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DATE: March 4, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review on Certain Frozen
Warmwater Shrimp from India

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India. The review covers 195 producers/exporters of the subject merchandise. The period of review (POR) is February 1, 2011, through January 31, 2012. We have preliminarily found that sales of the subject merchandise have been made at prices below normal value (NV).

BACKGROUND

In February 2005, the Department published in the Federal Register an antidumping duty order on certain frozen warmwater shrimp from India.¹ On February 1, 2012, the Department published in the Federal Register a notice of opportunity to request an administrative review of the antidumping duty order of certain frozen warmwater shrimp from India for the period February 1, 2011, through January 31, 2012.² In response to timely requests from interested parties pursuant to 19 CFR 351.213(b)(1) and (2) to conduct an administrative review of the U.S.

¹ 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 (February 1, 2005) (Shrimp Order).

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review, 77 FR 4990 (February 1, 2012).



sales of shrimp by numerous Indian producers/exporters, the Department published a notice of initiation of administrative review for 195 companies.³

In the Initiation Notice, the Department indicated that, in the event that we would limit the respondents selected for individual examination in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data. See Initiation Notice, 77 FR at 19612. In April 2012, we received comments on the issue of respondent selection from the petitioner,⁴ the American Shrimp Processors Association (ASPA), Apex Frozen Foods Private Limited (Apex),⁵ Devi Fisheries Limited (Devi Fisheries), and Falcon Marine Exports Limited/K.R. Enterprises (Falcon). In its comments, Falcon requested that the Department accept it as a voluntary respondent if it were not selected as a mandatory respondent.

In May 2012, we received statements from two companies named in the Initiation Notice, Baby Marine International and Baby Marine Sarass, indicating that they had no shipments of subject merchandise to the United States during the POR. Also in May 2012, after considering the large number of potential producers/exporters involved in this administrative review, and the resources available to the Department, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review was requested.⁶ As a result, pursuant to section 777A(c)(2)(B) of the Act, we determined that we could reasonably individually examine only the two largest producers/exporters accounting for the largest volume of shrimp from India during the POR (i.e., Apex and Devi Fisheries). Accordingly, we issued the antidumping duty questionnaire to these companies.

Also in May 2012, we received mandatory responses from Apex and Devi Fisheries, and a voluntary response from Falcon to section A (i.e., the section related to general information) of the questionnaire. In June 2012, we received a response from Devi Fisheries to sections B and C (i.e., the sections covering comparison market and U.S. sales, respectively) of the questionnaire.

In July 2012, we received responses from Apex and Falcon to sections B, C, and D (i.e., the section covering cost of production (COP) and constructed value (CV)) of the questionnaire. Also in this month we received a request from the ASPA that the Department initiate a sales-

³ See Certain Frozen Warmwater Shrimp from Brazil, India, and Thailand: Notice of Initiation of Antidumping Duty Administrative Reviews and Request for Revocation of Order in Part, 77 FR 19612 (April 2, 2012) (Initiation Notice).

⁴ The petitioner is the Ad Hoc Shrimp Trade Action Committee.

⁵ On December 11, 2012, the Department determined that Apex Frozen Foods is the successor-in-interest to Apex Exports. See Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From India, 77 FR 73619 (December 11, 2012).

⁶ See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from Henry Almond, Senior Analyst, Office 2, AD/CVD Operations entitled, "2011-2012 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India: Selection of Respondents for Individual Review," dated May 2, 2012 (Respondent Selection Memo).

below-cost investigation related to Devi Fisheries' sales to Belgium.⁷ Based on this request, in July 2012, we initiated a sales-below-cost investigation for Devi Fisheries⁸ and required it to respond to section D of the questionnaire.

Devi Fisheries submitted its response to section D of the questionnaire in August 2012. Also in this month, we determined that we had adequate resources to examine Falcon's voluntary questionnaire response.⁹

In August and September 2012, we issued supplemental sales and cost questionnaires to Apex and supplemental sales questionnaires to Devi Fisheries and Falcon. We received responses to these questionnaires from Apex and Devi Fisheries in the same months.

