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DEPARTMENT OF COMMERCE

International Trade Administration

A-533-840

Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011 – 2012

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

SUMMARY: On March 12, 2013, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp from India.¹ The period of review (POR) is February 1, 2011, through January 31, 2012. 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 the Review.” Further, we find that two companies had no shipments of subject merchandise during the POR.

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or David Crespo, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-3874 or (202) 482-3693, respectively.

¹ See Certain Frozen Warmwater Shrimp From India; Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 15691 (Mar. 12, 2013) and accompanying Decision Memorandum (Preliminary Results).

Background

This review covers 193 producers/exporters. The respondents which the Department selected for individual examination are Apex Frozen Foods Private Limited (Apex) and Devi Fisheries Limited (Devi Fisheries). The Department also accepted one voluntary respondent, Falcon Marine Exports Limited/K.R. Enterprises (Falcon). The respondents which were not selected for individual examination are listed in the “Final Results of the Review” section of this notice.

On March 12, 2013, the Department published the Preliminary Results. In April 2013, we received case and rebuttal briefs from the Ad Hoc Shrimp Trade Action Committee; the American Shrimp Processors Association; and Apex, Devi Fisheries, and Falcon (collectively, “the respondents”). Also in June 2013, the Department held a public hearing at the request of the respondents.

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 merchandise subject to the order is certain frozen warmwater shrimp.² The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 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,

² For a complete description of the Scope of the Order, see the “Issues and Decision Memorandum for the Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India,” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, which is dated concurrently with, and adopted by, this notice (Issues and Decision Memo).

1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

Determination of No Shipments

As noted in the Preliminary Results, we received no-shipment claims from two companies under review (i.e., Baby Marine International and Baby Marine Sarass). These companies reported that they made no shipments of subject merchandise to the United States during the POR.³

We confirmed the claims from these companies with U.S. Customs and Border Protection (CBP). Therefore, because we find that the record indicates that the two companies listed above did not export subject merchandise to the United States during the POR, we determine that they had no reviewable transactions during the POR.

As we stated in the Preliminary Results, our former practice concerning respondents submitting timely no-shipment certifications was to rescind the administrative review with respect to those companies if we were able to confirm the no-shipment certifications through a no-shipment inquiry with CBP.⁴ As a result, in such circumstances, we normally instructed 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, clarification of the “automatic assessment” regulation, 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

³ For a full explanation of the Department’s analysis, see the Preliminary Results and accompanying Decision Memorandum at 6.

⁴ See Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27393 (May 19, 1997); see also Stainless Steel Sheet and Strip in Coils from Taiwan: Final Results of Antidumping Duty Administrative Review, 75 FR 76700, 76701 (Dec. 9, 2010).

the all-others rate applicable to the proceeding.⁵ As noted in the Preliminary Results, 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 above listed companies and exported by other parties at the all-others rate. In addition, we continue to find 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 the two companies listed above and issue appropriate instructions to CBP based on the final results of this administrative review. See the “Assessment Rates” section of this notice below.

Analysis of Comments Received

All issues raised in the case briefs by parties are addressed in the Issues and Decision Memo. A list of the issues which parties raised and to which we respond in the Issues and Decision Memo is attached to this notice as Appendix I. The Issues and Decision Memo is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memo can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memo and the electronic versions of the Issues and Decision Memo are identical in content.

⁵ See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003) (Assessment Policy Notice).

Changes Since the Preliminary Results

Based on our analysis of the comments received, we made changes to the margin calculations for Devi Fisheries to correct certain calculation errors. For further discussion, see the Issues and Decision Memo.

Period of Review

The POR is February 1, 2011, through January 31, 2012.

