

intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the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 rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, 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 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 5.95 percent, the "All Others" rate made effective by the LTFV investigation. *See Shrimp Order*. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary 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.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: February 28, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-838]

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

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

SUMMARY: The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Brazil with respect to 11 companies.¹ The respondents which the Department selected for individual review are Aquatica Maricultura do Brasil Ltda ("Aquatica") and Comercio de Pescado Aracatiense Ltda. ("Compescal"). The respondents which were not selected for individual review are listed in the "Preliminary Results of Review" section of this notice. This is the first administrative review of this order. The period of review ("POR") covers August 4, 2004, through January 31, 2006.

We preliminarily determine that sales made by Aquatica and Compescal have been made below normal value ("NV"). In addition, we have preliminarily determined a weighted-average margin for those companies that were not selected for individual review but were responsive to the Department's requests for information based on the preliminary results for the respondents selected for individual review. For those companies which were not responsive to the Department's requests for information, we have preliminarily assigned to them a margin based on adverse facts available ("AFA").

If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: March 9, 2007.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, AD/CVD Operations, Office 2, Import Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202)

¹ This figure does not include those companies for which the Department is preliminarily rescinding the administrative review. *See* "Partial Rescission of Review" section for further discussion.

482-4929 or (202) 482-4007, respectively.

SUPPLEMENTARY INFORMATION:

Background

In February 2005, the Department published in the **Federal Register** an antidumping duty order on certain warmwater shrimp from Brazil. *See Notice of Amended Final Determination and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Brazil*, 70 FR 5143 (February 1, 2005) ("*Shrimp Order*"). On February 1, 2006, 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 Brazil for the period August 4, 2004, through January 31, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 5239 (February 1, 2006). On February 28, 2006, the petitioner² submitted a letter timely requesting that the Department conduct an administrative review of the sales of certain frozen warmwater shrimp made by numerous companies during the POR, pursuant to section 751(a) of the Tariff Act of 1930, as amended ("the Act"), and in accordance with 19 CFR 351.213(b)(1). Also, on February 28, 2006, the Department received a timely request under 19 CFR 351.213(b)(2) to conduct an administrative review of the sales of certain frozen warmwater shrimp from the following affiliated producers/exporters of subject merchandise: CIDA Central De Industrializacao E Distribuicao De Alimentos Ltda. and Produmar Cia Exportadora de Produtos Do Mar (collectively "CIDA").

On April 7, 2006, the Department published a notice of initiation of administrative review for 50 companies and requested that each provide data on the quantity and value of its exports of subject merchandise to the United States during the POR for mandatory respondent selection purposes. These companies are listed in the Department's notice of initiation. *See Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India and Thailand*, 71 FR 17819 (April 7, 2006) ("*Notice of Initiation*").

During the period April 28 through June 19, 2006, we received responses to the Department's quantity and value questionnaire from 19 companies. We

² The petitioner is the Ad Hoc Shrimp Trade Action Committee.

did not receive responses to this questionnaire from the remaining companies.

Subsequently, the Department received withdrawal requests with respect to many of the companies. However, based upon our consideration of the responses to the quantity and value questionnaire 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 request remained. As a result, on July 11, 2006, we selected the two largest remaining producers/exporters by export volume of certain frozen warmwater shrimp from Brazil during the POR, Aquatica and Compescal, as the mandatory respondents in this review. *See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from Irene Darzenta Tzafolias, Acting Director, Office 2, AD/CVD Operations, entitled "Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Brazil: Selection of Respondents," dated July 11, 2006.* On this same date, we issued the antidumping questionnaire to Aquatica and Compescal.

On July 20, 2006, we published a notice rescinding the administrative review with respect to 34 companies for which the requests for an administrative review were withdrawn in a timely manner, in accordance with 19 CFR 351.213(d)(1). *See Certain Frozen Warmwater Shrimp from Brazil; Partial Rescission of Antidumping Duty Administrative Review; 71 FR 41199 (July 20, 2006).*

We received responses to section A of the questionnaire from Aquatica and Compescal on August 15, 2006.

On August 25, 2006, the Department postponed the preliminary results in this review until no later than February 28, 2007. *See Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, the Socialist Republic of Vietnam, the People's Republic of China, and Thailand: Notice of Extension of Time Limits for the Preliminary Results of the First Administrative Reviews and New Shipper Reviews, 71 FR 50387 (August 25, 2006).*

On August 31, 2006, the petitioner submitted comments regarding third country market selection with respect to Aquatica and the possible existence of a "particular market situation" with respect to Compescal.

