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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

C-331-806; C-533-921; C-560-843; C-552-838

Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Applicable November 14, 2023.

FOR FURTHER INFORMATION CONTACT: Zachary Shaykin (Ecuador), Steven Seifert (India), Kelsie Hohenberger (Indonesia), and Adam Simons (Vietnam), AD/CVD Operations, Offices II, IV, V, and IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2630, (202) 482-3350, (202) 482-2517, or (202) 482-6172, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On October 25, 2023, the U.S. Department of Commerce (Commerce) received countervailing duty (CVD) petitions concerning imports of frozen warmwater shrimp (shrimp) from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of the American Shrimp Processors Association (ASPA or the petitioner).<sup>1</sup> The CVD petitions were accompanied by antidumping duty (AD) petitions concerning imports of shrimp from Ecuador and Indonesia.<sup>2</sup>

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<sup>1</sup> See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam," dated October 25, 2023 (Petitions).

<sup>2</sup> *Id.*

On October 27, 2023, through November 9, 2023, Commerce requested supplemental information pertaining to certain aspects of the Petitions.<sup>3</sup> On October 26, 2023, the petitioner filed an amendment to the proposed scope.<sup>4</sup> On October 31, through November 13, 2023, the petitioner filed timely responses to these requests for additional information.<sup>5</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of Ecuador (GOE), Government of India (GOI), the Government of Indonesia (GIND), and the Government of Vietnam (GOV) (collectively,

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<sup>3</sup> See Commerce's Letters, "Petition for the Imposition of Countervailing Duties on Imports of Frozen Warmwater Shrimp from Ecuador: Supplemental Questions," dated October 27, 2023; "Petition for the Imposition of Countervailing Duties on Imports of Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Supplemental Questions," dated October 27, 2023; "Petition for the Imposition of Countervailing Duties on Imports of Frozen Warmwater Shrimp from Indonesia: Supplemental Questions," dated October 27, 2023; "Petition for the Imposition of Countervailing Duties on Imports of Frozen Warmwater Shrimp from India: Supplemental Questions," dated October 27, 2023; "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam: Supplemental Questions," dated October 30, 2023 (General Issues Supplemental Questionnaire); "Petition for the Imposition of Countervailing Duties on Imports of Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Additional Supplemental Questions," dated October 31, 2023; "Petition for the Imposition of Countervailing Duties on Imports of Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Additional Supplemental Questions," dated November 8, 2023; Memorandum, "Phone Call with Counsel to the Petitioner," dated November 6, 2023 (November 6 Memorandum); and Memorandum, "Phone Call with Counsel to the Petitioner," dated November 9, 2023.

<sup>4</sup> See Petitioner's Letter, "Amendment to Petitions for the Imposition of Antidumping and Countervailing Duties on Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and Vietnam," dated October 26, 2023 (Scope Amendment).

<sup>5</sup> See Petitioner's Letters, "Countervailing Duty Investigation of Frozen Warmwater Shrimp from the Socialist Republic of Vietnam; Amendment to the Petition for the Imposition of Countervailing Duties on Frozen Warmwater Shrimp from Vietnam," dated October 31, 2023; "Petition for the Imposition of Countervailing Duties on Frozen Warmwater Shrimp from Indonesia: Petition Supplemental Questions Response," dated October 31, 2023; "Petition for the Imposition of Countervailing Duties on Warmwater Shrimp from India: Petition Supplemental Questions Response," dated October 31, 2023; "Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and Vietnam: Petition Supplemental Questions Response," dated November 1, 2023 (First General Issues Supplement); "Petition for the Imposition of Countervailing Duties on Frozen Warmwater Shrimp from Ecuador: Petition Supplemental Questions Response," dated November 1, 2023; "Countervailing Duty Investigation of Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Second Amendment to the Petition for the Imposition of Countervailing Duties on Frozen Warmwater Shrimp from Vietnam," dated November 2, 2023; "Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and Vietnam: Second Supplemental Questions Response," dated November 8, 2023 (Second General Issues Supplement); "Countervailing Duty Investigation of Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Third Amendment to the Petition for the Imposition of Countervailing Duties on Frozen Warmwater Shrimp from Vietnam," dated November 9, 2023; and "Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and Vietnam: Petition 3rd Supplemental Question Response," dated November 13, 2023 (Third General Issues Supplement).

