

BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE  
International Trade Administration  
(C-570-988, C-331-803, C-533-854, C-560-825, C-557-814, C-549-828, and C-552-815)

Certain Frozen Warmwater Shrimp from the People's Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations

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

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

FOR FURTHER INFORMATION CONTACT: Dustin Ross, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0747.

#### SUPPLEMENTARY INFORMATION

##### The Petitions

On December 28, 2012, the Department of Commerce ("Department") received petitions filed in proper form by the Coalition of Gulf Shrimp Industries ("the petitioner")<sup>1</sup>, a trade or business association whose members manufacture, produce, or wholesale a domestic like product in the United States.<sup>2</sup> In response to the Department's requests, the petitioner provided timely

---

<sup>1</sup> The members of the Coalition of Gulf Shrimp Industries are: Bayou Shrimp Processors, Inc.; Bluewater Shrimp Company, Inc.; Carson & Co., Inc.; C.F. Gollott & Sons Seafood, Inc.; Dean Blanchard Seafood, Inc.; Dominick Seafood; Fisherman's Reef Packing Plant; Golden Gulf Coast Pkg. Co., Inc. (and Gollott's Oil Dock & Ice House); Graham Fisheries, Inc.; Graham Shrimp, Inc.; Gulf Crown Seafood Co., Inc.; Gulf Fish Inc.; Gulf Island Shrimp & Seafood, LLC; Gulf Pride Enterprises, Inc.; Hi-Seas of Dulac, Inc.; Indian Ridge Shrimp Co.; JBS Packing Co., Inc.; Lafitte Frozen Foods Corp.; M&M Shrimp (Biloxi Freezing and Processing); Ocean Springs Seafood Market, Inc.; Paul Piazza & Sons, Inc.; R.A. Lesso Brokerage Co., Inc.; Sea Pearl Seafood Co., Inc.; Smith and Sons Seafood; Tideland's Seafood Co., Inc.; Tommy's Seafood; Vincent Piazza & Sons Seafood, Inc.; Wood's Fisheries; Mariah Jade Shrimp Company LLC; David Chauvin's Seafood Company, LLC; and Rountree Enterprises, Inc. (dba Leonard & Sons Shrimp Co. and R&R Fisheries).

<sup>2</sup> See Petitions for the Imposition of Countervailing Duties on Certain Frozen Warmwater Shrimp from the People's Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam, dated December 28, 2012, ("the Petitions").

information supplementing the Petitions on January 9, 2013, January 10, 2013, January 11, 2013, and January 14, 2013.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (“the Act”), the petitioner alleges that manufacturers, producers, or importers of certain frozen warmwater shrimp from the People’s Republic of China (“China”), Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam (“Vietnam”), receive countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing frozen shrimp in the United States.

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because they are an interested party as defined in section 771(9)(E) of the Act, and the petitioner has demonstrated sufficient industry support, pursuant to section 771(4)(E) of the Act, with respect to the investigations that it requests the Department initiate.<sup>3</sup>

#### Period of Investigation

The period of investigation is January 1, 2011, through December 31, 2011.

#### Scope of the Investigations

The products covered by these investigations are certain frozen warmwater shrimp (“frozen shrimp”) from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam. For a full description of the scope of each of these investigations, please see the “Scope of the Investigations” in Appendix I to this notice.

#### Comments on Scope of Investigations

During our review of the Petitions, the Department had discussions pertaining to the proposed scope with the petitioner to ensure that the scope language in the Petitions was an

---

<sup>3</sup> See “Determination of Industry Support for the Petition” below.

accurate reflection of the products for which the domestic industry is seeking relief. The petitioner determined the proposed scope should be clarified, and it filed a modification to the language of the scope described in the Petitions to reflect those clarifications.<sup>4</sup> Moreover, as discussed in the preamble to the regulations,<sup>5</sup> we are setting aside a period of time for interested parties to raise issues regarding product coverage. This period for scope comments is intended to provide the Department with ample opportunity to consider all issues and to consult with parties prior to the issuance of the preliminary determinations. The Department encourages interested parties to submit such comments by 5:00 p.m. EST on Wednesday, February 6, 2013, which is 20 calendar days from the signature date of this notice.