In September 2012, we determined that it was appropriate to collapse Devi Fisheries and its affiliates, Satya Seafoods Private Limited (Satya) and Usha Seafoods (Usha),¹⁰ and as a result we are treating these three companies as a single entity. Also in this month the ASPA filed targeted dumping allegations with respect to Apex, Devi Fisheries, and Falcon. In September 2012, we also selected Japan as the appropriate third country comparison market for Falcon,¹¹ and we required it to submit responses to sections B and D of the questionnaire for this market.

In September 2012, we extended the preliminary results in the current review to no later than February 28, 2013.¹² As explained in the memorandum from the Assistant Secretary for Import Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised

⁷ Belgium was Devi Fisheries' only viable third country market.

⁸ See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from the Team entitled, "the American Shrimp Processors Association's Allegations of Sales Below the Cost of Production for Devi Fisheries," dated July 26, 2012 (Devi Fisheries Cost Investigation Memo).

⁹ See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from Elizabeth Eastwood, Senior Analyst entitled, "Voluntary Respondent Memorandum," dated August 20, 2012.

¹⁰ See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from the Team entitled, "Whether to Collapse Devi Fisheries Limited, Satya Seafoods Private Limited, and Usha Seafoods in the 2011-2012 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India," dated September 13, 2012.

¹¹ See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from the Team entitled, "2011-2012 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India - Selection of the Appropriate Third Country Market for Falcon Marine Exports Limited," dated September 6, 2012 (Falcon Third Country Market Memo).

¹² See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations entitled, "Certain Frozen Warmwater Shrimp from India and Thailand: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Reviews," dated September 25, 2012.

deadline for the preliminary results of this review is now March 2, 2013.¹³ Because the tolled deadline of March 2 falls on a weekend, these preliminary results are due on the next business day (*i.e.*, March 4, 2013).¹⁴

In October and November 2012, Falcon submitted its revised responses to sections B and D, and we issued supplemental sales and cost questionnaires to Devi Fisheries. Also in this November 2012, we received responses to the supplemental sales and cost questionnaires from Devi Fisheries and the supplemental sales questionnaire from Falcon.

In December 2012 and January 2013, we verified Devi Fisheries' sales and cost responses, respectively.

From December 2012 through February 2013, we issued additional supplemental questionnaires to Apex and Falcon, and we received responses to these questionnaires during the same time period.

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,¹⁵ 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*).

¹³ See Memorandum to the Record from Paul Piquado, AS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Hurricane," dated October 31, 2012.

¹⁴ See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005).

¹⁵ "Tails" in this context means the tail fan, which includes the telson and the uropods.

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 battered shrimp. Battered 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 ten 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. When dusted in accordance with the definition of dusting above, the battered shrimp product is also 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: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. 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.¹⁶

VOLUNTARY RESPONDENT

As discussed above in the “Background” section of this memorandum, in April 2012, Falcon requested that the Department treat it as a voluntary respondent in this administrative review. In May 2012, after considering the large number of potential producers/exporters involved in this administrative review, and the resources available to the Department, we selected the two largest producers/exporters (i.e., Apex and Devi Fisheries) as mandatory respondents.¹⁷ Subsequently, in August 2012, based on a re-evaluation of our resources and the fact that Falcon had submitted timely responses to the Department’s questionnaire, we determined that individually examining Falcon would not be unduly burdensome and would not prevent the timely completion of this

¹⁶ On April 26, 2011, the Department amended the antidumping duty order to include dusted shrimp, pursuant to the U.S. Court of International Trade (CIT) decision in Ad Hoc Shrimp Trade Action Committee v. United States, 703 F. Supp. 2d 1330 (CIT 2010) and the U.S. International Trade Commission determination, which found the domestic like product to include dusted shrimp. See Certain Frozen Warmwater Shrimp from Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision, 76 FR 23277 (April 26, 2011); see also Ad Hoc Shrimp Trade Action Committee v. United States, 703 F. Supp. 2d 1330 (CIT 2010) and Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam (Investigation Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Publication 4221, March 2011).