We received responses to sections B and C of the questionnaire from Compescal and Aquatica on September 7 and 8, 2006, respectively.

We issued supplemental questionnaires to Aquatica and Compescal on September 28, 2006, and received responses on October 20, 2006.

On November 1, 2006, the petitioner submitted additional comments on the appropriate comparison markets to be used for Aquatica and Compescal.

On September 20, 2006, the petitioner requested that the Department initiate a sales-below-cost investigation of Aquatica. On November 6, 2006, we initiated this investigation. *See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled "Petitioners' Allegation of Sales Below the Cost of Production for Aquatica Maricultura do Brasil Ltda.," dated November 6, 2006.*

Also on November 6, 2006, we determined that France constitutes the appropriate comparison market with respect to Aquatica. *See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled "Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Brazil - Selection of the Appropriate Third Country Market for Aquatica," dated November 6, 2006.*

On November 9, 2006, we found that a particular market situation does not exist which would render Compescal's home market inappropriate for purposes of determining NV in this review. *See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, entitled "Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Brazil: Home Market as Appropriate Comparison Market for Comercio de Pescado Aracatiense Ltda.," dated November 9, 2006.*

On November 17, 2006, the petitioner requested that the Department initiate a sales-below-cost investigation of Compescal. This investigation was initiated on November 28, 2006. *See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled "Petitioners' Allegation of Sales Below the Cost of Production for Comercio de Pescado Aracatiense Ltda.," dated November 28, 2006.*

Aquatica and Compescal submitted responses to section D of the questionnaire on December 6 and 28, 2006, respectively. We issued a section D supplemental questionnaire to Aquatica on December 21, 2006, and to Compescal on January 10, 2007. On January 11 and 30, 2007, we received responses to these supplemental questionnaires from Aquatica and Compescal, respectively. We issued a second section D supplemental

questionnaire to Aquatica on January 18, 2007, and received a response on February 1, 2007.

On January 23, 2007, we published a correction to the scope of the order in which we clarified that the scope does not cover warmwater shrimp in non-frozen form. *See Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam; Amended Orders, 72 FR 2857 (January 23, 2007).*

Verifications were conducted in January and February 2007. Sales verification reports were issued on February 23, 2007. Cost verification reports will be issued following the preliminary results.

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,³ shell-on or peeled, tail-on or tail-off, 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

³ "Tails" in this context means the tail fan, which includes the telson and the uropods.

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 (HTS 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 (HTS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTS 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.

Partial Rescission of Review

On July 20, 2006, we published a notice rescinding the administrative review with respect to 34 companies for which the petitioner and CIDA timely withdrew their requests for an administrative review, and because no other interested party requested a review for these companies, in accordance with 19 CFR 351.213(d)(1). *See Certain Frozen Warmwater Shrimp from Brazil; Partial Rescission of*

Antidumping Duty Administrative Review; 71 FR 41199 (July 20, 2006).

Artico was inadvertently omitted from the list of companies for which the administrative review was rescinded in July 2006. Artico has the same address as Ortico, which was included in our earlier rescission notice. Accordingly, we consider Artico and Ortico to be the same company.

In addition, as a result of additional research, we confirmed that Marine Maricultura do Nordeste SA, Marine Maricultura do Nordeste and Marine Maricultura Nordeste SA are, in fact, the same company, and that the correct company name is Marine Maricultura do Nordeste SA, which is no longer in business. We rescinded the administrative review with respect to Marine Maricultura do Nordeste in July 2006, as a result of the petitioner’s timely withdrawal of the request for review of this company.

For these reasons, we are also preliminarily rescinding this review with respect to Artico, Marine Maricultura do Nordeste SA and Marine Maricultura Nordeste SA.

Aquatica’s Affiliated Parties

Aquatica has three affiliates involved in the production and sale of the subject merchandise, two of which exported shrimp to the United States during the POR. The third affiliate, Aquafeed, which produces feed for larva and shrimp and also sold some frozen shrimp produced by Aquatica to France during the POR, together with Aquatica, submitted a consolidated questionnaire response to the Department.⁴ In its August 15 and October 20, 2006, questionnaire responses, Aquatica provided information regarding the relationship between Aquatica and its two affiliated producers/exporters of subject merchandise at issue during the POR. After an analysis of this information, as well as information obtained as a result of additional research, we preliminarily determine that, in accordance with 19 CFR 351.401(f), it is not appropriate to collapse these affiliated entities for purposes of this review because: 1) there is no common ownership among the companies; 2) no managerial employees or board members of one firm are associated with any of the other firms; 3) there is no sharing of sales information, involvement in pricing and production decisions, sharing of

facilities or employees, or significant transactions between and among the affiliated producers. Thus, there is no potential for manipulation of price or production if Aquatica and its affiliates do not receive the same antidumping duty rate. For further discussion, see the Memorandum from Kate Johnson and Rebecca Trainor, Senior Analysts, Office 2, to James Maeder, Director, Office 2, entitled, “Whether to Collapse Aquatica Maricultura do Brasil Ltda. with Its Affiliated Producers/Exporters in the 2004–2006 Administrative Review on Certain Frozen Warmwater Shrimp from Brazil,” dated February 28, 2007.