### Filing Requirements

All submissions to the Department must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date set by the Department. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline established by the Department.<sup>6</sup>

---

<sup>4</sup> See *Certain Frozen Warmwater Shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam* – Petitioner's Response To The Department's January 4, 2013 Supplemental Questions to the Petition, dated January 9, 2013 at Exhibit I-SQ-3.

<sup>5</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>6</sup> See <http://www.gpo.gov/fdsys/pkg/FR-2011-07-06/pdf/2011-16352.pdf> for details of the Department's Electronic Filing Requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

## Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Governments of China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam for consultations with respect to the Petitions.

Consultations were held with the government of China via teleconference on January 10, 2013.<sup>7</sup> Consultations were held in Washington, DC, with the Royal Thai Government on January 11, 2013;<sup>8</sup> with the governments of India, Indonesia, and Malaysia on January 14, 2013;<sup>9</sup> with the government of Vietnam on January 15, 2013;<sup>10</sup> and with the government of Ecuador on January 16, 2013.<sup>11</sup> All memoranda are on file electronically via IA ACCESS. Access to IA ACCESS is available in the Central Records Unit (“CRU”), Room 7046, of the main Department of Commerce Building.

## Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or

---

<sup>7</sup> See Ex-Parte Memorandum, “Consultations with Officials from the Government of the PRC” (January 14, 2013).

<sup>8</sup> See Ex-Parte Memorandum, “Consultations with Officials from the Royal Thai Government on the Countervailing Duty Petition regarding Frozen Warmwater Shrimp” (January 11, 2013) (“Thailand Consultation Memorandum”).

<sup>9</sup> See Ex-Parte Memorandum, “Consultations with Officials from the Government of India (“GOI”) on the Countervailing Duty Petition on Certain Frozen Warmwater Shrimp from India” (January 17, 2013) (“India Consultation Memorandum”), Ex-Parte Memorandum, “Consultations with the Officials from the Government of the Republic of Indonesia on the Countervailing Duty Petition regarding Frozen Warmwater Shrimp” (January 15, 2013), and Ex-Parte Memorandum, “Consultations with Officials from the Government of the Malaysia,” (January 15, 2013), respectively.

<sup>10</sup> See Ex-Parte Memorandum, “Consultations with Officials from the Government of Vietnam on the Countervailing Duty Petition on Certain Frozen Warmwater Shrimp from Vietnam” (January 17, 2013) (“Vietnam Consultation Memorandum”).

<sup>11</sup> See Ex-Parte Memorandum, “Consultations with Officials from the Government of Ecuador (“GOE”) on the Countervailing Duty Petition on Certain Frozen Warmwater Shrimp from Ecuador,” (January 16, 2013).

opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>12</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

---

<sup>12</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that certain frozen warmwater shrimp, as defined in the scope of the investigations, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>13</sup>

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations” section above. To establish industry support, the petitioner provided its production of the domestic like product in 2011 and compared this to the total production of the domestic like product by the entire domestic industry.<sup>14</sup> The petitioner calculated total 2011 production of the domestic like product based on data on the volume of frozen shrimp produced in the United States in 2011 from the National Oceanic and Atmospheric Administration (“NOAA”). The Department contacted NOAA officials with respect to these data on January 11, 2013, to learn the means by which NOAA derived these production amounts.<sup>15</sup> The petitioner noted in the Petitions that the data from

---

<sup>13</sup> For a discussion of the domestic like product analysis in these cases, see “Countervailing Duty Investigation Initiation Checklist: Certain Frozen Warmwater Shrimp from the People’s Republic of China” (“*China Initiation Checklist*”), at Attachment II, Analysis of Industry Support for the Petitions Covering Certain Frozen Warmwater Shrimp from the People’s Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam (“Attachment II”); “Countervailing Duty Investigation Initiation Checklist: Certain Frozen Warmwater Shrimp from Ecuador” (“*Ecuador Initiation Checklist*”), at Attachment II; “Countervailing Duty Investigation Initiation Checklist: Certain Frozen Warmwater Shrimp from India” (“*India Initiation Checklist*”), at Attachment II; “Countervailing Duty Investigation Initiation Checklist: Certain Frozen Warmwater Shrimp from Indonesia” (“*Indonesia Initiation Checklist*”), at Attachment II; “Countervailing Duty Investigation Initiation Checklist: Certain Frozen Warmwater Shrimp from Malaysia” (“*Malaysia Initiation Checklist*”), at Attachment II; “Countervailing Duty Investigation Initiation Checklist: Certain Frozen Warmwater Shrimp from Thailand” (“*Thailand Initiation Checklist*”), at Attachment II; “Countervailing Duty Investigation Initiation Checklist: Certain Frozen Warmwater Shrimp from Vietnam” (“*Vietnam Initiation Checklist*”), at Attachment II. These checklists are on file via IA ACCESS.