¹⁷ See the Respondent Selection Memo.

review.¹⁸ Therefore, in accordance with section 782(a) of the Act and 19 CFR 351.204(d), we are treating Falcon as a voluntary respondent in this administrative review. Further, pursuant to 19 CFR 351.204(d)(3), we have not included Falcon's weighted-average dumping margin in our calculation of the review-specific average rate.

PRELIMINARY DETERMINATION OF NO SHIPMENTS

In May 2012, two companies (*i.e.*, Baby Marine International and Baby Marine Sarass) notified the Department that they had no shipments of subject merchandise to the United States during the POR. The Department subsequently confirmed with CBP the no-shipment claims made by these companies. Because the evidence on the record indicates that these companies did not export subject merchandise to the United States during the POR, we preliminarily determine that Baby Marine International and Baby Marine Sarass had no reviewable transactions during the POR.

Since the implementation of the 1997 regulations, our practice concerning no-shipment respondents has been to rescind the administrative review if the respondent certifies that it had no shipments and we have confirmed through our examination of CBP data that there were no shipments of subject merchandise during the POR.¹⁹ As a result, in such circumstances, we normally instruct CBP to liquidate any entries from the no-shipment company at the deposit rate in effect on the date of entry.

In our May 6, 2003, "automatic assessment" clarification, we explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding.²⁰

Because "as entered" liquidation instructions do not alleviate the concerns which the May 2003 clarification was intended to address, we find it appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by the two companies listed above, and exported by other parties, at the all-others rate, should we continue to find that these companies had no shipments of subject merchandise during the POR in our final results.²¹ In addition, the Department finds that it is more consistent with the May 2003 clarification not to rescind the review in part in these circumstances but, rather, to complete the review with respect to these two companies and issue appropriate instructions to CBP based on the final results of the review.

¹⁸ See the Voluntary Respondent Memo.

¹⁹ See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27393 (May 19, 1997).

²⁰ See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

²¹ See, e.g., Certain Frozen Warmwater Shrimp From India: Preliminary Results of Antidumping Duty Administrative Review, and Preliminary No Shipment Determination, 77 FR 13275, 13277 (March 6, 2012) unchanged in Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination, 77 FR 40848 (July 11, 2012). This instruction only applies where there is no rate established for the intermediate company (ies) involved in the transaction.

See the “Assessment Rates” section of the Federal Register notice accompanying this memorandum.

DISCUSSION OF THE METHODOLOGY

Normal Value Comparisons

Pursuant to section 773(a)(1)(B)(ii) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Apex’s, Devi Fisheries’, and Falcon’s sales of shrimp from India were made in the United States at less than NV, we compared the export price (EP) to the NV as described in the “Export Price” and “Normal Value” sections of this memorandum. Based on the results of our targeted dumping analysis, we found that it was appropriate for the Department to apply the average-to-average comparison methodology adopted in the Final Modification for Reviews.²² In particular, the Department compared monthly, weighted-average EPs with monthly, weighted-average NVs, and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margins.

When making these comparisons in accordance with section 771(16) of the Act, we considered all products sold in the comparison market as described in the “Scope of the Order” section of this notice, above, that were in the ordinary course of trade for purposes of determining an appropriate product comparison to the U.S. sale. If contemporaneous sales of identical comparison market merchandise, as described below, were reported, then we made comparisons to the monthly weighted-average comparison market prices that were based on all such sales. If there were no contemporaneous sales of identical merchandise, then we identified sales of the most similar merchandise that were contemporaneous with the U.S. sales in accordance with 19 CFR 351.414(e). Where there were no sales of identical or similar merchandise, we made product comparisons using CV, as discussed in the “Calculation of Normal Value Based on Constructed Value” section, below. See section 773(a)(4) of the Act.

