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U.S. PRELIMINARILY FINDS COUNTERAVAILABLE SUBSIDIES ARE BEING PROVIDED TO PRODUCERS AND EXPORTERS OF FROZEN WARMWATER SHRIMP FROM ECUADOR, INDIA AND VIETNAM BUT NOT INDONESIA

[Home](#) » [For Export](#) » U.S. Preliminarily Finds Countervailable Subsidies are Being Provided to Producers and Exporters of Frozen Warmwater Shrimp from Ecuador, India and Vietnam but not Indonesia

On March 26, 2024, the U.S. Department of Commerce (“Commerce”) issued unpublished preliminary affirmative determinations in the countervailing duty (“CVD”) investigations on frozen warmwater shrimp (hereinafter “shrimp”) from Ecuador, India and Vietnam finding that countervailable subsidies are being provided to producers and exporters of frozen shrimp from Ecuador, India and Vietnam. As provided below, the affirmative preliminary determinations set forth the list of preliminary CVD rates for each country for imports of shrimp covered by the scope of the investigation.

CBP will begin suspending the liquidation of entries of shrimp covered by the scope of the investigation from the named countries for shrimp that are entered or withdrawn from warehouse, for consumption, on the date Commerce publishes the preliminary determinations in the Federal Register, which should occur in the near future. CBP will also require importers to tender CVD cash deposits equal to the applicable preliminary dumping margin identified below multiplied by the entered value of each shipment of subject product. Importers that do not import subject product from a named specific exporter identified below will be subject to the “all others rate” applicable to the specific country.

Commerce did not find that countervailable subsidies were being provided to producers/exporters of the subject shrimp in Indonesia, and thus, CBP will not be suspending liquidation of any entries of the subject shrimp from Indonesia.

Product Covered by the Scope of the Investigation:

The scope of this investigation 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, deveined or not deveined, cooked or raw, or otherwise processed in frozen form. “Tails” in this context means the tail fan, which includes the telson and the uropods.



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. 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.

Excluded from the scope are: (1) breaded shrimp and prawns (HTSUS subheading 1605.21.1020); (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 0306.36.0020 and 0306.36.0040); (4) shrimp and prawns in prepared meals (HTSUS subheadings 1605.21.0500 and 1605.29.0500); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.29.1040); and (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 individually quick frozen (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 the scope are currently classified under the following HTSUS subheadings: 0306.17.0004, 0306.17.0005, 0306.17.0007, 0306.17.0008, 0306.17.0010, 0306.17.0011, 0306.17.0013, 0306.17.0014, 0306.17.0016, 0306.17.0017, 0306.17.0019, 0306.17.0020, 0306.17.0022, 0306.17.0023, 0306.17.0025, 0306.17.0026, 0306.17.0028, 0306.17.0029, 0306.17.0041, 0306.17.0042, 1605.21.1030, and 1605.29.1010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Preliminary CVD Rates:

Ecuador

Company	Subsidy Rate (Percent <i>ad valorem</i>)
Industrial Pesquera Santa Priscila S.A	13.41
Sociedad Nacional de Galapagos C.A.	1.69



Company	Subsidy Rate (Percent <i>ad valorem</i>)
Devi Sea Foods Limited; Devi Seafoods Inc; Devee Horizon LLP	4.72
Sandhya Aqua Exports Pvt. Ltd.; Neeli Sea Foods Private Limited; Vijay Aqua Processors Private Limited; Neeli Aqua Farms	3.89
All Others	4.36

Vietnam

Company	Subsidy Rate (Percent <i>ad valorem</i>)
Soc Trang Seafood Joint Stock Company	2.84
Thong Thuan Company Limited	196.41
All Others	2.84

Commerce’s Final Determination

While the final CVD determination typically would be issued 75 days after the preliminary determination, Commerce, at the request of the petitioner, has agreed to align the CVD final determinations together with the final antidumping (“AD”) determinations in the companion AD investigations of shrimp from Ecuador and Indonesia, to be issued no later than August 5, 2024.

The preliminary determinations in the companion AD investigations were postponed earlier this month and are set to be issued no later than May 22, 2024. We note that frozen warmwater shrimp from Vietnam and India are already subject to existing AD Orders.

If there is any question as to whether a product falls within the scope of the CVD Investigation, or any other questions, please contact us.