<sup>14</sup> See Volume I of the Petitions, at I-6, I-7, and Exhibits I-5 through I-7 and I-21; see also the petitioner’s January 9, 2013, “Response To The Department’s January 4, 2013 Supplemental Questions to the Petition,” at 2-6 and Exhibits I-SQ-4 through I-SQ-11.

<sup>15</sup> See Memorandum to the File from Vicki Flynn, Office of Policy, Regarding National Oceanic and Atmospheric Administration Statistics (January 11, 2013).

NOAA included both warmwater and coldwater frozen shrimp processed in 2011. To adjust the NOAA data to reflect only the processing of warmwater shrimp, the petitioner used data on landings of coldwater shrimp from the National Marine Fisheries Service, a division of NOAA. The petitioner explained that this is the same methodology and data used by the Department in prior antidumping investigations on frozen warmwater shrimp.<sup>16</sup> We contacted NOAA with respect to the data relied upon by the petitioner, and are satisfied with the quality and accuracy of that data. However, during our communications with NOAA, NOAA provided us with updated 2011 figures. Accordingly, we have relied upon the updated NOAA data for purposes of measuring industry support.<sup>17</sup>

On January 11, 2013, the Government of Thailand raised concerns about industry support during its consultations with the Department.<sup>18</sup> On January 14, 2013, the Government of India (“GOI”) also raised concerns about industry support during its consultations with the Department.<sup>19</sup> The GOI reiterated those same concerns in a letter filed on January 16, 2013.<sup>20</sup> On January 14, 2013, Marine Gold Products Limited, Thai Union Frozen Products Public Co., Ltd., Thai Union Seafood Co., Ltd., Pakfood Public Company Limited, and Thai Royal Frozen Food Co., Ltd. (collectively, “Thai Exporters”), self-identified foreign producers and exporters of subject merchandise, also filed a submission challenging industry support. On January 15, 2013, the Government of Vietnam commented on industry support during its consultations with the

---

<sup>16</sup> See Volume I of the Petitions, at I-6, I-7, and Exhibit I-4 (which contains the “AD Investigation Initiation Checklist: Certain Frozen and Canned Warmwater Shrimp from Thailand” (Public Version) (January 20, 2004)).

<sup>17</sup> For further discussion, see Memorandum to the File, “National Oceanic and Atmospheric Administration (“NOAA”) Statistics,” (January 15, 2013).

<sup>18</sup> See Thailand Consultation Memorandum.

<sup>19</sup> See India Consultation Memorandum.

<sup>20</sup> See Letter from the GOI dated January 16, 2013, “Petition filed by the Coalition of Gulf Shrimp Industries on 28 December 2012 seeking initiation of a countervailing duty investigation against imports of Certain Frozen Warmwater Shrimp from, *inter alia*, India.”

Department.<sup>21</sup> On January 15, 2013, the petitioner filed a response to the Thai Exporters' industry support challenge. On January 16, 2013, the Seafood Exports Association of India, an association of foreign producers and exporters of subject merchandise, also filed a submission challenging industry support. On January 17, 2013, the petitioner filed a response to the GOI's letter.<sup>22</sup>

Based on information provided in the Petitions, supplemental submissions, and other information readily available to the Department, we determine that the petitioner has met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>23</sup> Based on information provided in the Petitions and supplemental submissions, the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions. Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.<sup>24</sup>

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(E) of the Act and it has demonstrated sufficient industry support, pursuant to section 771(4)(E) of the Act, with respect

---

<sup>21</sup> See Vietnam Consultation Memorandum.

<sup>22</sup> For further discussion of these submissions, see *China Initiation Checklist, Ecuador Initiation Checklist, India Initiation Checklist, Indonesia Initiation Checklist, Malaysia Initiation Checklist, Thailand Initiation Checklist, and Vietnam Initiation Checklist*, at Attachment II.