Application of Facts Available

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, subject to subsections (c)(1) and (e) of section 782 of the Act; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

As discussed in the “Background” section, above, in April 2006, the Department requested that all companies subject to review respond to the Department’s quantity and value questionnaire for purposes of mandatory respondent selection. The original deadline to file a response was April 28, 2006. Of the 11 companies subject to review,⁵ two companies did not respond to the Department’s requests for information: SM Pescados Industria Comercio E Exportacao Ltda. and Valenca da Bahia Maricultura. Subsequently in May 2006, the Department issued letters to these companies affording them a second opportunity to submit a response to the Department’s quantity and value questionnaire. However, these companies also failed to respond to the Department’s questionnaire after the Department provided a second opportunity. By failing to respond to the Department’s quantity and value 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

⁴ Based on information submitted in Aquatica’s questionnaire responses, as well as information obtained at verification, we have accepted Aquatica’s claim that its operations are intertwined with those of Aquafeed such that they essentially function as one company.

⁵ This figure does not include those companies for which the Department rescinded this administrative review in July 2006, as well as the companies for which we are preliminarily rescinding this administrative review, as discussed above.

companies did not respond to the Department's questionnaire, the Department preliminarily finds that the use of total facts available is appropriate.

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. See also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005); and *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 (August 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) (“SAA”), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99. 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, 1382–83 (Fed. Cir. 2003) (“*Nippon*”). We preliminarily find that SM Pescados Industria Comercio E Exportacao Ltda. and Valenca da Bahia Maricultura SA did not act to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act, because they failed to respond to the Department's requests for information. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to these companies. See *Nippon*, 337 F.3d at 1382–83.

Section 776(b) of the Act provides that the Department may use as AFA, information derived from: 1) the petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record. The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department

with complete and accurate information in a timely manner.” See, e.g., *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (November 7, 2006).

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, we have preliminarily assigned a rate of 349 percent, which is the highest rate alleged in the petition. See *Notice of Initiation of Antidumping Duty Investigations: Certain Frozen and Canned Warmwater Shrimp From Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam*, 69 FR 3876, 3881 (January 27, 2004). The Department finds that this rate is sufficiently high as to effectuate the purpose of the facts available 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).

Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Department's regulations provide that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. See 19 CFR 351.308(d); see also SAA at 870. To the extent practicable, the Department will examine the reliability and relevance of the information to be used.

To corroborate the petition margin, we compared it to the transaction-specific rates calculated for each respondent in this review. We find that it is reliable and relevant because the petition rate fell within the range of individual transaction margins calculated for the mandatory respondents. See *Notice of Preliminary Results of Antidumping Duty Administrative Review; Partial Rescission and Postponement of Final Results: Certain Softwood Lumber Products from Canada*, 71 FR 33964, 33968 (June 12, 2006). Therefore, we have determined that the 349 percent margin is appropriate as AFA and are assigning it to the uncooperative companies listed above.

Further, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the

margin and determine an appropriate margin. See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest calculated margin as AFA because the margin was based on a company's uncharacteristic business expense resulting in an unusually high margin). In the instant case, we examined whether any information on the record would discredit the selected rate as reasonable facts available and were unable to find any information that would discredit the selected AFA rate.

Because we did not find evidence indicating that the selected margin is not appropriate and because this margin falls within the range of transaction-specific margins for the mandatory respondents, we have preliminarily determined that the 349 percent margin, as alleged in the petition, is appropriate as AFA. We are assigning this rate to SM Pescados Industria Comercio E Exportacao Ltda. and Valenca da Bahia Maricultura SA. For company-specific information used to corroborate this rate, see the Memorandum to the File from Kate Johnson and Rebecca Trainor, Senior International Trade Compliance Analysts, Office 2, AD/CVD Operations, entitled “Corroboration of Data Contained in the Petition for Assigning Facts Available Rates in the 2004–2006 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Brazil,” dated February 28, 2007.