Governments) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of shrimp from Ecuador, India, Indonesia, and Vietnam, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing shrimp in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating CVD investigations, the Petitions were accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(E) of the Act.<sup>6</sup> Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigations.<sup>7</sup>

#### Periods of Investigation

Because the Petitions were filed on October 25, 2023, the periods of investigation (POI) for Ecuador, India, Indonesia, and Vietnam are January 1, 2022, through December 31, 2022.<sup>8</sup>

#### Scope of the Investigations

The merchandise covered by these investigations is shrimp from Ecuador, India, Indonesia, and Vietnam. For a full description of the scope of these investigations, *see* the Appendix to this notice.

#### Comments on the Scope of the Investigations

On October 30, 2023, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an

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<sup>6</sup> See Petitions at Volume I (page 2).

<sup>7</sup> See “Determination of Industry Support for the Petitions” section, *infra*.

<sup>8</sup> See 19 CFR 351.204(b)(2).

accurate reflection of the products for which the domestic industry is seeking relief.<sup>9</sup> On October 26, 2023, and November 1, 2023, the petitioner revised the scope.<sup>10</sup> The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these revisions.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>11</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.<sup>12</sup> To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on December 4, 2023, which is 20 calendar days from the signature date of this notice.<sup>13</sup> Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on December 14, 2023, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope comments must also be filed simultaneously on the records of the concurrent AD and CVD investigations.

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<sup>9</sup> See General Issues Supplemental Questionnaire.

<sup>10</sup> See Scope Amendment at Exhibit 1; see also First General Issues Supplement at 3 and Exhibit 1.

<sup>11</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>12</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

<sup>13</sup> See 19 CFR 351.303(b)(1).

## Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.<sup>14</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due.

## Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the Governments of the receipt of the Petitions and provided an opportunity for consultations with respect to the Petitions.<sup>15</sup> Commerce held consultations with the GOI on November 13, 2023, the GIND on November 9, 2023, and the GOV on November 8, 2023.<sup>16</sup> The GOE did not request consultations.

## 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

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<sup>14</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at [https://access.trade.gov/help/Handbook\\_on\\_Electronic\\_Filing\\_Procedures.pdf](https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf).

<sup>15</sup> See Commerce's Letters, "Countervailing Duty Petition on Frozen Warmwater Shrimp from India: Invitation for Consultations to discuss the Countervailing Duty Petition," dated October 26, 2023; "Countervailing Duty Petition on Frozen Warmwater Shrimp from Ecuador: Invitation for Consultations to discuss the Countervailing Duty Petition," dated October 27, 2023; "Countervailing Duty Petition on Frozen Warmwater Shrimp from Indonesia: Invitation for Consultations to discuss the Countervailing Duty Petition," dated October 27, 2023; and "Countervailing Duty Petition on Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Invitation for Consultations to discuss the Countervailing Duty Petition," dated October 27, 2023.

<sup>16</sup> See Memoranda, "Countervailing Duty Petition Regarding Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Consultations with the Government of Vietnam," dated November 8, 2023; "Consultations with the Government of Indonesia on the Countervailing Duty Petition Regarding Frozen Warmwater Shrimp from Indonesia," dated November 9, 2023; and "Consultations with Officials from the Government of India," dated November 13, 2023.

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 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, Commerce 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. In investigations involving processed agricultural products, the statute allows Commerce to also include growers or producers of the raw agricultural product within the definition of the domestic industry.<sup>17</sup> Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce 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 Commerce and the ITC apply the same statutory definition regarding the domestic like product,<sup>18</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in

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<sup>17</sup> See section 771(4)(E) of the Act. For a full discussion of this provision of the Act and Commerce’s analysis, see Countervailing Duty Investigation Initiation Checklists: Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam (Country-Specific CVD Initiation Checklists), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam (Attachment II). These checklists are dated concurrently with this notice and are on file electronically via ACCESS.

