

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY—Continued

Country	Program(s)	Gross <sup>3</sup> subsidy (\$/lb)	Net <sup>4</sup> Subsidy (\$/lb)
Norway .....	Indirect (Milk) Subsidy .....	0.00	0.00
	Consumer Subsidy .....	0.00	0.00
	Total .....	0.00	0.00
Switzerland .....	Deficiency Payments .....	0.00	0.00

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[C–331–806]

**Frozen Warmwater Shrimp From Ecuador: Final Affirmative Countervailing Duty Determination**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of frozen warmwater shrimp (shrimp) from Ecuador. The period of investigation (POI) is January 1, 2022, through December 31, 2022.

**DATES:** Applicable October 28, 2024.

**FOR FURTHER INFORMATION CONTACT:** Reginald Anadio or Zachary Shaykin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3166 or (202) 482-5377, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 1, 2024, Commerce published its *Preliminary Determination* in the *Federal Register* and invited interested parties to comment.<sup>1</sup> In the *Preliminary Determination*, and in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4), Commerce aligned this final countervailing duty (CVD) determination with the final antidumping duty (AD) determination of frozen warmwater shrimp from

<sup>1</sup> See *Frozen Warmwater Shrimp from Ecuador: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with the Final Antidumping Duty Determination*, 89 FR 22379 (April 1, 2024) (*Preliminary Determination*), amended in *Frozen Warmwater Shrimp from Ecuador: Amended Preliminary Determination of Countervailing Duty Investigation*, 89 FR 31722 (April 25, 2024) (*Amended Preliminary Determination*).

Ecuador.<sup>2</sup> On July 12 and September 26, 2024, Commerce issued its post-preliminary determinations.<sup>3</sup> On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.<sup>4</sup> The deadline for the final determination is now October 21, 2024.

For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.<sup>5</sup> The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and 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 frozen freshwater shrimp from Ecuador. For a complete description of this investigation, see Appendix I.

**Scope Comments**

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation.

<sup>2</sup> *Id.*, 89 FR at 22380.

<sup>3</sup> See Memoranda, “Countervailing Duty Investigation of Frozen Warmwater Shrimp from Ecuador: Post-Preliminary Analysis,” dated July 12, 2024 (First Post-Preliminary Determination); and “Countervailing Duty Investigation of Frozen Warmwater Shrimp from Ecuador: Second Post-Preliminary Determination Calculations for Sociedad Nacional de Galapagos C.A.,” dated September 26, 2024 (Second Post-Preliminary Determination).

<sup>4</sup> See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

<sup>5</sup> See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Frozen Warmwater Shrimp from Ecuador,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

**Verification**

As provided in section 782(i)(1) of the Act, in July 2024, Commerce conducted verification of the subsidy information reported by Industrial Pesquera Santa Priscila S.A. (Santa Priscila), Sociedad Nacional de Galápagos C.A. (SONGA), and the Government of Ecuador (GOE) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by Santa Priscila, SONGA, and the GOE.<sup>6</sup>

**Analysis of Subsidy Programs and Comments Received**

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs that were submitted by interested parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, see Appendix II.

**Methodology**

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce 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>7</sup> For a full description of the methodology underlying our final determination, see the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts

<sup>6</sup> See Memoranda, “Countervailing Duty Investigation of Frozen Warmwater Shrimp from Ecuador: Verification of the Questionnaire Responses of Sociedad Nacional de Galápagos C.A.,” dated August 13, 2024; “Countervailing Duty Investigation of Frozen Warmwater Shrimp from Ecuador: Verification of the Questionnaire Responses of Industrial Pesquera Santa Priscila S.A.,” dated August 22, 2024; and “Countervailing Duty Investigation of Frozen Warmwater Shrimp from Ecuador: Verification of the Questionnaire Responses of the Government of Ecuador,” dated September 3, 2024.

<sup>7</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.

otherwise available, including with an adverse inference, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of adverse facts available (AFA), see the *Preliminary Determination*,<sup>8</sup> First Post-Preliminary Determination and Second Post-Preliminary Determination,<sup>9</sup> and the Issues and Decision Memorandum section entitled “Use of Facts Otherwise Available and Application of Adverse Inferences.”

**Changes Since the Preliminary Determination**

Based on our review and analysis of the information at verification and comments received from interested parties, we made certain changes to the subsidy rate calculations for both Santa

Priscila and SONGA.<sup>10</sup> For a discussion of these changes, see the Issues and Decision Memorandum.