Comparisons to Normal Value

To determine whether sales of certain frozen warmwater shrimp by Aquatica and Compescal to the United States were made at less than NV, we compared EP to the NV, as described in the “Export Price” and “Normal Value” sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the “Cost of Production Analysis” section below.

With respect to Compescal, we excluded certain home market sales from our analysis which we verified were either cancelled or outside the ordinary course of trade. See Memorandum to The File, from Kate Johnson and Rebecca Trainor entitled “Calculation Memorandum for the Preliminary Results for Comercio de Pescado Aracatiense Ltda. (Compescal),” (“*Compescal Calculation*

Memorandum”) dated February 28, 2007, for further discussion.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Aquatica and Compescal covered by the description in the “Scope of the Order” section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Pursuant to 19 CFR 351.414(e)(2), we compared U.S. sales to sales made in the home market for Compescal and France for Aquatica within the contemporaneous window period, which extends from three months prior to the month of the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Aquatica and Compescal in the following order: cooked form, head status, count size, organic certification, shell status, vein status, tail status, other shrimp preparation, frozen form, flavoring, container weight, presentation, species, and preservative.

With respect to sales comparisons involving broken shrimp, we compared Compescal’s sales of broken shrimp in the home market to its sales of comparable quality shrimp to the United States. As Aquatica did not make any sales of broken shrimp in its comparison market, we compared Aquatica’s U.S. sales of broken shrimp to constructed value (“CV”).

Export Price

For all U.S. sales made by Aquatica and Compescal, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold 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. Aquatica

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, insurance, foreign brokerage, port handling and warehousing expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act. Aquatica reported port handling expenses as

direct selling expenses. We reclassified these expenses as movement expenses in accordance with our normal practice.

Based on our sales verification findings, we made revisions to the insurance expense reported for certain U.S. sales. See Memorandum to The File, from Kate Johnson and Rebecca Trainor entitled “Aquatica Maricultura do Brasil Ltda., Preliminary Results Notes and Margin Calculation,” dated February 28, 2007, (“*Aquatica Calculation Memorandum*”) for further discussion.

B. Compescal

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, insurance, and port expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

A. Home Market Viability and Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Because Compescal’s aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that its home market was viable. Therefore, we used home market sales as the basis for NV in accordance with section 773(a)(1)(B) of the Act. See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled “Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Brazil: Home Market as Appropriate Comparison Market for Comercio de Pescado Aracatiense Ltda.,” dated November 9, 2006.

Furthermore, we determined that Aquatica’s aggregate volume of home market sales of the foreign like product was insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Therefore, with respect to Aquatica, we used sales to France, Aquatica’s largest third country market, as the basis for comparison-market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled

“Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Brazil - Selection of the Appropriate Third Country Market for Aquatica,” dated November 6, 2006.

B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (“LOT”) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; See also *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 (November 19, 1997) (“*Plate from South Africa*”). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),⁶ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment

⁶ 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 (“SG&A”) expenses, and profit for CV, where possible.

was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Plate from South Africa*, 62 FR at 61732–33.

In this administrative review, we obtained information from each respondent regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

1. *Aquatica*

Aquatica reported that it made EP sales in the U.S. market through a single channel of distribution (*i.e.*, directly to U.S. customers/distributors). We examined the selling activities performed for this channel and found that *Aquatica* performed the following selling functions: sales forecasting and strategic and economic planning, advertising and marketing, sales promotion, packing, inventory maintenance, order input/processing, guarantees, and invoicing. These selling activities can be generally grouped into three core selling function categories for analysis: 1) sales and marketing; 2) inventory maintenance and warehousing; and, 3) warranty and technical support. Accordingly, based on the core selling functions, we find that *Aquatica* performed sales and marketing, inventory maintenance and warehousing, and warranty and technical support for U.S. sales. Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

When NV is based on CV, as in this case, the NV LOT is that of the sales from which we derive SG&A expenses and profit. (*See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Fresh Atlantic Salmon from Chile*, 63 FR 2664 (January 16, 1998)). As discussed below, we based the CV selling expenses and profit on the weighted-average selling expenses incurred and profits earned by two respondents in the LTFV investigation. We are unable to determine that the LOT of the sales from which we derived selling expenses and profit for CV is different from the EP LOT. Further, because NV is based on CV, there is only one NV LOT, and there is insufficient information on the record that would enable us to determine that an LOT adjustment is warranted. Therefore, we have no basis upon which to make an LOT adjustment to NV.

