

continue to order the suspension of liquidation of the subject merchandise, where appropriate, until there is a "conclusive" decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct U.S. Customs and Border Protection ("CBP") to liquidate all relevant entries from Ta Chen Stainless Steel Pipe, Ltd. ("Ta Chen") and revise the cash deposit rates as appropriate.

**EFFECTIVE DATE:** April 18, 2006.

**FOR FURTHER INFORMATION CONTACT:** Alex Villanueva, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone; 202-482-3208, fax; 202-482-9089.

**SUPPLEMENTARY INFORMATION:**

**Background**

Following publication of the *Final Results*, Ta Chen filed a lawsuit with the CIT challenging the Department's findings in *Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan and Accompanying Issues and Decisions Memorandum; Final Results of 1998-1999 Administrative Review*, 65 FR 81827, 81830 (December 27, 2000) ("*Final Results*").<sup>1</sup> In *Alloy Piping v. United States*, Slip Op. 04-46 (CIT 2004) ("*Alloy Piping I*"), the CIT instructed the Department to (1) reconsider the factual and legal basis for its determination concerning the alleged reimbursement agreement; and (2) reconsider its calculation of CEP<sup>2</sup> profit.

The Draft Final Results Pursuant to Remand ("*Draft Results*") were released to parties on August 5, 2004. The Department received comments from interested parties on the Draft Results on August 9, 2004. There were no substantive changes made to the *Remand Results* as a result of comments received on the Draft Results. On August 16, 2004, the Department responded to the CIT's Order of Remand by filing the *Remand Results*. In the *Remand Results*, the Department reconsidered its decision concerning the reimbursement agreement and determined that the reimbursement agreement, in light of the new information submitted by Ta Chen on May 18, 2004, indicated that the reimbursement agreement did not apply for the June 1, 1998, through May 31, 1999, period, but was limited to the 1992-1994 period. The Department also reconsidered its CEP Profit calculation and determined that the CEP Profit

equation is symmetric with regard to the imputed interest expenses such that the imputed interest expenses in the "Total U.S. Expenses" numerator are in fact reflected in recognized financial expenses in the "Total Expenses" denominator and the "Total Actual Profit" multiplier. Thus, the Department did not change Ta Chen's CEP Profit. As a result of the remand determination, the antidumping duty rate for Ta Chen was decreased from 12.84 to 6.42 percent.

On April 6, 2006, the CIT affirmed the Department's findings in the *Remand Results*. Specifically, the CIT upheld the Department's finding that Ta Chen was not reimbursing antidumping duties during the POR and that the Department's calculation of CEP profit was accurate. *See Alloy Piping II*. As noted above, this revision resulted in a change in Ta Chen's margin.

**Suspension of Liquidation**

The CAFC, in *Timken*, held that the Department must publish notice of a decision of the CIT or the CAFC which is not "in harmony" with the Department's final determination or results. Publication of this notice fulfills that obligation. The CAFC also held that the Department must suspend liquidation of the subject merchandise until there is a "conclusive" decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation pending the expiration of the period to appeal the CIT's April 6, 2006, decision, or, if that decision is appealed, pending a final decision by the CAFC. The Department will instruct Customs to revise cash deposit rates, as appropriate, and to liquidate relevant entries covering the subject merchandise in the event that the CIT's ruling is not appealed, or if appealed and upheld by the CAFC.

Dated: April 13, 2006.

**David M. Spooner,**  
Assistant Secretary for Import Administration.

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review**

**AGENCY:** NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of First Request for Panel Review.

**SUMMARY:** On April 3, 2006, Wynndel Box & Lumber Co., Ltd. ("Wynndel"), filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Final Scope Ruling Regarding Entries Made Under HTSUS 4409.10.05 made by the United States Department of Commerce, International Trade Administration, respecting Certain Softwood Lumber Products from Canada. Notification of this final determination was received by the other Party on March 8, 2006. The NAFTA Secretariat has assigned Case Number USA-CDA-2006-1904-05 to this request.

**FOR FURTHER INFORMATION CONTACT:** Caratna L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on April 3, 2006, requesting panel review of the final determination described above.

The Rules provide that (a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is May 3, 2006);

(b) a Party, investigating authority or interested person that does not file a

<sup>1</sup> The period of review is June 1, 1998, through May 31, 1999 ("POR").

<sup>2</sup> Constructed Export Price

Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is May 18, 2006); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: April 12, 2006.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 041106A]

**Marine Mammals; File Nos. 781-1824, 965-1821, 532-1822, 540-1811, 774-1714, 782-1719, 731-1774**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of permits and amendments.

