



DEPARTMENT OF COMMERCE

**International Trade Administration**

[C-533-921]

**Frozen Warmwater Shrimp from India: Preliminary Affirmative Countervailing Duty  
Determination, and Alignment of Final Determination with Final Antidumping Duty  
Determination**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that  
countervailable subsidies are being provided to producers and exporters of frozen warmwater  
shrimp (shrimp) from India. The period of investigation is April 1, 2022, through March 31,  
2023. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable [Insert date of publication in the *Federal Register*].

**FOR FURTHER INFORMATION CONTACT:** Steven Seifert or Benjamin Nathan,  
AD/CVD Operations, Office II, Enforcement and Compliance, International Trade  
Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington,  
DC 20230; telephone: (202) 482-3350 or (202) 482-3834, respectively.

**SUPPLEMENTARY INFORMATION:**

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff  
Act of 1930, as amended (the Act). On November 21, 2023, Commerce published in the *Federal  
Register* the notice of initiation of this investigation.<sup>1</sup> On December 7, 2023, Commerce  
postponed the preliminary determination of this investigation until March 25, 2024.<sup>2</sup>

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<sup>1</sup> See *Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigation*, 88 FR 81053 (November 21, 2023) (*Initiation Notice*).

<sup>2</sup> See *Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 88 FR 85216 (December 7, 2023).

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Scope of the Investigation

The product covered by this investigation is shrimp from India. For a complete description of the scope of this investigation, *see* Appendix I.

### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>4</sup> in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*.

### Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>6</sup>

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<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Frozen Warmwater Shrimp from India," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> *See Initiation Notice*, 88 FR at 81054.

<sup>6</sup> *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

## Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determinations in the companion antidumping duty (AD) investigations of shrimp from Ecuador and Indonesia, based on a request made by the petitioner.<sup>7</sup> Consequently, the final CVD determination will be issued on the same date as the final AD determinations, which are currently scheduled to be issued no later than August 5, 2024, unless postponed.

## All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated individual estimated countervailable subsidy rates for Devi Sea Foods Limited (Devi) and Sandhya Aqua Exports Pvt. Ltd. (Sandhya) that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.<sup>8</sup>

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<sup>7</sup> See Petitioner's Letter, "Request for Alignment," dated February 22, 2024. The petitioner is the American Shrimp Processors Association.

<sup>8</sup> With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1. Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, see the All-Others Rate Calculation Memorandum.

## Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:<sup>9</sup>

<b>Company</b>	<b>Subsidy Rate (percent <i>ad valorem</i>)</b>
Devi Sea Foods Limited; Devi Seafoods Inc; Deveen 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

## Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

## Disclosure

Commerce intends to disclose its calculations performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in the *Federal Register* in accordance with 19 CFR 351.224(b).

## Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

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<sup>9</sup> As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Sandhya: Neeli Sea Foods Private Limited, Vijay Aqua Processors Private Limited, and Neeli Aqua Farms. Commerce further found the following companies to be cross-owned with Devi: Deveen Horizon LLP, and Devi Seafoods Inc. See Memoranda, "Preliminary Determination Calculations for Sandhya Aqua Exports Private Limited," dated concurrently with this notice, and "Preliminary Determination Calculations for Devi Sea Foods Limited," respectively, at Cross Ownership.

## Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.<sup>10</sup> Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.<sup>11</sup>

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.<sup>12</sup> Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).<sup>13</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and

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<sup>10</sup> See 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

<sup>11</sup> See 19 CFR 351.309(c)(2) and (d)(2)

<sup>12</sup> We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

<sup>13</sup> See *APO and Service Final Rule*.

a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.<sup>14</sup> Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of shrimp from India are materially injuring, or threaten material injury to, the U.S. industry.

#### Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: March 25, 2024.

Abdelali Elouaradia,  
Deputy Assistant Secretary  
for Enforcement and Compliance.

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<sup>14</sup> See 19 CFR 351.310(d).

## Appendix I

### 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 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 1605.20.10.20); (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 (HTSUS subheadings 0306.36.0020 and 0306.36.0040); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS 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 nonshrimp 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 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.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Injury Test
- VI. Subsidies Valuation
- VII. Analysis of Programs
- VIII. Recommendation

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