2. *Compescal*

Compescal reported that it made EP sales in the U.S. market through a single channel of distribution (*i.e.*, direct sales to distributors). We examined the selling activities performed for this channel, and found that *Compescal* performed the following selling functions: sales forecasting and strategic/economic planning, packing, verbal guarantees, freight and delivery to port, and invoicing. These selling activities can be generally grouped into three core selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; and, 3) warranty and technical support. Accordingly, based on the core selling functions, we find that *Compescal* performed sales and marketing, freight and delivery services, and warranty and technical support for U.S. sales. Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, *Compescal* made sales to final consumers (restaurants and individuals). *Compescal* stated that its home market sales were made through four channels of distribution: 1) ex-factory; 2) delivery to the Fortaleza business unit; 3) delivery to the Fortaleza business unit and then to the customer; and 4) delivery to the Fortaleza business unit and then to the airport. We examined the selling activities performed for these channels, and found that *Compescal* performed the following selling functions: packing, verbal guarantees, freight and delivery (excluding ex-factory sales), and invoicing. These selling activities can be generally grouped into three core selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; and, 3) warranty and technical support. Accordingly, based on the core selling functions, we find that *Compescal* performed sales and marketing and warranty and technical support for all home market sales, and freight and delivery services for certain home market sales. We do not find that the fact that freight and delivery services are not provided for one channel of distribution is sufficient to distinguish it as a separate LOT. Accordingly, we preliminarily determine that there is one LOT in the home market.

Finally, we compared the EP LOT to the home market LOT and found that the core selling functions performed for U.S. and home market customers are virtually identical. Therefore, we determined that sales to the U.S. and

home markets during the POR were made at the same LOT, and as a result, no LOT adjustment was warranted.

C. *Cost of Production Analysis*

Based on our analysis of the petitioner's allegations, we found that there were reasonable grounds to believe or suspect that *Aquatica's* and *Compescal's* sales of frozen warmwater shrimp in the third country and home market, respectively, were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated sales-below-cost investigations to determine whether *Aquatica's* and *Compescal's* sales were made at prices below their respective COPs. *See* Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled "Petitioners' Allegation of Sales Below the Cost of Production for *Aquatica Maricultura do Brasil Ltda.*" dated November 6, 2006; and Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled "Petitioners' Allegation of Sales Below the Cost of Production for *Comercio de Pescado Aracatiense Ltda.*," dated November 28, 2006.

1. *Calculation of Cost of Production*

In accordance with section 773(b)(3) of the Act, we calculated the respondents' cost of production ("COP") based on the sum of their costs of materials and conversion for the foreign like product, plus amounts for general and administrative ("G&A") expenses and interest expenses. *See* "Test of Comparison Market Sales Prices" section below for treatment of home market/third country selling expenses.

The Department relied on the COP data submitted by each respondent in its most recent supplemental section D questionnaire response for the COP calculation, except for the following instances where the information was not appropriately quantified or valued:

a. *Aquatica*

1. We disallowed *Aquatica's* claimed adjustment to its reported costs for flood and virus losses because *Aquatica* did not provide sufficient evidence of flood losses and because we determined that the virus was not non-recurring, unforeseen or otherwise extraordinary.
2. We adjusted the cost of larva that was purchased from *Aquatica's* affiliate to reflect the market value of larva in accordance with section 773(f)(2) of the Act.

Our revisions to Aquatica's COP data are discussed in the Memorandum from James Balog, Senior Accountant, to Neal Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Aquatica Maricultura do Brasil Ltda.," dated February 28, 2007.

b. *Compescal*

1. We disallowed Compescal's offset to the POR larva laboratory and farm costs for losses in productivity experienced as a result of a viral infection because we determined that the virus was not non-recurring, unforeseen, or otherwise extraordinary.
2. We revised the reported total fixed overhead costs to exclude only the 2004 and 2005 construction-in-progress costs that were actually incurred and capitalized during the POR.
3. We increased Compescal's cost of raw shrimp obtained from an affiliated supplier to reflect the market value of this input in accordance with section 773(f)(2) of the Act.
4. We revised Compescal's reported G&A expense rate calculation to include the "revaluation of depreciation expenses" that the company recorded as an administrative expense in their records. In addition, we adjusted the cost of goods sold denominator of the calculation to reflect the same basis as the total cost of manufacturing to which the rate is applied.
5. We adjusted the cost of goods sold denominator of the financial expense rate calculation to reflect the same basis as the total cost of manufacturing to which the rate is applied.

Our revisions to Compescal's COP data are discussed in the Memorandum from Heidi Schriefer, Senior Accountant, to Neal Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Comercio de Pescado Aracatiense Ltda.," dated February 28, 2007.