**All-Others Rate**

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual estimated countervailable subsidy rates for the mandatory respondents, Santa Priscila and SONGA. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any subsidy rates that are zero, *de minimis*, or determined entirely under section 776 of the Act.

In this investigation, we calculated individual total net countervailable subsidy rates for both Santa Priscila and SONGA that are not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, we calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents (Santa Priscila and SONGA) using each company’s publicly-ranged sales value for their exports to the United States of subject merchandise,<sup>11</sup> in accordance with section 705(c)(5)(A)(i) of the Act.

**Final Determination**

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i> )
Industrial Pesquera Santa Priscila S.A .....	3.57
Sociedad Nacional de Galápagos C.A .....	4.41
All Others .....	3.78

**Disclosure**

We intend to disclose to interested parties the calculations and analysis performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

**Continuation of Suspension of Liquidation**

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise from Ecuador that were entered, or withdrawn from warehouse, for consumption on April 1, 2024, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered

or withdrawn from warehouse, on or after July 30, 2024, but to continue the suspension of liquidation of all entries of subject merchandise on or before July 29, 2024.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled.

**U.S. International Trade Commission Notification**

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being

provided to producers and exporters of shrimp from Ecuador. Because the final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of shrimp from Ecuador no later than 45 days after our final determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines

<sup>8</sup> See *Preliminary Determination and Amended Preliminary Determination*.

<sup>9</sup> See First Post-Preliminary Determination and Second Post-Preliminary Determination.

<sup>10</sup> See Memorandum, “Final Determination Calculations for Santa Priscila,” dated concurrently with this notice, and Memorandum, “Final Determination Calculations for SONGA,” dated concurrently with this notice.

<sup>11</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 quantities 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 Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010); see also *Forged Steel Fluid End Blocks from Italy: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 85 FR 31460, 31461 (May 26, 2020), unchanged in *Forged Steel Fluid End Blocks from Italy: Final Affirmative Countervailing Duty Determination*, 85 80022, 80023 (December 11, 2020).

that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

### Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

### Notification to Interested Parties

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: October 21, 2024.

### Ryan Majerus,

*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

### 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 Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Diversification of Ecuador’s Economy
- V. Subsidies Valuation
- VI. Use of Facts Otherwise Available and Application of Adverse Inferences
- VII. Analysis of Programs
- VIII. Discussion of the Issues

- Comment 1: Commerce Should Countervail the Provision of Brackish Water
- Comment 2: Commerce Should Countervail the Provision of Fuel
- Comment 3: Commerce Should Revise the Benchmark Used To Value the Provision of Electricity
- Comment 4: Commerce Should Correct the Multiplier Used for Programs Benefitting Respondents’ Shrimp Suppliers
- Comment 5: Commerce Should Apply Adverse Facts Available (AFA) To Countervail Unverifiable and Omitted Income Tax Programs
- Comment 6: Commerce Should Revise the Denominator for the Investment Contract/Tax Incentives for Priority Sectors Under the 2010 Organic Production Code for Santa Priscila
- Comment 7: Commerce Should Make Certain Revisions to SONGA’s Subsidy Calculations
- Comment 8: Commerce Should Make Certain Revisions to Santa Priscila’s Subsidy Calculations
- Comment 9: Commerce Should Revise Its Countervailable Subsidy Calculation Regarding Provision of Land Concessions
- Comment 10: Commerce Should Find That Certain Tax Programs are not Countervailable
- Comment 11: Commerce Should Revise its Attribution of Benefits Received by Cross-Owned Input Suppliers to Santa Priscila
- Comment 12: Commerce Should Recalculate Its Countervailable Subsidy Calculation for SONGA Under the Refund of Currency Outflow Tax (ISD) On Inputs Program
- Comment 13: Section 771B Is Not Supported by the Record
- Comment 14: Commerce Should Adjust the Cash Deposit (CD) Rates
- Comment 15: Commerce’s Should Reverse Its Rejection of SONGA’s Minor Correction
- Comment 16: Commerce Should Correct its Application of AFA to SONGA and Naturisa, and Santa Priscila and Produmar Under the Motor Vehicle Tax Reduction Program
- IX. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–331–805]

#### Frozen Warmwater Shrimp From Ecuador: Final Negative Determination of Sales at Less Than Fair Value

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that imports of frozen warmwater shrimp (shrimp) from Ecuador are not being, or not likely to be, sold in the United