Final Results of the Review

We are assigning the following dumping margins to the firms listed below as follows:

<u>Manufacturer/Exporter</u>	<u>Percent Margin</u>
Apex Frozen Foods Private Limited	3.49
Devi Fisheries Limited / Satya Seafoods Private Limited / Usha Seafoods	0.23 (<u>de minimis</u>)
Falcon Marine Exports Limited / K.R. Enterprises	0.00

Review-Specific Average Rate Applicable to the Following Companies:⁶

<u>Manufacturer/Exporter</u>	<u>Percent Margin</u>
Abad Fisheries Pvt. Ltd.	3.49
Accelerated Freeze-Drying Co.	3.49
Adilakshmi Enterprises	3.49
Allana Frozen Foods Pvt. Ltd.	3.49
Allanasons Ltd.	3.49
AMI Enterprises	3.49
Amulya Seafoods	3.49
Anand Aqua Exports	3.49
Ananda Aqua Applications / Ananda Aqua Exports (P) Limited / Ananda Foods	3.49
Andaman Sea Foods Private Limited	3.49
Angelique Intl	3.49
Anjaneya Seafoods	3.49
Arvi Import & Export	3.49

⁶ This rate is based on the margin calculated for Apex because it is the only above de minimis margin calculated 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.

Asvini Exports	3.49
Asvini Fisheries Private Limited	3.49
Avanti Feeds Limited	3.49
Ayshwarya Seafood Private Limited	3.49
Baby Marine Exports	3.49
Baby Marine International	*
Baby Marine Sarass	*
Bhatsons Aquatic Products	3.49
Bhavani Seafoods	3.49
Bijaya Marine Products	3.49
Blue Fin Frozen Foods Pvt. Ltd.	3.49
Blue Water Foods & Exports P. Ltd.	3.49
Bluefin Enterprises	3.49
Bluepark Seafoods Private Ltd.	3.49
BMR Exports	3.49
Britto Exports	3.49
C P Aquaculture (India) Ltd.	3.49
Calcutta Seafoods Pvt. Ltd.	3.49
Capithan Exporting Co.	3.49
Castlerock Fisheries Ltd.	3.49
Chemmeens (Regd)	3.49
Cherukattu Industries (Marine Division)	3.49
Choice Canning Company	3.49
Choice Trading Corporation Private Limited	3.49
Coastal Corporation Ltd.	3.49
Cochin Frozen Food Exports Pvt. Ltd.	3.49
Coreline Exports	3.49
Corlim Marine Exports Pvt. Ltd.	3.49
Damco India Private	3.49
Devi Marine Food Exports Private Ltd. /	3.49
Kader Exports Private Limited /	
Kader Investment and Trading Company Private Limited /	
Liberty Frozen Foods Pvt. Ltd. / Liberty Oil Mills Ltd. /	
Premier Marine Products /	
Universal Cold Storage Private Limited	
Devi Sea Foods Limited ⁷	3.49
Diamond Seafood Exports / Edhayam Frozen Foods Pvt. Ltd. /	3.49

⁷ The Department received a request for an administrative review of the antidumping order on shrimp from India with respect to Devi Sea Foods Limited (Devi). Shrimp produced and exported by Devi was excluded from this order effective February 1, 2009. See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part, 75 FR 41813, 41814 (July 19, 2010). However, shrimp produced by other Indian producers and exported by Devi remains subject to the order. Thus, this administrative review with respect to Devi covers only shrimp which was produced in India by other companies and exported by Devi.