2. *Test of Comparison Market Sales Prices*

On a product-specific basis, we compared the adjusted weighted-average COP to the home market or third country sales of the foreign like product, as required under section 773(b) of the Act, 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 inclusive of interest revenue and exclusive of any applicable movement charges, discounts, and direct and indirect selling expenses and packing expenses, revised where appropriate. With respect to Aquatica, we reclassified certain expenses (*i.e.*, port handling and brokerage expenses) as movement expenses because Aquatica had incorrectly reported them as direct selling expenses. Based on our sales verification findings for Aquatica, we made minor revisions to port handling fees reported for certain third country sales and to the calculation of indirect selling expenses for all third country sales. See *Aquatica Calculation Memorandum*.

3. *Results of the COP Test*

In determining whether to disregard home market or third country sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act: 1) whether, within an extended period of time, such sales were made in substantial quantities; and 2) whether 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. Where less than 20 percent of the respondent's home market or 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 because: 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.

We found that, for certain specific products, more than 20 percent of Compescal's home 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.

We found that, for all products, Aquatica's third country 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 all third country sales and used CV as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

With respect to Compescal, for those U.S. sales of subject merchandise for which there were no useable home market sales in the ordinary course of trade, we compared EPs to the CV in accordance with section 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*

Compescal

We based NV for Compescal on delivered, FOB port, FOB airport, or ex-factory prices to unaffiliated customers in the home market. We made adjustments, where appropriate, to the starting price for interest revenue. We made deductions, where appropriate, from the starting price for foreign inland freight and warehousing expenses, under section 773(a)(6)(B)(ii) of the Act. We recalculated foreign inland freight and warehousing expenses for all comparison market sales consistent with verification findings. See *Compescal Calculation Memorandum*.

We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstance-of-sale ("COS") for imputed credit expenses, courier fees and documentation fees. We recalculated courier fees for all U.S. sales based on verification findings. We recalculated home market credit expenses using a publicly available average Brazilian short-term lending rate relevant to the POR, in accordance with the Import Administration Policy Bulletin No. 98.2 (February 23, 1998), because Compescal had no home market borrowings during the POR. See *Compescal Calculation Memorandum*.

We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

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 frozen warmwater shrimp products for which we could not determine the NV based on comparison-market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on the CV.

Section 773(e) of the Act provides that the CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. For each respondent, we calculated the cost of materials and fabrication, G&A, and interest based on the methodology described in the "Cost of Production Analysis" section, above.

For Aquatica, because all of its comparison-market sales failed the COP test and, therefore, were outside the ordinary course of trade, we cannot determine selling expenses or profit under section 773(e)(2)(A) of the Act, which requires sales by the respondent in question in the ordinary course of trade in a comparison market. Likewise, because Aquatica did not have sales of any product in the same general category of products as the subject merchandise, we are unable to apply alternative (i) of section 773(e)(2)(B) of the Act. Further, we cannot calculate profit based on alternative (ii) of this section without violating our responsibility to protect respondent's administrative protective order (APO) information because Compescal is the only other respondent with viable home market sales (19 CFR 351.405(b) requires that a profit ratio under this

alternative be based solely on home market sales). If we were to use Compescal's profit ratio exclusively under this alternative, Aquatica would be able to determine Compescal's proprietary profit rate. Therefore, we based Aquatica's CV profit and selling expenses on the third alternative, any other reasonable method, in accordance with section 773(e)(2)(B)(iii) of the Act. As a reasonable method, we calculated Aquatica's CV profit and selling expenses based on the weighted-average selling expense and profit rates derived from the comparison-market data of the respondents in the previous segment of this proceeding. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 47081 (August 4, 2004), and Memorandum from James Balog, Senior Accountant, to Neal Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Aquatica Maricultura do Brasil Ltda.," dated February 28, 2007. Pursuant to alternative (iii), we have the option of using any other reasonable method, as long as the result is not greater than the amount realized by exporters or producers "in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise," the "profit cap". In the instant case, the profit cap cannot be calculated using the available data because using Compescal's home market data, the only information we have to allow us to calculate the amount normally realized by other exporters or producers in connection with the sale, for consumption in the home market, of

merchandise in the same general category, would violate our responsibility to protect the respondent's APO information. Therefore, as facts available, we are applying option (iii), without quantifying a profit cap.

For Compescal, we based SG&A and profit on the actual amounts incurred and realized by Compescal 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 each respondent for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP for Compescal, we made COS adjustments by deducting direct selling expenses incurred on home market sales from, and adding U.S. direct selling expenses to, CV. For comparisons to EP for Aquatica, we made COS adjustments by deducting direct selling expenses derived based on the methodology discussed above, and adding U.S. direct selling expenses to, CV.