<sup>18</sup> See section 771(10) of the Act.

different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>19</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).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.<sup>20</sup> Based on our analysis of the information submitted on the record, we have determined that shrimp, as described in the domestic like product definition set forth in the Petitions, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>21</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,” in the appendix to this notice.

To establish industry support for fresh shrimp and frozen shrimp, the petitioner provided the 2022 production of ASPA members, as well as the 2022 production of frozen shrimp for

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<sup>19</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)).

<sup>20</sup> See Petitions at Volume I (pages 2-5 and Exhibits 1-2 through I-4 (containing *Certain Frozen or Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam*, Inv. No. 731-TA-1063-1068 (Preliminary), USITC Pub. 3672 (February 2004) at 13-14; *Certain Frozen or Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam*, Inv. No. 731-TA-1063-1068, USITC Pub. 3478 (January 2005) at 6; *Frozen Warmwater Shrimp From China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam*, Inv. Nos. 701-TA-491-497 (Preliminary), USITC Pub. 4830 (February 2013) at 8-10; *Frozen Warmwater Shrimp from China, Ecuador, India, Malaysia, and Vietnam*, Inv. Nos. 701-TA-491-493, 495, and 497 (Final), USITC Pub. 4429 (October 2013) at 9; and *Frozen Warmwater Shrimp from China, India, Thailand, and Vietnam*, Inv. No. 731-TA-1064 and 1066-1068, USITC Pub. 5432 (June 2023) (*Shrimp 2023 Sunset*) at 14-15, I-43, I-44, III-19, and III-30).

<sup>21</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Country-Specific CVD Initiation Checklists at Attachment II.

three additional processors that support the Petitions.<sup>22</sup> In addition, the petitioner provided letters of support from over 800 shrimp fishermen, expressing support for the Petitions and establishing each vessel's 2022 production (harvested quantity) of fresh shrimp.<sup>23</sup> On October 27, 2023, and November 6, 9, and 14, 2023, we received submissions from the Ad Hoc Shrimp Trade Action Committee (AHSTAC) providing letters of support from six additional processors and 49 additional shrimp fishermen.<sup>24</sup>

To establish total production of fresh shrimp, the petitioner relied on 2022 U.S. commercial landings data for fresh shrimp reported for the Gulf and South Atlantic regions in 2022 reported by the National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NFMS) Fisheries One Stop Shop (FOSS) database and added an estimate for farmed shrimp based on information from the ITC's publication for *Shrimp 2023 Sunset* to arrive at total U.S. production of fresh shrimp.<sup>25</sup> Because data on the production of frozen shrimp were not available from NOAA, to establish total production of frozen shrimp, the petitioner relied on the same NOAA NFMS FOSS data on U.S. commercial landings in the Gulf and South Atlantic regions, as well as the same farmed shrimp estimate from the ITC's 2023 sunset review, and added total 2022 U.S. imports of fresh shrimp, as reported in official import statistics, to account for imported fresh shrimp that is further processed into frozen shrimp in the

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<sup>22</sup> See Petitions at Volume I (page 7-8 and Exhibits I-9 and I-10); *see also* First General Issues Supplement at Exhibits 4 and 10-13; and Second General Issues Supplement at 2-4 and Exhibits 1 and 4.

<sup>23</sup> See Petitions at Volume I (pages 7-8 and Exhibit I-11); *see also* First General Issues Supplement at 7-8 and Exhibits 10-12; and Second General Issues Supplement at 3-4 and Exhibits 1 and 4.

<sup>24</sup> See AHSTAC's Letters, "Additional Support for the Petitions," dated October 27, 2023; "Additional Support for the Petitions," dated November 6, 2023; "Further Additional Support for the Petitions," dated November 6, 2023; "Additional Support for Petitions," dated November 9, 2023; and "Additional Support for Petitions," dated November 14, 2023 (collectively, AHSTAC Letters).