Targeted Dumping

In antidumping duty investigations, the Department examines whether to use the average-to-transaction method by using a targeted dumping analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department’s examination of this question in the context of an administrative review, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in an administrative review is, in fact, analogous to the issue in antidumping duty investigations. Accordingly, the Department finds the analysis that has been used in antidumping duty investigations may be instructive for purposes of examining whether to apply the average-to-transaction method in this administrative review.

²² See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification for Reviews).

In recent antidumping duty investigations and administrative reviews where the Department has addressed targeted dumping allegations, the Department has employed the Nails test²³ for each respondent subject to an allegation.²⁴ The Department in the Preliminary Results of this administrative review for Apex, Devi Fisheries, and Falcon has applied the Nails test, a two-step process as described below, in order to consider whether to use the average-to-transaction method so that parties may comment on this approach.

In the first stage of the test, the “standard deviation test,” the Department determined the share of alleged targeted group’s sales of subject merchandise (by sales volume) that are at prices more than one standard deviation below the weighted-average price of all sales under review, targeted and non-targeted. The Department calculated the standard deviation on a product-specific basis (i.e., by control number (CONNUM)) using the weighted-average prices for the alleged targeted groups and the groups not alleged to have been targeted. If that share did not exceed 33 percent, then the Department did not conduct the second stage of the Nails test. If that share exceeded 33 percent, on the other hand, then we proceeded to the second stage of the Nails test.

In the second stage, the “gap test,” the Department examined all sales of identical merchandise (i.e., by CONNUM) sold to the alleged targeted group which passed the standard deviation test. From those sales, the Department determined the total volume of sales for which the difference between the weighted-average price of sales to the alleged targeted group and the next higher weighted-average price of sales to a non-targeted group exceeds the average price gap (weighted by sales volume) between the non-targeted groups. The Department weighted each of the price gaps between the non-targeted groups by the combined sales volume associated with the pair of prices for the non-targeted groups that defined the price gap. If the share of the sales that met this test exceeded five percent of the total sales volume of subject merchandise to the alleged targeted group, then the Department considered these sales to have been targeted.

If the Department’s two-step analysis confirmed the allegation of targeting and sufficient sales were found to have been targeted (i.e., to have passed the two-step Nails test), then the Department considered whether the average-to-average method could take into account the observed price differences. To do this, the Department evaluated the difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using the average-to-transaction method. Where

²³ See Certain Steel Nails from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33977 (June 16, 2008) and Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value, 73 FR 33985 (June 16, 2008) (collectively, Nails), as modified in more recent investigations, e.g., Multilayered Wood Flooring From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (Oct. 18, 2011); see also Mid Continent Nail Corp. v. United States, Slip. Op. 2010-47 (CIT May 4, 2010) and Mid Continent Nail Corp. v. United States, 712 F. Supp. 2d 1370 (CIT 2010).

²⁴ See, e.g., Polyethylene Retail Carrier Bags from Taiwan: Final Determination of Sales at Less Than Fair Value, 75 FR 14569 (March 26, 2010); Certain Oil Country Tubular Goods from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (April 19, 2010); and Certain Coated Paper Suitable for High- Quality Print Graphics Using Sheet-Fed Presses From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (September 27, 2010).

there was a meaningful difference between the results of the average-to-average method, then the Department would find that the average-to-average method could not take into account the observed price differences, and the average-to-transaction method would be used to calculate the weighted-average margin of dumping for the respondent in question.

Results of the Targeted Dumping Analysis

The Department preliminarily finds for Apex that a pattern of EPs for comparable merchandise that differs significantly among purchasers and time periods exists. Further, the Department preliminarily finds that the observed price differences cannot be taken into account by the average-to-average method because there is a meaningful difference in the weighted-average dumping margins when calculated using the average-to-average method and the average-to-transaction method. Accordingly, the Department preliminarily determines, pursuant to 19 CFR 351.414(c)(1) (2012), to base the weighted-average dumping margin for Apex on the average-to-transaction method for these preliminary results. See the memorandum to the file from Henry Almond, Analyst, Office 2, AD/CVD Operations “Calculations for Apex Frozen Foods for the Preliminary Results” dated March 4, 2013.

