

6. Analysis of Programs
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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-854]

#### Certain Frozen Warmwater Shrimp From India: Preliminary Countervailing Duty Determination

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

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain frozen warmwater shrimp (frozen shrimp) from India. The period of investigation is April 1, 2011, through March 31, 2012. Pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), the final determination will be issued 75 days after the date that the Department makes this preliminary determination.

**DATES:** *Effective Date:* June 4, 2013.

**FOR FURTHER INFORMATION CONTACT:** Thomas Schauer or Shane Subler, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0410 and (202) 482-0189, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Scope of the Investigation

The products covered by this investigation are 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, regardless of size. For a complete description of the scope of the investigation, see Appendix 1 to this notice.

##### Methodology

The Department is conducting this countervailing duty investigation in accordance with section 701 of the Act. For a full description of the methodology underlying our preliminary conclusions, see the

Preliminary Decision Memorandum.<sup>1</sup> The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a countervailing duty rate for each individually investigated producer/exporter of the subject merchandise. For companies not individually investigated, we calculated an average rate as described in the Preliminary Decision Memorandum.

#### Preliminary Determination and Suspension of Liquidation

We preliminarily determine the countervailable subsidy rates to be:

| Company                      | Subsidy rate (percent) |
|------------------------------|------------------------|
| Devi Fisheries Limited ..... | 10.41                  |
| Devi Seafoods Ltd .....      | 11.32                  |
| All Others .....             | 10.87                  |

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of frozen shrimp from India that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries. As discussed in the Preliminary Decision Memorandum, we are preliminarily adjusting the cash deposit rates to account for program-wide changes described under 19 CFR 351.526.<sup>2</sup> Therefore, we are directing CBP to require a cash deposit for entries

<sup>1</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, regarding "Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Frozen Warmwater Shrimp from India," dated concurrently with this notice (Preliminary Decision Memorandum).

<sup>2</sup> See Preliminary Decision Memorandum at 13 and 23.

of subject merchandise in the amounts indicated below.

| Company                      | Cash deposit rate (percent) |
|------------------------------|-----------------------------|
| Devi Fisheries Limited ..... | 6.10                        |
| Devi Seafoods Ltd .....      | 5.72                        |
| All Others .....             | 5.91                        |

#### Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of announcement of its public announcement.<sup>3</sup> Interested parties may submit case and rebuttal briefs. For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, see the Preliminary Decision Memorandum.

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

Dated: May 28, 2013.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix 1

##### Scope of the Investigation

The products covered by this investigation are 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>4</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

<sup>3</sup> See 19 CFR 351.224(b).

<sup>4</sup> "Tails" in this context means the tail fan, which includes the telson and the uropods.

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.

The products included in the scope of this investigation 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.

## Appendix 2

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

1. Scope Comments
2. Scope of the Investigation
3. Injury Test
4. Subsidies Valuation
5. Analysis of Programs
6. Calculation of the All Others Rate
7. ITC Notification
8. Disclosure and Public Comment
9. Verification

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## DEPARTMENT OF COMMERCE

### International Trade Administration [C-557-814]

#### Certain Frozen Warmwater Shrimp From Malaysia: Preliminary Countervailing Duty Determination

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

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain frozen warmwater shrimp (frozen shrimp) from Malaysia. The period of investigation (POI) is January 1, 2011, through December 31, 2011. Pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), the final determination will be issued 75 days after the date that the Department makes this preliminary determination.

**DATES:** *Effective Date:* June 4, 2013.

**FOR FURTHER INFORMATION CONTACT:** Kristen Johnson and Christopher Hargett, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4793 and (202) 482-4161, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Scope of the Investigation

The products covered by this investigation are 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, regardless of size. For a complete description of the scope of the investigation, see Appendix 1 to this notice.

##### Methodology

The Department is conducting this CVD investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our preliminary conclusions, see the Preliminary Decision Memorandum.<sup>1</sup> The Preliminary

Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

For this preliminary determination, we have relied on facts available for Kian Huat Aquaculture Sdn. Bhd. (Kian Huat), the mandatory respondent, because the company did not act to the best of its ability and respond to the Department's requests for information. Further, we have drawn an adverse inference in selecting from among the facts otherwise available to calculate the *ad valorem* rate for Kian Huat.<sup>2</sup> For further information, see "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

The Department's analysis of program usage by Asia Aquaculture (M) Sdn. Bhd. (Asia Aquaculture), a voluntary respondent, is also contained in the Preliminary Decision Memorandum.

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a countervailing duty rate for each individually investigated producer/exporter of the subject merchandise. For companies not individually investigated, we have calculated an all others rate as described in the Preliminary Decision Memorandum.

#### Preliminary Determination and Suspension of Liquidation

We preliminarily determine the countervailable subsidy rates to be:

| Company   | Subsidy rate (percent) |
|---|------------------------|
| Asia Aquaculture (M) Sdn. Bhd. (Asia Aquaculture) ..... | 10.80                  |
| Kian Huat Aquaculture Sdn. Bhd. (Kian Huat) .....       | 62.74                  |
| All Others .....  | 62.74                  |

<sup>1</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, regarding "Decision Memorandum for the Preliminary Determination in the

Countervailing Duty Investigation of Certain Frozen Warmwater Shrimp from Malaysia," dated concurrently with this notice (Preliminary Decision Memorandum).

<sup>2</sup> See sections 776(a) and (b) of the Act.