Currency Conversion

We made currency conversions into U.S. dollars 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.

Preliminary Results of the Review

We preliminarily determine that weighted-average dumping margins exist for the respondents for the period August 4, 2004, through January 31, 2006, as follows:

Manufacturer/Exporter	Percent Margin
Aquatica Maricultura do Brasil Ltda./ Aquafeed do Brasil Ltda.	55.05
Comercio de Pescado Aracatiense Ltda.	23.11

Review-Specific Average Rate Applicable to the Following Companies:⁷

Manufacturer/Exporter	Percent Margin
Amazonas Industrias Alimenticias	48.13
Bramex Brasil Mercantil S.A.	48.13
Guy Vautrin Importacao & Exportacao	48.13
ITA Fish	48.13
JK Pesca Ltda.	48.13
Lusomar Maricultura Ltda.	48.13

⁷ This rate is based on the weighted average of the margins calculated for those companies selected for

individual review, excluding *de minimis* margins or margins based entirely on AFA.

Manufacturer/Exporter	Percent Margin
Santa Lavinia Comercio E Exportacao Ltda.	48.13

AFA Rate Applicable to the Following Companies:

Manufacturer/Exporter	Percent Margin
SM Pescados Industria Comercio E Exportacao Ltda.	349.00
Valenca da Bahia Maricultura SA	349.00

Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Interested parties may submit cases briefs not later than 30 days after the date of issuance of the last verification report in this case. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of issuance of the last verification report in this case. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument 1) a statement of the issue; 2) a brief summary of the argument; and 3) a table of authorities.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. Requests should contain: 1) the party's name, address and telephone number; 2) the number of participants; and 3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

For Aquatica and Compescal, because they did not report the entered value of their U.S. sales, we will calculate 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 will calculate importer-specific *ad valorem* ratios based on the estimated entered value. For the responsive companies which were not selected for individual review, we will calculate 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 final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

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 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

The following cash deposit requirements will be effective for all shipments of the 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 rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; 2) for previously reviewed or investigated companies not participating in this review, 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 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 7.05 percent, the "All Others" rate made effective by the LTFV investigation. See *Shrimp Order*. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary 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.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: February 28, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7-4279 Filed 3-8-07; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-802]

Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results of the First Administrative Review and New Shipper Review

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

SUMMARY: The Department of Commerce ("the Department") is conducting an administrative review and a new shipper review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam ("Vietnam"), both covering the period of review ("POR") of July 16, 2004, through January 1, 2006. As discussed below, we preliminarily determine that certain respondents in these reviews (covering one new shipper review and sixteen companies subject to the administrative review)¹ have not made sales in the United States at prices below normal value. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

DATES: *Effective Date:* March 9, 2007.

FOR FURTHER INFORMATION CONTACT: Nicole Bankhead (respondent Grobest), and Matthew Renkey (respondent Fish One), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department

of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-9068 and (202) 482-2312, respectively.

SUPPLEMENTARY INFORMATION:

General Background

On February 1, 2005, the Department published in the **Federal Register** the antidumping duty order on frozen warmwater shrimp from Vietnam. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) ("VN Shrimp Order"). On January 31, 2006, we received a request for a new shipper review from Grobest & I-Mei Industrial (Vietnam) Co., Ltd. ("Grobest"). On February 1, 2006, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on frozen warmwater shrimp from Vietnam for the period July 16, 2004, through January 31, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 71 FR 5239 (February 1, 2006).

On February 28, 2006, we received requests to conduct administrative reviews of 83 companies from the Petitioner² in addition to requests by certain Vietnamese companies. *See Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Frozen Warmwater Shrimp from the Socialist Republic of Vietnam and the People's Republic of China*, 71 FR 17813 (April 7, 2006) ("Administrative Review Initiation"). On March 17, 2006, the Department also initiated a new shipper review with respect to Grobest.³ On March 31, 2006, the Department initiated an administrative review of eighty-four⁴

² The Ad Hoc Shrimp Trade Action Committee is the Petitioner.

³ *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Initiation of New Shipper Review*, 71 FR 14834 (March 24, 2006) ("New Shipper Initiation").