With respect to Devi Fisheries and Falcon, the Department preliminarily finds that a pattern of EPs for comparable merchandise that differ significantly among time periods does not exist, and, therefore, the Department has not considered whether the average-to-average method can account for the observed price differences. Accordingly, the Department determines, pursuant to 19 CFR 351.414(c)(1), to calculate the weighted-average dumping margin for Devi Fisheries and Falcon using the average-to-average method for these preliminary results. See the memorandum to the File, from David Crespo, Analyst, Office 2, AD/CVD Operations, entitled, “Calculation Adjustments for Devi Fisheries Limited for the Preliminary Results,” dated March 4, 2013 (Devi Fisheries Preliminary Calculation Memo) and the memorandum to the file from Henry Almond, Analyst, Office 2, AD/CVD Operations “Calculations for Falcon Marine Exports Limited for the Preliminary Results” dated March 4, 2013.

Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced by Apex, Devi Fisheries, and Falcon and sold in the U.S. and relevant third country markets on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are 1) cooked form; 2) head status; 3) count size; 4) organic certification; 5) shell status; 6) vein status; 7) tail status; 8) other shrimp preparation; 9) frozen form; 10) flavoring; 11) container weight; 12) presentation; 13) species; and 14) preservatives.

Export Price

For all U.S. sales made by Apex, Devi Fisheries, and Falcon, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the

United States prior to importation and constructed export price (CEP) methodology was not otherwise warranted based on the facts of record.

A. *Apex*

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

B. *Devi Fisheries*

We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price for billing adjustments,²⁵ in accordance with 19 CFR 351.401(c). We also made deductions from the starting price for foreign inland freight expenses, domestic warehousing,²⁶ survey and analysis charges, other shipment expenses, foreign brokerage and handling expenses, U.S. brokerage and handling expenses, international freight expenses, terminal handling charges, marine insurance expenses, and U.S. customs duties (including harbor maintenance fees and merchandise processing fees), where appropriate, in accordance with section 772(c)(2)(A) of the Act.

C. *Falcon*

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

²⁵ See Memorandum to the File, from Elizabeth Eastwood, Senior Analyst, and David Crespo, Analyst, Office 2, AD/CVD Operations entitled, "Verification of the Sales Response of Devi Fisheries Limited in the 2011-2012 Antidumping Administrative Review of Certain Frozen Warmwater Shrimp from India," dated January 11, 2013.

²⁶ See *id.*

Normal Value

A. *Home Market Viability*

In accordance with section 773(a)(1)(B)(i) of the Act, we normally use home market sales as the basis for NV. However, pursuant to section 773(a)(1)(C)(ii) we use third country sales as the basis for NV if the volume of home market sales is insufficient to permit a proper comparison with the sales of subject merchandise to the United States.

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Apex's, Devi Fisheries', and Falcon's respective home market sales of the foreign like product to the volume of their U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that the aggregate volume of home market sales of the foreign like product for each of the respondents was insufficient to permit a proper comparison with U.S. sales of the subject merchandise, pursuant to 773(a)(1)(C)(ii).

Regarding Apex and Devi Fisheries, we selected the United Kingdom and Belgium, respectively, as comparison markets because these countries were Apex's and Devi Fisheries' only viable third country markets. For Falcon, we selected Japan as the comparison market because, among other things, Falcon's sales of foreign like product in Japan were the most similar to the subject merchandise. For further discussion, see the Falcon Third Country Market Memo. Therefore, as the basis for comparison market sales, we used sales to the United Kingdom, Belgium, and Japan, respectively, for Apex, Devi Fisheries, and Falcon, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

B. *Level of Trade*

To the extent practicable, we determine NV for sales at the same level of trade (LOT) as the U.S. sales. When there are no sales at the same LOT, we compare U.S. sales to comparison market sales at a different level of trade. The NV LOT is that of the starting price for sales in the home market or applicable third country market.²⁷ For EP, the LOT is that of the starting price for sales in the United States.

