



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-840]

Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Changed Circumstances Review

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that
Elque Ventures Private Limited (EVPL) is the successor-in-interest to Elque & Co. in the context
of the antidumping duty 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, the Commerce published the order in the *Federal Register*.¹ In the
2017-2018 administrative review of the *Order*, Commerce determined that the Elque Group (*i.e.*,
Elque & Co., Calcutta Seafoods Pvt. Ltd. (Calcutta Seafoods), and Bay Seafood Pvt. Ltd. (Bay
Seafood)) should be treated as a single entity for purposes of antidumping duties.² In the 2021-
2022 administrative review, Commerce assigned the Elque Group a cash deposit rate of 3.88

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*).

² See *Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 16843 (April 23, 2019), and accompanying Preliminary Decision Memorandum at 3 (*Shrimp from India AR 2017-2018 Prelim*), unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 57847 (October 29, 2019).

percent.³ On July 21, 2023, in response to a request by EVPL,⁴ Commerce published a notice of initiation of changed circumstances review (CCR) to consider whether EVPL is the successor-in-interest to Elque & Co.⁵

On September 13, 2023, we issued a supplemental questionnaire to EVPL, to which we received a response on September 25, 2023.⁶ EVPL stated in its response that there were no material changes in the ownership and management structure, production facilities, and supplier and customer base of Calcutta Seafoods and Bay Seafood (*i.e.*, the other companies comprising the Elque Group) as a result of Elque & Co.'s conversion to EVPL.⁷ No interested party filed comments on EVPL's CCR request.

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,⁸ 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

³ See *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review; 2021–2022*, 88 FR 60431 (September 1, 2023) (*Shrimp from India AR 2021-2022*).

⁴ See EVPL's Letter, "Request for an Expedited Changed Circumstances Review," dated June 6, 2023 (EVPL CCR Request).

⁵ See *Certain Frozen Warmwater Shrimp from India: Notice of Initiation of Antidumping Duty Changed Circumstances Review*, 88 FR 47105 (July 21, 2023).

⁶ See EVPL's Letter, "Response to Changed Circumstances Review Supplemental Questionnaire," dated September 25, 2023 (SQR).

⁷ *Id.*

⁸ "Tails" in this context means the tail fan, which includes the telson and the uropods.

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 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 products covered by this *Order* are currently classified under the following HTSUS subheadings: 0306.17.00.04, 0306.17.00.05, 0306.17.00.07, 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.⁹

Preliminary Results

In this CCR, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), Commerce conducted a successor-in-interest analysis. 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.¹⁰ 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.¹¹ Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company

⁹ On April 26, 2011, Commerce amended the *Order* to include dusted shrimp, pursuant to the U.S. Court of International Trade (CIT) 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.

¹⁰ See, e.g., *Certain Frozen Warmwater Shrimp from India: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 83 FR 37784 (August 2, 2018) (*Shrimp from India 2018 CCR Prelim*), unchanged in *Certain Frozen Warmwater Shrimp from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 83 FR 49909 (October 3, 2018) (*Shrimp from India 2018 CCR Final*).

¹¹ See, e.g., *Shrimp from India 2018 CCR Prelim*, 83 FR at 37784, unchanged in *Shrimp from India 2018 CCR Final*, 83 FR at 49909.

operates as the same business entity as the predecessor company, Commerce may assign the new company the cash deposit rate of its predecessor.¹²

In accordance with 19 CFR 351.216, we preliminarily determine that EVPL is the successor-in-interest to Elque & Co, based on the analysis of the information EVPL provided in its CCR request regarding the factors listed above.