⁴ AAAS Logistics, Agrimex, Amanda Foods (Vietnam) Ltd.*, American Container Line, Angiang Agricultural Technology Service Company, An Giang Fisheries Import and Export Joint Stock Company (Agifish), Aquatic Products Trading Company*, Bac Lieu Fisheries Company Limited*, Bentre Frozen Aquaproduct Exports, Bentre Aquaproduct Imports & Exports, Cai Doi Vam Seafood Import-Export Company (Cadovimex)*, Camau Frozen Seafood Processing Import Export Corporation (Camimex)*, Cam Ranh Seafoods Processing Enterprise Company (Camranh Seafoods)*, Cantho Animal Fisheries Product Processing Export Enterprise (Cafatex)*, Can Tho Agricultural Products, Can Tho Agricultural and Animal Products Import Export Company (Cataco)*, Can Tho Seafood Exports, Cautre Enterprises,

producers/exporters of subject merchandise from Vietnam. *See Administrative Review Initiation*. On May 31, 2006, the Department aligned Grobest's new shipper review with that of Fish One based on a request from Grobest.⁵

On July 27, 2006, in accordance with section 351.213(d)(1) of the Department's regulations, we rescinded the administrative review with respect to sixty-eight companies. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Partial Rescission of the First Administrative Review*, 71 FR 42628 (July 27, 2006) ("Rescission Notice"). Therefore, these

Coastal Fishery Development, Coastal Fisheries Development Corporation (Cofidec)*, C P Vietnam Livestock Co. Ltd.*, C P Livestock, Cuu Long Seaproducts Limited (Cuulong Seapro)*, Danang Seaproducts Import Export Corporation (Seaprodex Danang)*, Dong Phuc Huynh Frozen Seafoods Pty, General Imports & Exports, Grobest & I Mei Industry Vietnam, Hacota Hai Viet, Hai Thuan Export Seaproducts Processing Co. Ltd., Hanoi Sea Products Import Export Corporation*, Hoa Nam Marine Agricultural, Hatrang Frozen Seaproduct Pty, Investment Commerce Fisheries Corporation (Incomfish)*, Kien Giang Sea Products Import—Export Company (Kisimex)*, Kim Anh Co. Ltd., Khanh Loi Trading, Lamson Import-Export Foodstuffs Corporation, Minh Hai Export Frozen Seafood Processing Joint Stock Company, Minh Hai Export Frozen Seafoods Processing Joint Stock Company (Minh Hai Jostoco)*, Minh Hai Joint Stock Seafoods Processing Company (Seaprodex Minh Hai)*, Minh Hai Sea Products Import Export Company (Seaprimex Co)*, Minh Phat Seafood*, Minh Phu Seafood Corporation*, Minh Qui Seafood*, Ngoc Sinh Seafoods*, Nha Trang Company Limited, Nha Trang Fisheries Joint Stock Company (Nhtrang Fisco)*, Nha Trang Fisheries Co. Ltd., Nha Trang Seaproduct Company (Nhatrang Seafoods)*, Pataya Food Industry (Vietnam) Ltd.*, Phu Cuong Seafood Processing and Import Export Company Ltd.*, Phuong Nam Co. Ltd.*, Phuong Nam Seafood Co. Ltd., Saigon Orchide, Sao Ta Foods Joint Stock Compay (Fimex VN)*, Seafood Processing Imports Exports Vietnam, Seaprodex, Sea Product, Sea Products Imports & Exports, Song Huong ASC Import-Export Company Ltd.*, Song Huong ASC Joint Stock Company, Soc Trang Aquatic Products and General Import Export Company (Stampimex)*, Soc Trang Aquatic Products and General Import Export Company (Stampimex)*, Sonacos, Special Aquatic Products Joing Stock Company (Seaspimex), Tacvan Frozen Seafoods Processing Export Company, Thami Shipping & Airfreight, Thanh Long, Thanh Long, Thien Ma Seafood, Tho Quang Seafood Processing & Export Company, Thuan Phuoc Seafoods and Trading Corporation*, Tourism Material and Equipment Company (Matourimex Hochiminh City Branch), Truc An Company, UTXI Aquatic Products Processing Company*, Viet Foods Co. Ltd.*, Viet Hai Seafoods Company Ltd. (Vietnam Fish One)*, Vietnam Northern Viking Technologie Co. Ltd., Viet Nhan Company*, Vilfood Co, Vinh Loi Import Export Company (Vimexco)*, Vita, V N Seafoods. (* these companies received a separate rate in the prior segment (the less-than-fair value investigation) of this proceeding.

⁵ *See Letter from Grobest Re: Certain Frozen Warmwater Shrimp from Vietnam: Grobest's Request for Alignment of New Shipper and Administrative Reviews*, dated May 15, 2006.

¹ Further, we preliminarily determine to use total adverse facts available to determine the rate for eleven of the sixteen administrative review companies and the Vietnam-wide entity.