



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-840]

Certain Frozen Warmwater Shrimp from India: Notice of Initiation of Antidumping Duty Changed Circumstances Review

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

SUMMARY: The U.S. Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) to determine if Elque Ventures Private Limited (Elque) is the successor-in-interest to Elque & Co. in the context of the antidumping duty (AD) order on certain frozen warmwater shrimp (shrimp) from India.

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

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or Christopher Viers, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1280 or (202) 482-0519, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2005, Commerce published in the *Federal Register* the AD order on shrimp from India.¹ On June 6, 2023, Elque requested that, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216, and 19 CFR 351.221(c)(3), Commerce conduct an expedited CCR to determine that it is the successor-in-interest to Elque &

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147 (February 1, 2005) (*Order*).

Co. and assign it the cash deposit rate of the Elque Group.² In its submission, Elque stated that in 2022 it changed its name from Elque & Co. and also changed its corporate structure to become a limited liability company.³ In addition, Elque notes that, because Commerce determined in the 2017-2018 administrative review to treat Calcutta Seafoods Pvt. Ltd. (Calcutta), Bay Seafood Pvt. Ltd. (Bay Seafood), and Elque & Co. as a collective entity (*i.e.*, the Elque Group), Commerce should also determine that the Elque Group is now comprised of Calcutta, Bay Seafood, and Elque.

Scope of the Order

The scope of this *Order* 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,⁴ deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this *Order*, 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

² See *Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018*, 78 FR 61843 (April 23, 2019), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review; 2017–2018*, 84 FR 57847 (October 29, 2019).

³ See Elque's Letter, "Request for an Expedited Changed Circumstances Review," dated June 6, 2023.

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

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 of this *Order*. 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 of this *Order*. 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 0306.23.00.20 and 0306.23.00.40); (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 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 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 merchandise subject to the *Order* is certain frozen warmwater shrimp.

The products covered by this *Order* are currently classified under the following (HTSUS) subheadings: 0306.17.00.04, 0306.17.00.05, 07, 0306.17.00.08, 0306.17.00.10, 0306.17.00.11, 0306.17.00.13, 0306.17.00.14, 0306.17.00.16, 0306.17.00.17, 0306.17.00.19, 0306.17.00.20, 0306.17.00.22, 0306.17.00.23, 0306.17.00.25, 0306.17.00.26, 0306.17.00.28, 0306.17.00.29, 0306.17.00.41, 0306.17.00.42, 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 of this *Order* is dispositive.⁵

Initiation of CCR

Pursuant to section 751(b)(1)(A) of the Act and 19 CFR 351.216(d), Commerce conducts a CCR upon receipt of information concerning, or a request from, an interested party for a review of an AD order which shows changed circumstances sufficient to warrant a review of the order. The information submitted by Elque regarding its claim that it is the successor-in-interest to Elque & Co. demonstrates changed circumstances sufficient to warrant the initiation of such a review.⁶ Therefore, in accordance with section 751(b)(1)(A) of the Act and 19 CFR 351.216(d) and (e), we are initiating a CCR.

In making a successor-in-interest determination, Commerce examines several factors, including, but not limited to, changes in the following: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.⁷ While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, generally, Commerce will consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor.⁸ Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the

⁵ On April 26, 2011, Commerce amended the antidumping duty order to include dusted shrimp, pursuant to the U.S. Court of International Trade decision in *Ad Hoc Shrimp Trade Action Committee v. United States*, 703 F. Supp. 2d 1330 (CIT 2010) and the U.S. International Trade Commission determination, which found the domestic like product to include dusted shrimp. See *Certain Frozen Warmwater Shrimp from Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision*, 76 FR 23277 (April 26, 2011); see also *Ad Hoc Shrimp Trade Action Committee v. United States*, 703 F. Supp. 2d 1330 (CIT 2010); and *Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and France* (Investigation Nos. 731-TA-1063, 1064, 1066-1068) (Review), USITC Publication 4221 (March 2011).

⁶ See 19 CFR 351.216(d).

⁷ See, e.g., *Certain Frozen Warmwater Shrimp from India: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 81 FR 75376 (October 31, 2016) (*Shrimp from India Preliminary CCR*), unchanged in *Certain Frozen Warmwater Shrimp from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 81 FR 90774 (December 15, 2016) (*Shrimp from India Final CCR*).

⁸ See, e.g., *Shrimp from India Preliminary CCR*, 81 FR at 75377, unchanged in *Shrimp from India Final CCR*, 81 FR at 90774.

predecessor company, Commerce may assign the new company the cash deposit rate of its predecessor.⁹

Pursuant to 19 CFR 351.221(c)(3)(ii), Commerce may combine the notices of initiation and preliminary results of a CCR into a single notice if it concludes that expedited action is warranted. However, we are not combining this notice of initiation with the preliminary results, because we require additional information from the other companies in the Elque Group regarding the effect of Elque & Co.'s name change and change in corporate structure on the operation of the Elque Group. Commerce intends to publish in the *Federal Register* a notice of the preliminary results of this CCR, in accordance with 19 CFR 351.221(b)(4) and (c)(3)(i), which will set forth Commerce's preliminary factual and legal conclusions. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results.

Unless extended, Commerce intends to issue the final results of this CCR within 270 days after the date of initiation, in accordance with 19 CFR 351.216(e).

Notification to Interested Parties

We are issuing this notice in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(b) and 351.221(b)(1).

Dated: July 17, 2023.

James Maeder,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023-15511 Filed: 7/20/2023 8:45 am; Publication Date: 7/21/2023]

⁹ *Id.*; see also *Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan*, 67 FR 58, 59 (January 2, 2002); *Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review*, 75 FR 34688, 34689 (June 18, 2010); and *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Preliminary Results of Antidumping Duty Changed Circumstances Review*, 63 FR 14679 (March 26, 1998), unchanged in *Circular Welded Non-Alloy Steel Pipe from Korea; Final Results of Antidumping Duty Changed Circumstances Review*, 63 FR 20572 (April 27, 1998) (in which Commerce found that a company which only changed its name and did not change its operations is a successor-in-interest to the company before it changed its name).