

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

[B-46-2023]

**Foreign-Trade Zone (FTZ) 168; Authorization of Production Activity; Samsung Electronics America, Inc.; (Stylus for Mobile Phones and Tablets); Coppell, Texas**

On July 19, 2023, the Metroplex International Trade Development Corporation, grantee of FTZ 168, submitted a notification of proposed production activity to the FTZ Board on behalf of Samsung Electronics America, Inc., within Subzone 168D, in Coppell, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (88 FR 47846, July 25, 2023). On November 16, 2023, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: November 16, 2023.

**Elizabeth Whiteman,**

*Executive Secretary.*

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## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-331-805, A-560-842]

**Frozen Warmwater Shrimp From Ecuador and Indonesia: Initiation of Less-Than-Fair-Value Investigations**

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

**DATES:** Applicable November 14, 2023.

**FOR FURTHER INFORMATION CONTACT:** Kyle Clahane (Ecuador) and Nicolas Mayora (Indonesia), AD/CVD Operations, Offices III and V, respectively, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5449 and (202) 482-3053, respectively.

**SUPPLEMENTARY INFORMATION:****The Petitions**

On October 25, 2023, the U.S. Department of Commerce (Commerce) received antidumping duty (AD)

petitions concerning imports of frozen warmwater shrimp (shrimp) filed in proper form on behalf of the American Shrimp Processors Association (ASPA or the petitioner).<sup>1</sup> These AD petitions were accompanied by countervailing duty (CVD) petitions concerning imports of shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam.<sup>2</sup>

On October 27 and 30, 2023, and November 6 and 9, 2023, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.<sup>3</sup> The petitioner filed an amendment to the proposed scope on October 26, 2023, and responses to the supplemental questionnaires on October 31, 2023, and November 1, 8, and 13, 2023.<sup>4</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of shrimp from Ecuador and Indonesia are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the shrimp industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are 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

<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 Vietnam," dated October 25, 2023 (the Petitions).

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

<sup>3</sup> See Commerce's Letters, "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 Questionnaire); and Country-Specific Supplemental Questionnaires: Ecuador Supplemental and Indonesia Supplemental, dated October 27, 2023; see also Memoranda, "Phone Call with Counsel to the Petitioner," dated November 6, 2023; and "Phone Call with Counsel to the Petitioner," dated November 9, 2023.

<sup>4</sup> See Petitioner's Letters, "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); "Petition Supplemental Questions Response," dated November 1, 2023 (First General Issues Supplement); "Second Supplemental Questions Response," dated November 8, 2023 (Second General Issues Supplement); "Petition 3rd Supplemental Question Response," dated November 13, 2023 (Third General Issues Supplement); Country-Specific First Supplemental Responses, dated October 31, 2023; and Country-Specific Second Supplemental Responses, dated November 8, 2023.

petitioner is an interested party, as defined in section 771(9)(E) of the Act.<sup>5</sup> Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested LTFV investigations.<sup>6</sup>

**Periods of Investigation**

Because the Petitions were filed on October 25, 2023, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Ecuador and Indonesia LTFV investigations is October 1, 2022, through September 30, 2023.

**Scope of the Investigations**

The product covered by these investigations is shrimp from Ecuador and Indonesia. 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 accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup> On October 26 and November 1, 2023, the petitioner provided clarifications and revised the scope.<sup>8</sup> The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>9</sup> Commerce will consider all scope comments received and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>10</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on December 4, 2023, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by

<sup>5</sup> See Petitions at Volume I (page 2).

<sup>6</sup> See, *infra*, section on "Determination of Industry Support for the Petitions."

<sup>7</sup> See General Issues Questionnaire.

<sup>8</sup> See Scope Amendment at Exhibit 1; see also First General Issues Supplement at 3 and Exhibit 1.

<sup>9</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); see also 19 CFR 351.312.

<sup>10</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

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 parties consider relevant to the scope of these investigations be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent LTFV and CVD investigations.

### Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.<sup>11</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due.

### Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of shrimp to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production (COP) accurately, as well as to develop appropriate product comparison criteria.

Subsequent to the publication of this notice, Commerce intends to release a proposed list of physical characteristics and product-comparison criteria, and interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product

comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe shrimp, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on December 4, 2023, which is 20 calendar days from the signature date of this notice.<sup>12</sup> Any rebuttal comments must be filed by 5:00 p.m. ET on December 14, 2023, which is 10 calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the LTFV investigations.

### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(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 opposition to, the petition. Moreover, section 732(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>13</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 must apply the same statutory definition regarding the domestic like product,<sup>14</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 different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>15</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>16</sup> Based on our analysis

<sup>13</sup> See section 771(4)(E) of the Act. For a full discussion of this provision of the Act and Commerce's analysis, see Antidumping Duty Investigation Initiation Checklists: Frozen Warmwater Shrimp from Ecuador and Indonesia (Ecuador AD Initiation Checklist and Indonesia AD Initiation Checklist, collectively Country-Specific AD 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>14</sup> See section 771(10) of the Act.