<sup>25</sup> See Petitions at Volume I (page 6 and Exhibit I-4 (containing *Shrimp 2023 Sunset* at IV-31 and IV-32) and I-8); *see also* First General Issues Supplement at 5-6 and Exhibits 5 and 9; and Second General Issues Supplement at Exhibit 1.



United States.<sup>26</sup> To establish total production of fresh shrimp and frozen shrimp by the U.S. shrimp industry, the petitioner combined the total 2022 U.S. production of fresh shrimp with the total 2022 U.S. production of processed shrimp.<sup>27</sup> To establish industry support, the petitioner provided three separate calculations comparing the supporters' production of frozen shrimp, fresh shrimp, and combined frozen and fresh shrimp to the respective totals for the entire U.S. industry.<sup>28</sup> We relied on data provided by the petitioner and AHSTAC for purposes of measuring industry support.<sup>29</sup>

Our review of the data provided in the Petitions, the First General Issues Supplement, the Second General Issues Supplement, the AHSTAC Letters, the Third General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.<sup>30</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>31</sup> Second, the domestic producers (or workers) have 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>32</sup> Finally, the domestic producers (or workers)

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<sup>26</sup> See Petitions at Volume I (pages 6-8 and Exhibits I-4, I-7, and I-8); *see also* First General Issues Supplement at Exhibits 5-8; and Second General Issues Supplement at 2 and Exhibits 1-3.

<sup>27</sup> See Petitions at Volume I (page 8); *see also* First General Issues Supplement at Exhibit 8; and Second General Issues Supplement at 2 and Exhibit 1.

<sup>28</sup> See Petitions at Volume I (page 8); *see also* First General Issues Supplement at Exhibit 8; and Second General Issues Supplement at 2-4 and Exhibit 1.

<sup>29</sup> See Petitions at Volume I (pages 6-8 and Exhibits I-4 (containing *Shrimp 2023 Sunset* at IV-31 and IV-32) and I-5 through I-11); *see also* First General Issues Supplement at 3-9 and Exhibits 2-13; Second General Issues Supplement at 2-4 and Exhibits 1-4; and AHSTAC Letters. For further discussion, *see* Attachment II of the Country-Specific CVD Initiation Checklists.

<sup>30</sup> See Attachment II of the Country-Specific CVD Initiation Checklists.

<sup>31</sup> *Id.*; *see also* section 702(c)(4)(D) of the Act.

<sup>32</sup> See Attachment II of the Country-Specific CVD Initiation Checklists.

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.<sup>33</sup> Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.<sup>34</sup>

### Injury Test

Because Ecuador, India, Indonesia, 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 Ecuador, India, Indonesia, and/or 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. In addition, the petitioner alleges that subject imports from India, Indonesia, and Vietnam exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>35</sup> In CVD petitions, section 771(24)(B) of the Act provides that imports of subject merchandise from developing and least-developed countries must exceed the negligibility threshold of four percent. The petitioner also demonstrates that

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *See* Petitions at Volume I (page 15 and Exhibit I-14).

subject imports from Ecuador, which has been designated as a developing country under section 771(36)(A) of the Act,<sup>36</sup> exceed the negligibility threshold of four percent.<sup>37</sup>

The petitioner contends that the industry's injured condition is illustrated by the significant volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; inventory overhang; and negative impact on the production, shipments, and financial performance.<sup>38</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>39</sup>

#### Initiation of CVD Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating CVD investigations to determine whether imports of shrimp from Ecuador, India, Indonesia, and Vietnam benefit from countervailable subsidies conferred by the GOE, GOI, GIND, and GOV. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of these initiations.

#### Ecuador

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on 15 of the 22 programs alleged by the petitioner. For a full

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<sup>36</sup> See *Designations of Developing and Least-Developed Countries under the Countervailing Duty Law*, 85 FR 7613, 7615 (February 10, 2020).

