The G&A and Interest Expense Ratio Denominator for Thai I-Mei
17. Calculation of Constructed Value (CV) Profit for Thai I-Mei
18. Calculation of the Assessment Rate for Thai I-Mei

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-331-802]

##### Certain Frozen Warmwater Shrimp from Ecuador: Final Results 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 Ecuador. This review covers 23 producers/exporters of the subject merchandise to the United States. The period of review (POR) is August 4, 2004, through January 31, 2006.

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:

David Goldberger or Gemal Brangman, 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) 482-4136 and (202) 482-3773, respectively.

##### SUPPLEMENTARY INFORMATION:

##### Background

This review covers 23 producers/exporters. The respondents selected for individual review are OceanInvest, S.A. (OceanInvest) and Promarisco, S.A. (Promarisco). The respondents 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 Ecuador. See *Certain Frozen Warmwater Shrimp from Ecuador: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10658 (March 9, 2007) (*Preliminary Results*).

We issued a supplemental questionnaire to Promarisco on March 9, 2007, in order to clarify certain reported data in the sales listings. We received a response to this supplemental questionnaire on March 19, 2007.

We invited parties to comment on our preliminary results of review, as well as on the additional information noted 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.*, Promarisco and OceanInvest).

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,