To determine whether comparison market sales are at a different LOT than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined, we will make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV LOT is at a more advanced stage of distribution than the CEP LOT, and the data available do not provide an appropriate basis to determine an LOT adjustment, we will grant a

²⁷ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) expenses, and profit for CV, where possible.

CEP offset, as provided in section 773(a)(7)(B) of the Act.²⁸ Company-specific LOT findings are summarized below.

1. Apex

Apex reported that it made EP sales in the U.S. market through a single channel of distribution (*i.e.*, direct sales to unaffiliated trading companies). We examined the selling activities performed for U.S. sales and found that Apex performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight and the provision of customs clearance/brokerage services (in India and the United States); cold storage and inventory maintenance; quality-assurance-related activities; and banking-related activities. These selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the selling function categories, we find that Apex performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for U.S. sales. Because all sales in the United States are made through a single distribution channel (*i.e.*, direct sales to unaffiliated trading companies) and the selling activities to Apex's customers did not vary within this channel, we preliminarily determine that there is one LOT in the U.S. market.

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

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

2. Devi Fisheries

Devi Fisheries reported that it made EP sales in the U.S. market through a single channel of distribution (*i.e.*, direct sales to unaffiliated trading companies). We examined the selling

²⁸ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731, 61732-33 (November 19, 1997).

activities performed for U.S. sales and found that Devi Fisheries performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight and the provision of customs clearance/brokerage services (in India and the United States); cold storage and inventory maintenance; quality-assurance-related activities; and banking-related activities. These selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the selling function categories, we find that Devi Fisheries performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for U.S. sales. Because all sales in the United States are made through a single distribution channel (*i.e.*, direct sales to unaffiliated trading companies) and the selling activities to Devi Fisheries' customers did not vary within this channel, we preliminarily determine that there is one LOT in the U.S. market.

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

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

3. *Falcon*

Falcon reported that it made EP sales in the U.S. market through a single channel of distribution (*i.e.*, direct sales to unaffiliated trading companies). We examined the selling activities performed for U.S. sales and found that Falcon performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight and the provision of customs clearance/brokerage services (in India and the United States); cold storage and inventory maintenance; quality-assurance-related activities; and banking-related activities. These selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the selling function categories, we find that Falcon performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for U.S. sales. Because all sales in the United States are made through a single distribution channel (*i.e.*, direct sales to unaffiliated trading companies)

and the selling activities to Falcon's customers did not vary within this channel, we preliminarily determine that there is one LOT in the U.S. market.

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

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

C. *Cost of Production Analysis*

In accordance with section 773(b)(2)(A) of the Act, to initiate a COP investigation the Department must have "reasonable grounds" to believe or suspect that sales of the foreign like product under consideration for the determination of NV have been made at prices below the COP of that product. An allegation will be deemed to have provided reasonable grounds if: 1) a reasonable methodology is used in the calculation of the COP including the use of the respondent's actual data, if available; 2) using this methodology, sales are shown to be made at prices below the COP; and 3) the sales allegedly made at below cost are representative of a broader range of foreign models which may be used as a basis for NV. See section 773(b)(2)(A)(i) of the Act and Notice of Preliminary Results of the New Shipper Review of the Antidumping Duty Order on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil, 70 FR 48668, 48670 (August 19, 2005), unchanged in Notice of Final Results of New Shipper Review of the Antidumping Duty Order on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil, 70 FR 62297 (October 31, 2005).

On July 12, 2012, ASPA alleged that Devi Fisheries made sales to its third country market (i.e., Belgium), during the POR that were below the COP. Based on our analysis of the allegation made by ASPA, we found that Devi Fisheries' sales to Belgium which fell below the COP were representative of the broader range of models which may be used as a basis for NV. Therefore, we determined that there were reasonable grounds to believe or suspect that Devi Fisheries' sales of shrimp in the Belgium were made at prices below its COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation to determine whether Devi

Fisheries' comparison market sales were made at prices below its COP. See *Devi Fisheries Cost Investigation Memo*.