<sup>37</sup> See Petitions at Volume I (page 15 and Exhibit I-14).

<sup>38</sup> *Id.* at Volume I (pages 14-30 and Exhibits I-4, I-8, I-9, I-14, I-17, and I-18); see also Second General Issues Supplement at 5 and Exhibit 5.

<sup>39</sup> See Country-Specific CVD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam.

discussion of the basis for our decision to initiate on each program, *see* the Ecuador CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

### India

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on all 19 of the programs alleged by the petitioner. For a full discussion of the basis for our decision to initiate on each program, *see* the India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

### Indonesia

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on 15 of the 16 programs alleged by the petitioner. For a full discussion of the basis for our decision to initiate on each program, *see* the Indonesia CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

### Vietnam

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on all 40 of the programs alleged by the petitioner. For a full discussion of the basis for our decision to initiate on each program, *see* the Vietnam CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

## Respondent Selection

The petitioner identified 227 companies in Ecuador, 675 companies in India, 276 companies in Indonesia, and 1046 companies in Vietnam as producers and/or exporters of shrimp.<sup>40</sup> Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in these investigations. In the event that Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of shrimp from Ecuador, India, Indonesia, and Vietnam during the POI under the appropriate Harmonized Tariff Schedule of the United States subheadings listed in the "Scope of the Investigations" in the Appendix.

On November 13, 2023, Commerce released CBP data on U.S. imports of shrimp from Ecuador, India, Indonesia, and Vietnam, under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days after the publication date of the notice of initiation of these investigations.<sup>41</sup> Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

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<sup>40</sup> See Petitions at Volume I at 12 (Exhibit I-16).

<sup>41</sup> See Memoranda, "Frozen Warmwater Shrimp from Ecuador Countervailing Duty Petition: Release of U.S. Customs and Border Protection Entry Data," dated November 13, 2023; "Frozen Warmwater Shrimp from India Countervailing Duty Petition: Release of U.S. Customs and Border Protection Entry Data," dated November 13, 2023; "Frozen Warmwater Shrimp from Indonesia Countervailing Duty Petition: Release of U.S. Customs and Border Protection Entry Data," dated November 13, 2023; and "Frozen Warmwater Shrimp from the Socialist Republic of Vietnam Countervailing Duty Petition: Release of U.S. Customs and Border Protection Entry Data," dated November 13, 2023.

### Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petitions has been provided to the GOE, GOI, GIND, and GOV via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions was filed, whether there is a reasonable indication that imports of shrimp from Ecuador, India, Indonesia, and/or Vietnam are materially injuring, or threatening material injury to, a U.S. industry.<sup>42</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country.<sup>43</sup> Otherwise, these CVD investigations will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify

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<sup>42</sup> See section 703(a)(1) of the Act.

<sup>43</sup> *Id.*

under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>44</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>45</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301, or as otherwise specified by Commerce.<sup>46</sup> For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits. Parties should review Commerce's regulations

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<sup>44</sup> See 19 CFR 351.301(b).

<sup>45</sup> See 19 CFR 351.301(b)(2).

<sup>46</sup> See 19 CFR 351.302.

concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in these investigations.<sup>47</sup>

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>48</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>49</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letters of appearance). Note that Commerce has modified its regulations to make permanent certain changes to its service procedures that were adopted on a temporary basis due to COVID-19, as well as to make additional clarifications and corrections to its AD/CVD regulations.<sup>50</sup>

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<sup>47</sup> See 19 CFR 351.301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

<sup>48</sup> See section 782(b) of the Act.

<sup>49</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [https://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>50</sup> Effective October 30, 2023, these changes apply to all AD/CVD proceedings that are ongoing on the effective date and all AD/CVD proceedings initiated on or after the effective date. See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069 (September 29, 2023).



This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: November 14, 2023

*/S/ Abdelali Elouaradia*

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Abdelali Elouaradia  
Deputy Assistant Secretary  
for Enforcement and Compliance

## Appendix

### Scope of the Investigations

The scope of these investigations 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 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, 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. 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.