<sup>23</sup> See *China Initiation Checklist, Ecuador Initiation Checklist, India Initiation Checklist, Indonesia Initiation Checklist, Malaysia Initiation Checklist, Thailand Initiation Checklist, and Vietnam Initiation Checklist*, at Attachment II.

<sup>24</sup> See *id.*



to the CVD investigations that it is requesting the Department initiate.<sup>25</sup>

### Injury Test

Because China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam are “Subsidies Agreement Countries” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. The petitioner alleges that subject imports from China and Vietnam exceed the negligibility threshold provided for under section 771(24)(A) of the Act. In addition, the petitioner alleges that subject imports from Ecuador, India, Indonesia, Malaysia, and Thailand exceed the negligibility threshold provided for under section 771(24)(B) of the Act, which states that in countervailing duty petitions, imports of subject merchandise from developing countries must exceed the negligibility threshold of 4 percent.

The petitioner contends that the industry’s injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenue; reduced shipments and production; increased inventories; decline in financial performance; and reduction in employment data and wages paid.<sup>26</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have

---

<sup>25</sup> See *id.*

<sup>26</sup> See Volume I of the Petitions, at I-11 through I-57 and Exhibits I-11, I-13 through I-32, and General Issues Supplement, at 1, 6-7 and Exhibits I-SQ-1, I-SQ-2, I-SQ-12, and I-SQ-13.

determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>27</sup>

### Initiation of Countervailing Duty Investigations

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

In the Petitions, the petitioner alleges that producers of frozen shrimp in China, Ecuador, India, Indonesia, Malaysia, Thailand and Vietnam benefited from countervailable subsidies bestowed by their respective governments. In addition to subsidies allegedly provided to processors of frozen shrimp, the Petitions include subsidies allegedly provided to producers of fresh shrimp. According to the petitioner, the producers of frozen shrimp often have their own integrated aquaculture operations or are cross-owned with farming operations that supply fresh shrimp.<sup>28</sup> In these situations, the petitioner states that subsidies tied to the production of fresh shrimp will be attributed to the processed product, citing 19 CFR 351.525(b)(5)(ii) and 351.525(b)(6)(iv). (With respect to cross-owned suppliers of fresh shrimp and the requirements of 19 CFR 351.525(b)(6)(iv), the petitioner points to the ITC's finding that fresh shrimp is overwhelmingly used to produce frozen shrimp<sup>29</sup> in support of its claim that fresh shrimp is "primarily dedicated" to the frozen product.)

---

<sup>27</sup> See *China Initiation Checklist, Ecuador Initiation Checklist, India Initiation Checklist, Indonesia Initiation Checklist, Malaysia Initiation Checklist, Thailand Initiation Checklist, and Vietnam Initiation Checklist*, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Certain Frozen Warmwater Shrimp from the People's Republic of China, Ecuador, India, Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam.

<sup>28</sup> The petitioner has provided supporting information for these claims in each of the petitions. For a full discussion, see the *Initiation Checklist* for each country.

<sup>29</sup> U.S. International Trade Commission, *Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam*, Inv. Nos. 731-TA-1063, 1064, 1066-1068 (Review), USITC Pub. 4221 (March 2011) (*Shrimp AD Sunset*)

Alternatively, the petitioner claims that the Department should investigate subsidies to producers of fresh shrimp and deem such subsidies to be provided with respect to the frozen product under section 771B of the Act, which addresses processed agricultural products (including fishery products). In support, the petitioner claims that: (i) the demand for fresh shrimp is substantially dependent on the demand for frozen shrimp and (ii) the processing of the fresh shrimp into frozen shrimp adds limited value and the essential character of the raw product is not changed. In support, the petitioner refers to the above-cited finding by the ITC and to its finding that processing adds 19 - 24 percent of the final value.<sup>30</sup> According to the petitioner, the Department has previously found this level of value added to be limited.<sup>31</sup> Moreover, the petitioner states that the essential character of the fresh shrimp is not changed with processing. Based on the petitioner's allegation in each of the Petitions regarding the relationship between fresh and frozen shrimp, the Department is including in its investigations programs that allegedly provide subsidies to producers of fresh shrimp as well as programs that allegedly provide subsidies to producers of frozen shrimp.