In addition, we found that Apex and Falcon made sales to their respective comparison markets (*i.e.*, the United Kingdom and Japan) below the COP in the most recently completed segment of this proceeding as of the date of initiation of this review, and such sales were disregarded.²⁹ Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, we preliminarily find that there are reasonable grounds to believe or suspect that Apex and Falcon made sales in their respective third country markets at prices below the cost of producing the merchandise during the current POR.

A. *Calculation of Cost of Production*

In accordance with section 773(b)(3) of the Act, we calculated the respondents' COPs based on the sum of materials and conversion for the foreign like product, plus amounts for G&A expenses and interest expenses (see "Test of Comparison Market Sales Prices" section, below, for treatment of comparison market selling expenses).

Based on our review of the record evidence, Apex, Devi Fisheries, and Falcon do not appear to have experienced significant changes in the cost of manufacturing during the POR. Therefore, we followed our normal methodology of calculating an annual weighted-average cost. The Department relied on the COP data submitted by each respondent in its most recently submitted cost database for the COP calculation, except as noted below. We made no adjustments to the cost data submitted by Apex.

1. *Devi Fisheries*

We eliminated all intercompany transactions among Devi Fisheries and its collapsed affiliated producers to ensure the reported costs reflected the actual cost incurred by each company. This adjustment resulted in an increase to Devi Fisheries' variable overhead costs.

We disallowed as an offset to Devi's fiscal year ended March 31, 2012, financial expenses interest earned on antidumping duty deposits.³⁰

2. *Falcon*

We revised the financial expenses reported by Falcon to exclude claimed interest income received on antidumping duty deposit refunds and to include financial expenses incurred by a

²⁹ See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission, and Final No Shipment Determination, 76 FR 41203, 41204-41205 (July 13, 2011).

³⁰ See Memorandum to Neal M. Halper, Director, Office of Accounting from Gary W. Urso, Accountant, entitled "Antidumping Duty Administrative Review of Frozen Warmwater Shrimp from India, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Devi Fisheries Limited," dated March 4, 2013.

collapsed affiliate. We also revised the G&A expenses reported by Falcon to include G&A expenses incurred by a collapsed affiliate.³¹

B. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(ii) of the Act, we compared the adjusted weighted-average COP to the third country sales prices of the foreign like product, in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, discounts and rebates, direct and indirect selling expenses, and packing expenses. We revised certain of Devi Fisheries' selling expenses to take into account our findings at verification.³²

C. Results of the COP Test

In determining whether to disregard third country sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's third country sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and 2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual-average cost test in these preliminary results, we have also applied our standard cost recovery test with no adjustments.

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

For those U.S. sales of subject merchandise for which there were no comparable third country sales in the ordinary course of trade, we compared EP to CV in accordance with section

³¹ See Memorandum to Neal M. Halper, Director, Office of Accounting from James Balog, Senior Accountant, entitled "Antidumping Duty Administrative Review of Frozen Warmwater Shrimp from India, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Falcon Marine Exports," dated March 4, 2013.

³² See the Devi Fisheries Preliminary Calculation Memo.

773(a)(4) of the Act. See “Calculation of Normal Value Based on Constructed Value” section below.

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

1. *Apex*

We calculated NV for Apex on the reported packed, delivered prices to unaffiliated customers in the United Kingdom. We made deductions to the starting price, where appropriate, for foreign inland freight expenses, foreign brokerage and handling expenses, various foreign miscellaneous shipment charges, and international freight expenses (including terminal handling charges), under section 773(a)(6)(B) of the Act.

