

Although non-emergency issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271-2809 at least 7 working days prior to the meeting date.

Dated: July 23, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

International Trade Administration (A-533-840)

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

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

EFFECTIVE DATE: July 28, 2010.

SUMMARY: The Department of Commerce (the Department) is conducting a changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216 and 351.221(c)(3). We preliminarily determine that Srikanth International (Srikanth) is the successor-in-interest to NGR Aqua International (NGR) for purposes of determining antidumping liability. Interested parties are invited to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse; AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th

Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6345.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 2010, Srikanth requested that the Department conduct an expedited changed circumstances review under 19 CFR 351.221(c)(3)(iii) to determine whether it is the successor-in-interest to NGR for purposes of determining antidumping liability. On April 1, 2010, the Department initiated a changed circumstances review but did not expedite the review, as requested by Srikanth, because questions remained regarding the completeness of the factual statements forming the basis of Srikanth's changed circumstances review request. *See Certain Frozen Warmwater Shrimp From India: Initiation of Antidumping Duty Changed Circumstances Review*, 75 FR 16436 (Apr. 1, 2010) (*Initiation Notice*). On April 19 and June 3, 2010, we requested further information and documentation from Srikanth to substantiate its claim to be the successor-in-interest to NGR. Srikanth submitted this information on May 6 and June 17, 2010, respectively.

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,¹ 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 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 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 non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and 5) that is subjected to 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 this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. 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.

¹ "Tails" in this context means the tail fan, which includes the telson and the uropods.

Successor-in-Interest Determination

Pursuant to section 751(b)(1) of the Act and 19 CFR 351.216, the Department will conduct a changed circumstances review upon receipt of information concerning, or request from an interested party for review of, an antidumping duty order which shows changed circumstances sufficient to warrant review of the order. In this case, we found that the information submitted by Srikanth provided evidence of changed circumstances sufficient to warrant a review. See *Initiation Notice*, 75 FR at 16437. Thus, in accordance with section 751(b) of the Act, we initiated a changed circumstances review to determine whether Srikanth is the successor-in-interest to NGR. *Id.*

In making a successor-in-interest determination, the Department typically examines several factors including, but not limited to: 1) management; 2) production facilities; 3) supplier relationships; and 4) customer base. See, e.g., *Pressure Sensitive Plastic Tape from Italy: Preliminary Results of Antidumping Duty Changed Circumstances Review*, 75 FR 8925 (Feb. 26, 2010), unchanged in *Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Changed Circumstances Review*, 75 FR 27706 (May 18, 2010); *Brake Rotors from the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 69941 (Nov. 18, 2005) (*Brake Rotors*), citing *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992).

While no single factor or combination of these factors will necessarily be dispositive, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor. See, e.g., *Brake Rotors*. Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company's operations are not materially dissimilar to the former company, the Department will generally accord the new company the same antidumping duty treatment as its predecessor. *Id.*

Preliminary Results of Changed Circumstances Review

In its request for a changed circumstances review, Srikanth explained that, in March 2009, it purchased the seafood processing and packing plant, including all buildings and equipment, previously owned by

NGR. Srikanth submitted documentation to demonstrate its March 2009 purchase of NGR (see Srikanth's February 3, 2010, submission at Exhibit 7). Srikanth also provided information regarding whether there were any changes in management, production, suppliers, and customers that occurred after Srikanth acquired NGR. The information provided by Srikanth indicated that, except for one transfer of duties in management and the loss of one customer, the company's business operations otherwise had not been affected by the acquisition (see Srikanth's May 6, 2010, and June 17, 2010, responses). Therefore, we preliminarily find that, based on the totality of the facts and circumstances, there have been no material changes in Srikanth's operations that would cause us to question whether Srikanth is the successor-in-interest to NGR. Specifically, we preliminarily find that Srikanth is the successor-in-interest to NGR because the changes in management and customers that took place after Srikanth's purchase of NGR were not so significant as to materially alter the production or business operations of the company. For more detailed discussion of the Department's analysis and decision, see Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from Blaine Wiltse, Analyst, Office 2, AD/CVD Operations, entitled, "Changed Circumstances Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from India; Successor-In-Interest Determination for NGR Aqua International and Srikanth International," dated July 20, 2010.

In conclusion, as a result of this determination, we preliminarily find that Srikanth should receive the rate previously assigned to NGR in the most recently completed review of the antidumping duty order on shrimp from India. See *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part*, 75 FR 41813, 41816 (Jul. 19, 2010). If the above preliminary results are affirmed in the Department's final results, we will instruct U.S. Customs and Border Protection (CBP) to liquidate all previously unliquidated entries of the subject merchandise produced and exported by Srikanth entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review at the rate previously assigned to NGR. Additionally, upon the adoption of

these preliminary results in the Department's final results, we will instruct CBP to assign NGR's cash deposit rate to Srikanth.

Public Comment

Interested parties are invited to comment on these preliminary results. Written comments may be submitted no later than 14 days after the date of publication of these preliminary results. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303. Any interested party may request a hearing within 14 days of publication of this notice. Any hearing, if requested, will be held no later than 30 days after the date of publication of this notice, or the first workday thereafter. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of hearing. In accordance with 19 CFR 351.216(e), the Department will issue the final results of this antidumping duty changed circumstances review no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary results.

During the course of this antidumping duty changed circumstances review, cash deposit requirements for the subject merchandise produced and exported by Srikanth will continue to be the all-others rate established in the investigation (i.e., 10.17 percent). 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, 5148 (Feb. 1, 2005). The cash deposit rate requirement for Srikanth will be altered, if warranted, pursuant to the final results of this review.

We are issuing and publishing these preliminary results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: July 21, 2010.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

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