<sup>15</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>16</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

<sup>11</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 help 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>12</sup> See 19 CFR 351.303(b)(1).

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>17</sup>

In determining whether the petitioner has standing under section 732(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 Petitions and 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 three additional processors that support the Petitions.<sup>18</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>19</sup> On October 27 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>20</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) National Marine Fisheries Service (NMFS)

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>21</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 United States.<sup>22</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>23</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>24</sup> We relied on data provided by the petitioner and AHSTAC for purposes of measuring industry support.<sup>25</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>26</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>27</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(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>28</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(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>29</sup> Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.<sup>30</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>31</sup>

The petitioner contends that the industry’s injured condition is illustrated by a significant volume of subject imports; reduced market share; underselling and price depression and/or suppression; lost sales and revenues; inventory overhang; and negative impact on production, shipments, and financial performance.<sup>32</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 substantial evidence, and

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>17</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Attachment II of the Country-Specific AD Initiation Checklists.

<sup>18</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>19</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>20</sup> See AHSTAC’s Letters, “Additional Support for the Petitions,” dated October 27, 2023; “Additional Support for the Petitions,” dated November 6, 2023; and “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>21</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.

<sup>22</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>23</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>24</sup> See Petitions at Volume I (page 8); see also First General Issues Supplement at 2–4 and Exhibit 1.

<sup>25</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>26</sup> See Attachment II of the Country-Specific AD Initiation Checklists.

<sup>27</sup> *Id.*; see also section 732(c)(4)(D) of the Act.

<sup>28</sup> See Attachment II of the Country-Specific AD Initiation Checklists.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> See Petitions at Volume I (page 15 and Exhibit I–14).

<sup>32</sup> See Petitions 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.

meet the statutory requirements for initiation.<sup>33</sup>

### Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate LTFV investigations of imports of shrimp from Ecuador and Indonesia. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

### U.S. Price

For Ecuador and Indonesia, the petitioner based export price (EP) on the average unit values (AUVs) derived from official import statistics for imports of shrimp from Ecuador and Indonesia into the United States during the POI. The petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.<sup>34</sup>

### Normal Value<sup>35</sup>

For Ecuador, the petitioner was unable to obtain prices for shrimp produced in Ecuador and sold or offered for sale in the home market or in third country markets to use as a basis for NV.<sup>36</sup> Therefore, for Ecuador, the petitioner calculated NV based on CV.<sup>37</sup> For further discussion of CV, *see* the section “Normal Value Based on Constructed Value,” below.

For Indonesia, the petitioner based NV on home market prices obtained through market research for shrimp produced in and sold, or offered for sale, in Indonesia during the POI.<sup>38</sup>

### Normal Value Based on Constructed Value

As noted above, for Ecuador, the petitioner stated it was unable to obtain home-market or third-country prices for shrimp to use as the basis for NV.<sup>39</sup>

<sup>33</sup> *See* Country-Specific AD 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.

<sup>34</sup> *See* Country-Specific AD Initiation Checklists.

<sup>35</sup> In accordance with section 773(b)(2) of the Act, for the Ecuador and Indonesia LTFV investigations, Commerce will request information necessary to calculate the constructed value (CV) and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

<sup>36</sup> *See* Ecuador AD Initiation Checklist.

<sup>37</sup> *Id.*

<sup>38</sup> *See* Indonesia AD Initiation Checklist.

<sup>39</sup> *See* Ecuador AD Initiation Checklist.

Therefore, for Ecuador, the petitioner based NV on CV.<sup>40</sup>

Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing, selling, general, and administrative (SG&A) expenses, financial expenses, and profit.<sup>41</sup> In calculating the cost of manufacturing, the petitioner relied on the production experience and input consumption rates of a U.S. producer of shrimp, valued using publicly available information applicable to Ecuador.<sup>42</sup> In calculating SG&A expenses, financial expenses, and profit ratios (where applicable), the petitioners relied on the calendar year 2022 financial statements of an Ecuadorian producer of identical merchandise.<sup>43</sup>

### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of shrimp from Ecuador and Indonesia are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for shrimp for each of the countries covered by this initiation are as follows: (1) Ecuador—9.55 to 25.82 percent; and (2) Indonesia—26.13 to 33.95 percent.<sup>44</sup>

### Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating LTFV investigations to determine whether imports of shrimp from Ecuador and Indonesia are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of these initiations.

### Respondent Selection

In the Petitions, the petitioners identified 227 companies in Ecuador and 276 companies in Indonesia as producers/exporters of shrimp.<sup>45</sup> Following standard practice in LTFV investigations involving market economy countries, in the event Commerce determines that the number of companies is large such that it cannot individually examine each company

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

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

<sup>44</sup> *See* Indonesia AD Initiation Checklist; and Ecuador AD Initiation Checklist.