**SUMMARY:** Notice is hereby given that seven entities have been issued permits and amendments to conduct scientific research on marine mammal species and import marine mammal part specimens for scientific research purposes.

**ADDRESSES:** The permits and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521;

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115-0700; phone (206)526-6150; fax (206)526-6426;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4001; fax (562)980-4018; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907)586-7221; fax (907)586-7249.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan or Kelsey Abbott, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** Permits have been issued to the following entities:

Northwest Fisheries Science Center (NWFSC, Dr. M. Bradley Hanson, Principal Investigator), 2725 Montlake Blvd. East, Seattle, Washington 98112-2097 (Permit No. 781-1824);

Southwest Fisheries Science Center (SWFSC, Dr. Stephen B. Reilly, Principal Investigator), 8604 La Jolla Shores Drive, La Jolla, California 92037 (Permit No. 774-1714);

National Marine Mammal Laboratory, Alaska Fisheries Science Center (NMML, Dr. John L. Bengtson, Principal Investigator), 7600 Sand Point Way, NE., Seattle, Washington 98115-6349 (Permit No. 782-1719);

Dr. Robin W. Baird, Cascadia Research, 218 1/2 W. 4th Avenue, Olympia, Washington 98501 (Permit No. 731-1774);

Dr. David E. Bain, Friday Harbor Laboratories, University of Washington, 620 University Road, Friday Harbor, Washington 98250 (Permit No. 965-1821);

Center for Whale Research (CWR, Mr. Kenneth C. Balcomb III, Principal Investigator), 355 Smuggler's Cove Road, Friday Harbor, Washington 98250 (Permit No. 532-1822); and

Mr. John Calambokidis, Cascadia Research, Waterstreet Bldg., 218 1/2 W. 4th Avenue, Olympia, Washington 98501 (File No. 540-1811).

On January 6, 2006, notice was published in the **Federal Register** (71 FR 917) that requests for scientific research permits and amendments to take marine mammals had been submitted by the above-named organizations and individuals. The requested permits and amendments have been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

*Permit No. 781-1824* authorizes the NWFSC to conduct research to determine the abundance, distribution, movement patterns, habitat use, contaminant levels, prey, behavior, energetics, and stock structure of cetacean species in the eastern North Pacific off the coast of Washington,

Oregon, and California. These studies will be carried out through vessel surveys, photo-identification from large and small vessels, biological sample collection, passive acoustic monitoring, and satellite/radio and data log/time-depth tagging and tracking. The permit authorizes NWFSC to take endangered blue whales (*Balaenoptera musculus*), fin whales (*Balaenoptera physalus*), humpback whales (*Megaptera novaeangliae*), sperm whales (*Physeter macrocephalus*), and Southern Resident killer whales (SRKW, *Orcinus orca*), as well as 15 non-ESA-listed cetacean species. The permit expires on April 14, 2011.

*Permit No. 965-1821* authorizes Dr. David Bain to study killer whales, including the SRKW DPS. Dr. Bain's research is designed to examine killer whale distribution and movement patterns; diet and energetic requirements; reproduction and mortality patterns; health; social structure; and the effects of anthropogenic disturbances, including noise, on the whales. Research will focus on the inland waters of Washington with comparative data collected from central California to central Alaska. The permit expires on April 14, 2011.

*Permit No. 532-1822* issued to the CWR authorizes annual photo-identification studies on SRKW throughout their range to monitor population size and demographics, movements and distribution, social structure, and individual health and body condition of these animals. CWR will also collect photo-identification data from other killer whale stocks that are encountered opportunistically, including the Eastern North Pacific Offshore stock, Eastern North Pacific Northern Resident stock, and the Eastern North Pacific Transient stock. This permit expires April 14, 2011.

*Permit No. 540-1811* authorizes John Calambokidis to study marine mammals in the North Pacific Ocean including the waters off California, Oregon, and Washington. Mr. Calambokidis will: (1) use photo-identification activities to determine the abundance, movements, and population structure of cetaceans; (2) collect skin biopsies to determine sex and relatedness, and to evaluate stock structure of cetaceans; (3) conduct suction cup tagging activities to examine the diving behavior, feeding, movements, and vocal behavior of cetacean species; (4) conduct aerial, vessel, and shore-based surveys to examine distribution, abundance, habitat, and feeding behavior; and (5) to recover dead harbor seals for contaminant analysis. The permit