The Department has examined the Petitions on frozen shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand and Vietnam and finds that they comply with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating CVD investigations to determine whether manufacturers, producers, or exporters of frozen shrimp from the China, Ecuador, India, Indonesia, Malaysia, Thailand and Vietnam receive countervailable subsidies.

---

at 6.

<sup>30</sup> *Shrimp AD Sunset* at Table III-11.

<sup>31</sup> The petitioner cites, *Rice From Thailand; Final Results of Countervailing Duty Administrative Review*, 56 FR 68, 69 (January 2, 1991) and *Final Affirmative Countervailing Duty Determination: Fresh, Chilled, and Frozen Pork from Canada*, 54 FR 30774, 30775 (July 24, 1989).

### **The People's Republic of China**

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 25 alleged programs. For the other five programs, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, see *China Initiation Checklist*.

### **Ecuador**

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of seven alleged programs. For the other two programs, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, see *Ecuador Initiation Checklist*.

### **India**

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 21 alleged programs. For one other program, we find that there is sufficient evidence to initiate on part of the allegation but that there is not sufficient evidence to initiate on another part of the allegation. For one program, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, see *India Initiation Checklist*.

### **Indonesia**

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 14 alleged programs. The petitioner also made a sufficient allegation of debt forgiveness and uncreditworthiness regarding a certain Indonesian producer/exporter of subject merchandise. We intend to investigate these allegations if this company is selected as a mandatory company respondent in the investigation. For one program, we have determined that

the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, see *Indonesia Initiation Checklist*.

### **Malaysia**

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 16 alleged programs. For the other two programs, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, see *Malaysia Initiation Checklist*.

### **Thailand**

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 12 alleged programs. For the other three programs, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, see *Thailand Initiation Checklist*.

### **Vietnam**

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 20 alleged programs. For two programs, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, see *Vietnam Initiation Checklist*.

A public version of the initiation checklists for each investigation is available at <http://ia.ita.doc.gov/ia-highlights-and-news.html>).

### **Respondent Selection**

For these investigations, the Department expects to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of subject merchandise during the period of investigation under the following Harmonized Tariff Schedule of the United States

(HTSUS) numbers: 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.

We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO shortly after the announcement of these case initiations. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. Comments must be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 PM Eastern time by the date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this *Federal Register* notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://ia.ita.doc.gov/apo>.

#### Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the representatives of the Governments of China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam. Because of the particularly large number of producers/exporters identified in the Petitions, the Department considers the service of the public version of the Petitions to the foreign producers/exporters

satisfied by the delivery of the public versions of the Petitions to the Governments of China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam, consistent with 19 CFR 351.203(c)(2).

#### ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of subsidized frozen shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam are materially injuring, or threatening material injury to, a U.S. industry.<sup>32</sup> Negative ITC determinations with respect to any country will result in the investigation being terminated for that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634. Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>33</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their

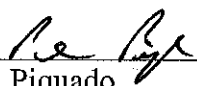
---

<sup>32</sup> See section 703(a)(2) of the Act.

<sup>33</sup> See section 782(b) of the Act.

representatives, in all segments of any AD or CVD proceedings initiated on or after March 14, 2011.<sup>34</sup> The formats for the revised certifications are provided at the end of the *Interim Final Rule*. Foreign governments and their officials may continue to submit certifications in either the format that was in use prior to the effective date of the *Interim Final Rule*, or in the format provided in the *Interim Final Rule*.<sup>35</sup> The Department intends to reject factual information submissions if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Import Administration

17 JANUARY 2013  
Date

<sup>34</sup> See *Certification of Factual Information for Import Administration during Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2).

<sup>35</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011).



## Appendix I

### Scope of the Investigations

The scope of these investigations is certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,<sup>36</sup> deveined or not deveined, cooked or raw, or otherwise processed in frozen form, regardless of size.

The frozen warmwater shrimp and prawn products included in the scope, 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. In addition, food preparations (including dusted shrimp), 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; (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; (4) shrimp and prawns in prepared meals; (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns; and (7) certain “battered shrimp” (see below).

“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 10 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.

---

<sup>36</sup> “Tails” in this context means the tail fan, which includes the telson and the uropods.

The products included in the scope of these investigations are currently classified under the following HTSUS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30 and 1605.29.10.10. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope is dispositive.