Kadalkanny Frozen Foods / Theva & Company	
Digha Seafood Exports	3.49
Esmario Export Enterprises	3.49
Exporter Coreline Exports	3.49
Five Star Marine Exports Private Limited	3.49
Forstar Frozen Foods Pvt. Ltd.	3.49
Frontline Exports Pvt. Ltd.	3.49
G A Randerian Limited	3.49
Gadre Marine Exports	3.49
Galaxy Maritech Exports P. Ltd.	3.49
Gayatri Seafoods	3.49
Geo Aquatic Products (P) Ltd.	3.49
Geo Seafoods	3.49
Grandtrust Overseas (P) Ltd.	3.49
Goodwill Enterprises	3.49
GVR Exports Pvt. Ltd.	3.49
Haripriya Marine Export Pvt. Ltd.	3.49
Harmony Spices Pvt. Ltd.	3.49
HIC ABF Special Foods Pvt. Ltd.	3.49
Hindustan Lever, Ltd.	3.49
Hiravata Ice & Cold Storage	3.49
Hiravati Exports Pvt. Ltd.	3.49
Hiravati International Pvt. Ltd. (located at APM – Mafco Yard, Sector – 18, Vashi, Navi, Mumbai – 400 705, India)	3.49
Hiravati International Pvt. Ltd. (located at Jawar Naka, Porbandar, Gujarat, 360 575, India)	3.49
IFB Agro Industries Ltd.	3.49
Indian Aquatic Products	3.49
Indo Aquatics	3.49
Innovative Foods Limited	3.49
International Freezefish Exports	3.49
Interseas	3.49
ITC Limited, International Business	3.49
ITC Ltd.	3.49
Jagadeesh Marine Exports	3.49
Jaya Satya Marine Exports	3.49
Jaya Satya Marine Exports Pvt. Ltd.	3.49
Jayalakshmi Sea Foods Private Limited	3.49
Jinny Marine Traders	3.49
Jiya Packagings	3.49
K R M Marine Exports Ltd.	3.49
K.V. Marine Exp.	3.49
Kalyan Aqua & Marine Exp. India Pvt. Ltd.	3.49
Kalyanee Marine	3.49

Kanch Ghar	3.49
Kay Kay Exports	3.49
Kings Marine Products	3.49
Koluthara Exports Ltd.	3.49
Konark Aquatics & Exports Pvt. Ltd.	3.49
Landauer Ltd.	3.49
Libran Cold Storages (P) Ltd.	3.49
Lighthouse Trade Links Pvt. Ltd.	3.49
Magnum Estates Limited	3.49
Magnum Export	3.49
Magnum Sea Foods Limited	3.49
Malabar Arabian Fisheries	3.49
Malnad Exports Pvt. Ltd.	3.49
Mangala Marine Exim India Pvt. Ltd.	3.49
Mangala Sea Products	3.49
Meenaxi Fisheries Pvt. Ltd.	3.49
MSC Marine Exporters	3.49
MSRDR Exports	3.49
MTR Foods	3.49
N.C. John & Sons (P) Ltd	3.49
Naga Hanuman Fish Packers	3.49
Naik Frozen Foods	3.49
Naik Frozen Foods Pvt., Ltd.	3.49
Naik Seafoods Ltd.	3.49
Navayuga Exports	3.49
Nekkanti Sea Foods Limited	3.49
Nila Sea Foods Pvt. Ltd.	3.49
Nine Up Frozen Foods	3.49
Overseas Marine Export	3.49
Paragon Sea Foods Pvt. Ltd.	3.49
Parayil Food Products Pvt., Ltd.	3.49
Penver Products (P) Ltd.	3.49
Pesca Marine Products Pvt., Ltd.	3.49
Pijikay International Exports P Ltd.	3.49
Pisces Seafoods International	3.49
Premier Exports International	3.49
Premier Marine Foods	3.49
Premier Seafoods Exim (P) Ltd.	3.49
R V R Marine Products Private Limited	3.49
Raa Systems Pvt. Ltd.	3.49
Raju Exports	3.49
Ram's Assorted Cold Storage Ltd.	3.49
Raunaq Ice & Cold Storage	3.49
Raysons Aquatics Pvt. Ltd.	3.49
Razban Seafoods Ltd.	3.49