<sup>45</sup> *See* Petitions at Volume I (page 11 and Exhibit I–16).

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 under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the “Scope of the Investigations,” in the appendix.

On November 13 and 14, 2023, Commerce released CBP data on imports of shrimp from Ecuador and Indonesia under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of these investigations.<sup>46</sup> Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

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 Commerce’s website at [https://access.trade.gov/Resources/Administrative\\_Protective\\_Order.aspx](https://access.trade.gov/Resources/Administrative_Protective_Order.aspx).

### Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of Ecuador and Indonesia via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of Ecuador and/or Indonesia are materially injuring, or threatening material injury to, a U.S. industry.<sup>47</sup> A negative ITC determination for any

<sup>46</sup> *See* Memoranda, “Release of Customs and Border Protection Entry Data,” dated November 13, 2023; and “Release of Customs and Border Protection Entry Data,” dated November 14, 2023.

<sup>47</sup> *See* section 733(a) of the Act.

country will result in the investigation being terminated with respect to that country.<sup>48</sup> Otherwise, these LTFV 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 under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>49</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>50</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.

#### Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations

and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

#### 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.<sup>51</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, we 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, stand-alone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in these investigations.<sup>52</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>53</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>54</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 APO 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 letter 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>55</sup>

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: November 14, 2023.

**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

*Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Additional information regarding the *Final Rule* is available at <https://access.trade.gov/Resources/filing/index.html>.

<sup>55</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).

<sup>51</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>52</sup> See 19 CFR 351.302; see also, e.g., *Time Limits Final Rule*.

<sup>53</sup> See section 782(b) of the Act.

<sup>54</sup> See *Certification of Factual Information to Import Administration During Antidumping and*

<sup>48</sup> *Id.*

<sup>49</sup> See 19 CFR 351.301(b).

<sup>50</sup> See 19 CFR 351.301(b)(2).

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.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–147, A–533–910, A–552–834, C–533–911]

#### **Paper File Folders From the People’s Republic of China, India, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Paper File Folders From India: Countervailing Duty Order**

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

**SUMMARY:** Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing the antidumping duty (AD) orders on paper file folders from the People’s Republic of China (China), India, and the Socialist Republic of Vietnam (Vietnam) and the countervailing duty (CVD) order on paper file folders from India.

**DATES:** Applicable November 21, 2023.

**FOR FURTHER INFORMATION CONTACT:** William Horn (China), Jinny Ahn (Vietnam), Eric Hawkins (AD India), or Thomas Martin (CVD India), AD/CVD Operations, Offices IV, V, and VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4868, (202) 482–0339, (202) 482–1988, or (202) 482–3936, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In accordance with sections 705(d) and 735(d) of the Tariff Act of 1930, as amended (the Act), on October 5, 2023, Commerce published its affirmative final determinations in the less-than-fair-value (LTFV) investigations of paper file folders from China, India, and Vietnam,<sup>1</sup> and its affirmative final determination that countervailable subsidies are being provided to producers and exporters of paper file folders from India.<sup>2</sup>

<sup>1</sup> See *Paper File Folders from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 88 FR 69141 (October 5, 2023); *Paper File Folders from India: Final Affirmative Determination of Sales at Less Than Fair Value*, 88 FR 69138 (October 5, 2023); and *Paper File Folders from the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value*, 88 FR 69130 (October 5, 2023).

<sup>2</sup> See *Paper File Folders from India: Final Affirmative Countervailing Duty Determination*, 88 FR 69134 (October 5, 2023) (*CVD Final Determination*).

On November 13, 2023, pursuant to sections 705(d) and 735(d) of the Act, the ITC notified Commerce of its final affirmative determinations that an industry in the United States is materially injured by reason of LTFV imports of paper file folders from China, India, and Vietnam, and subsidized imports of paper file folders from India, within the meaning of sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Act.<sup>3</sup>

##### **Scope of the Orders**

The products covered by these orders are paper file folders from China, India, and Vietnam. For a complete description of the scope of the orders, see the appendix to this notice.

##### **AD Orders**

On November 13, 2023, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determinations that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of paper file folders from China, India, and Vietnam that are sold in the United States at LTFV.<sup>4</sup> Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing these AD orders. Because the ITC determined that imports of paper file folders from China, India, and Vietnam are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, India, and Vietnam, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise on all relevant entries of paper file folders from China, India, and Vietnam. Antidumping duties will be assessed on unliquidated entries of paper file folders entered, or withdrawn from warehouse, for consumption on or after May 17, 2023, the date of publication of the *AD Preliminary Determinations*,<sup>5</sup> but will

<sup>3</sup> See ITC’s Letter, “Notification of ITC Final Determinations,” dated November 13, 2023 (ITC Notification Letter).

<sup>4</sup> *Id.*

<sup>5</sup> See *Paper File Folders from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 88 FR 31485 (May 17, 2023); *Paper File Folders from India: Preliminary Affirmative Determination of*