In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including bank charges, Export Credit Guarantee Corporation (ECGC) fees, export inspection agency (EIA) fees, imputed credit expenses, and other direct selling expenses), and commissions. Because commissions were paid only in the comparison market, we made an upward adjustment to NV for the lesser of: 1) the amount of commission paid in the comparison market; or 2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the U.S. market.³³

We added U.S. packing costs and deducted third country packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.³⁴

2. *Devi Fisheries*

We calculated NV for Devi Fisheries on the reported packed, delivered prices to unaffiliated customers in Belgium. We made deductions to the starting price, where appropriate, for foreign inland freight expenses, foreign brokerage and handling expenses, various foreign miscellaneous shipment charges and international freight expenses (including terminal handling charges), under section 773(a)(6)(B) of the Act.

In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including bank charges, ECGC fees, EIA fees, imputed credit expenses, and other direct selling expenses), and commissions. Where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: 1) the amount of commission paid in the U.S. market; or 2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the comparison market. Where commissions granted only in the

³³ See 19 CFR 351.410(e).

³⁴ See 19 CFR 351.411(b).

comparison market, we made an upward adjustment to NV for the lesser of: 1) the amount of commission paid in the comparison market; or 2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the U.S. market.³⁵ We revised Devi Fisheries' reported credit expenses, indirect selling expenses, and inventory carrying costs to take into account our findings at verification.³⁶

We added U.S. packing costs and deducted third country packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.³⁷

3. *Falcon*

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

In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including bank charges, ECGC fees, EIA fees, imputed credit expenses, and other direct selling expenses), and commissions. Finally, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: 1) the amount of commission paid in the U.S. market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the comparison market. Where commissions granted only in the comparison market, we made an upward adjustment to NV for the lesser of: 1) the amount of commission paid in the comparison market; or 2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the U.S. market.³⁸

We added U.S. packing costs and deducted third country packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19

³⁵ See 19 CFR 351.410(e).

³⁶ See Devi Fisheries Preliminary Calculation Memo.

³⁷ See 19 CFR 351.411(b).

³⁸ See 19 CFR 351.410(e).

CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.³⁹

E. *Calculation of Normal Value Based on Constructed Value*

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for those shrimp products for which we could not determine the NV based on comparison market sales because, as noted in the “Results of the COP Test” section above, all sales of the comparable products failed the COP test, we based NV on CV.

Sections 773(e)(1) and (2)(A) of the Act provide that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative (SG&A) expenses, profit, and U.S. packing costs. For each respondent, we calculated the cost of materials and fabrication based on the methodology described in the “Cost of Production Analysis” section, above. We based SG&A and profit for each respondent on the actual amounts incurred and realized by it in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act.

We made adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) and (a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made circumstance-of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses to, CV.⁴⁰ We also made adjustments for Devi Fisheries and Falcon, when applicable, for comparison market indirect selling expenses, to offset U.S. commissions in EP comparisons.⁴¹

Currency Conversion

We made currency conversions into U.S. dollars for all spot transactions by Apex, Devi Fisheries, and Falcon, in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. In addition, Apex, Devi Fisheries, and Falcon reported that they purchased forward exchange contracts which were used to convert their sales prices into home market currency. Under 19 CFR 351.415(b), if a currency transaction on forward markets is directly linked to an export sale under consideration, the Department is directed to use the exchange rate specified with respect to such

³⁹ See 19 CFR 351.411(b).

⁴⁰ See 19 CFR 351.410(c).

⁴¹ See 19 CFR 351.410(e).

currency in the forward sale agreement to convert the foreign currency.⁴² Therefore, for Apex, Devi Fisheries, and Falcon we used the reported forward exchange rates for currency conversions where applicable.

Recommendation

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree



Paul Piquado
Assistant Secretary
for Import Administration

9 MARCH 2013
(Date)

⁴² See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India, 69 FR 76916 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 6; see also Certain Frozen Warmwater Shrimp From India: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Preliminary No Shipment Determination, 76 FR 12025, 12031 (March 4, 2011), unchanged in Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission, and Final No Shipment Determination, 76 FR 41203 (July 13, 2011).