RBT Exports	3.49
RDR Exports	3.49
Riviera Exports Pvt. Ltd.	3.49
Rohi Marine Private Ltd.	3.49
S & S Seafoods	3.49
S Chanchala Combines	3.49
S. A. Exports	3.49
Safa Enterprises	3.49
Sagar Foods	3.49
Sagar Grandhi Exports Pvt. Ltd.	3.49
Sagar Samrat Seafoods	3.49
Sagarvihar Fisheries Pvt. Ltd.	3.49
SAI Marine Exports Pvt. Ltd.	3.49
SAI Sea Foods	3.49
Sandhya Aqua Exports	3.49
Sandhya Aqua Exports Pvt. Ltd.	3.49
Sandhya Marines Limited	3.49
Santhi Fisheries & Exports Ltd.	3.49
Sarveshwari Exp.	3.49
Sarveshwari Ice & Cold Storage Pvt. Ltd.	3.49
Sawant Food Products	3.49
Seagold Overseas Pvt. Ltd.	3.49
Selvam Exports Private Limited	3.49
Sharat Industries Ltd.	3.49
Shimpo Exports	3.49
Shimpo Exports Pvt. Ltd.	3.49
Shippers Exports	3.49
Shiva Frozen Food Exp. Pvt., Ltd.	3.49
Shree Datt Aquaculture Farms Pvt. Ltd.	3.49
Shroff Processed Food & Cold Storage P Ltd.	3.49
Silver Seafood	3.49
Sita Marine Exports	3.49
Sowmya Agri Marine Exports	3.49
Sprint Exports Pvt. Ltd.	3.49
Sri Chandrakantha Marine Exports	3.49
Sri Sakthi Cold Storage	3.49
Sri Sakthi Marine Products P Ltd.	3.49
Sri Satya Marine Exports	3.49
Sri Venkata Padmavathi Marine Foods Pvt. Ltd.	3.49
Srikanth International	3.49
SSF Ltd.	3.49
Star Agro Marine Exports Private Limited	3.49
Sun Bio-Technology Limited	3.49
Suryamitra Exim (P) Ltd.	3.49
Suvarna Rekha Exports Private Limited	3.49

Suvarna Rekha Marines P Ltd.	3.49
TBR Exports Pvt Ltd.	3.49
Teekay Marine P. Ltd.	3.49
Tejaswani Enterprises	3.49
The Waterbase Ltd.	3.49
Triveni Fisheries P Ltd.	3.49
Uniroyal Marine Exports Ltd.	3.49
V.S Exim Pvt Ltd.	3.49
Veejay Impex	3.49
Victoria Marine & Agro Exports Ltd.	3.49
Vinner Marine	3.49
Vishal Exports	3.49
Wellcome Fisheries Limited	3.49
West Coast Frozen Foods Private Limited	3.49
Z A Sea Foods Pvt. Ltd.	3.49

*\ No shipments or sales subject to this review.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Assessment Rates

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

Pursuant to 19 CFR 351.212(b)(1), because Apex reported the entered value for all of its U.S. sales, we have calculated importer-specific ad valorem duty assessment rates for these sales based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. 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 entered value. 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).

Regarding Devi Fisheries and Falcon, pursuant to the Final Modification for Reviews,⁸ because the weighted-average dumping margins for these two companies are *de minimis* or zero, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.⁹

For the companies which were not selected for individual examination, we have used as the assessment rate the cash deposit rate assigned to these exporters, in accordance with our practice. See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination, 77 FR 48048, 40853 (July 11, 2012).

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 Assessment Policy Notice. This clarification applies 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 an 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 less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction. See Assessment Policy Notice for a full discussion of this clarification.

⁸ See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification for Reviews).

⁹ See Final Modification for Reviews, 77 FR at 8102.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit 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 reviewed or investigated companies not listed above, as well as those companies listed in the “Determination of No Shipments” section, 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, a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 10.17 percent, the all-others rate established in the LTFV investigation.¹⁰ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

¹⁰ See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India, 70 FR 5147, 5148 (Feb. 1, 2005).

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.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

July 10, 2013
(Date)

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Issues

1. Targeted Dumping Allegation
2. Treatment of Assessed Antidumping Duties
3. Devi Fisheries' Margin Calculation

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