Management

EVPL was incorporated in 2019.¹³ In April 2022, Elque & Co. and EVPL signed a takeover agreement to transfer all of Elque & Co.'s assets and liabilities to EVPL.¹⁴ After the takeover, EVPL demonstrated that the managers of Elque & Co. continued to be the directors of EVPL and that there was no change in the company's ownership.¹⁵

Production Facilities

EVPL stated that it operates all of the same production facilities that Elque & Co. used to produce shrimp.¹⁶ According to EVPL, the company's factories are in the same locations they were under Elque & Co. before the company restructured.¹⁷

Supplier Relationships

EVPL stated that there were no material changes in the raw material suppliers of Elque & Co. as a result of the restructuring. EVPL provided a list of Elque & Co.'s raw material suppliers during the three months prior to the takeover, as compared to EVPL's suppliers for the

¹² See, e.g., *Shrimp from India 2018 CCR Prelim*, 83 FR at 37784, unchanged in *Shrimp from India 2018 CCR Final*, 83 FR at 49909; 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); *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.

¹³ See EVPL's CCR Request at 3.

¹⁴ *Id.* at 3 and Exhibit 1.

¹⁵ See Memorandum, "Business Proprietary Information Accompanying the Preliminary Results," dated concurrently with this notice (BPI Memo).

¹⁶ See EVPL's CCR Request at 6 and Exhibit 3.

¹⁷ *Id.* at 6 and Exhibit 4.

three months after the takeover.¹⁸ This information demonstrates that EVPL continued to use certain of the same suppliers as Elque & Co.¹⁹

Customer Base

EVPL stated that there were no material changes in the customer base of Elque & Co. as a result of the restructuring. EVPL provided a list of Elque & Co.'s shrimp customers during the three months prior to the takeover, as compared to EVPL's customers during the three months after the takeover.²⁰ This information demonstrates that EVPL continued to sell to certain of the same customers as Elque & Co.²¹

Thus, record evidence, as submitted by EVPL, indicates that EVPL operates as essentially the same business entity as Elque & Co. with respect to the subject merchandise.²² Moreover, Commerce previously determined that it was appropriate to treat Calcutta Seafoods Pvt. Ltd. (Calcutta Seafoods), Bay Seafood Pvt. Ltd. (Bay Seafood), and Elque & Co. as a single entity (the Elque Group).²³ Because EVPL demonstrated that there were no material changes in the ownership and management structure, production facilities, and supplier and customer base of Calcutta Seafoods and Bay Seafood (the other companies in the Elque Group), we preliminarily find that the Elque Group now consists of EVPL, Calcutta Seafoods, and Bay Seafood.

Public Comment

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.²⁴ Interested parties who submit case briefs or rebuttal briefs in this proceeding

¹⁸ *Id.* at 8 and Exhibit 7.

¹⁹ See BPI Memo for the business proprietary details of our analysis.

²⁰ See EVPL's CCR Request at Exhibit 7.

²¹ See BPI Memo for the business proprietary details of our analysis.

²² See EVPL's CCR Request and SQR.

²³ See *Shrimp from India AR 2017-2018 Prelim.*

²⁴ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Final Service Rule*).

must submit: (1) a table of contents listing each issue; and (2) a table of authorities.²⁵ All comments are to be filed electronically using Enforcement and Compliance's Antidumping and CVD Centralized Electronic Service System (ACCESS). An electronically filed document must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Time on the day it is due.²⁶

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.²⁷ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this CCR. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²⁸

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

²⁵ See 19 CFR 351.309(c)(2) and (d)(2).

²⁶ See 19 CFR 351.303(b).

²⁷ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

²⁸ See *APO and Final Service Rule*.

Consistent with 19 CFR 351.216(e), we will issue the final results of this CCR no later than 270 days after the date on which the review was initiated, or within 45 days if all parties agree to our preliminary finding. If we continue to find that EVPL is the successor-in-interest to Elque & Co. in this CCR, we will assign EVPL the cash deposit rate currently assigned to Elque & Co. as part of the Elque Group (*i.e.*, 3.88 percent).²⁹

Notification to Interested Parties

We are issuing this notice in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216(b) and 351.221(b)(1).

Dated: January 12, 2024.

Abdelali Elouaradia,
Deputy Assistant Secretary
for Enforcement and Compliance.

[FR Doc. 2024-01087 Filed: 1/19/2024 8:45 am; Publication Date: 1/22/2024]

²⁹ See *Shrimp from India AR 2021-2022*.