

Date	Requester
May 30, 2006	Jinxiang Tianma Freezing Storage Co., Ltd. ("Tianma Freezing") Weifang Hongqiao International Logistic Co., Ltd. ("Weifang Hongqiao")
May 31, 2006	

On June 16, 2006, Weifan Hongqiao submitted a revised public version of its request. Xinboda, Shandong Wonderland, and Tianma Freezing each identified itself as the producer and exporter of the fresh garlic on which it based its request for a new shipper review. Weifang Hongqiao identified itself as the exporter and Jinxiang Dingtai Garlic Production Co., Ltd. ("Jinxiang Dingtai") as the producer of the fresh garlic on which it based its request for a new shipper review.

As required by 19 CFR 351.214(b)(2) and (b)(2)(iii)(A), Xinboda, Shandong Wonderland, Tianma Freezing and Weifang Hongqiao certified that they did not export fresh garlic to the United States during the period of investigation ("POI"), and that each company has never been affiliated with any exporter or producer which exported fresh garlic to the United States during the POI. In addition, as required by 19 CFR 351.214(b)(2)(ii)(B) and (iii)(A), Jinxiang Dingtai, Weifang Hongqiao's producer, certified that it did not export fresh garlic to the United States during the POI and that it has never been affiliated with any exporter or producer which exported fresh garlic to the United States during the POI. Furthermore, Xinboda, Shandong Wonderland, Tianma Freezing, and Weifang Hongqiao have also certified that their export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B).

Pursuant to 19 CFR 351.214(b)(2)(iv) each exporter submitted documentation establishing: (A) the date on which the subject merchandise was first entered, or withdrawn from warehouse, for consumption; (B) the volume of its first shipment and any subsequent shipments; and (C) the date of its first sale to an unaffiliated customer in the United States. The Department conducted Customs database queries to confirm that each company's shipment had officially entered the United States via assignment of an entry date in the Customs database by U.S. Customs and Border Protection ("CBP").

Initiation of Reviews

In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.214(d)(1), and based on information on the record, we are initiating new shipper reviews for Xinboda, Shandong

Wonderland, Tianma Freezing, and Weifang Hongqiao. See Memoranda to the File titled "New Shipper Initiation Checklist" for Xinboda, Shandong Wonderland, Tianma Freezing, and Weifang Hongqiao, dated June 27, 2006. We intend to issue the preliminary results of this review not later than 180 days after the date on which this review was initiated, and the final results of this review within 90 days after the date on which the preliminary results are issued. See section 751(a)(2)(B)(iv) of the Act.

As noted above, pursuant to 19 CFR 351.214(g)(1)(i)(B), the POR for a new shipper review initiated in the month immediately following the semiannual anniversary month will be the six-month period immediately preceding the semiannual anniversary month. Therefore, the POR for the new shipper reviews of Xinboda, Shandong Wonderland, Tianma Freezing, and Weifang Hongqiao will be November 1, 2005, through April 30, 2006.

It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of the absence of *de jure* and *de facto* government control over the company's export activities. Accordingly, we will issue questionnaires to Xinboda, Shandong Wonderland, Tianma Freezing, and Weifang Hongqiao including a "separate rates" section. The reviews will proceed if the responses provide sufficient indication that Xinboda, Shandong Wonderland, Tianma Freezing, and Weifang Hongqiao, are not subject to either *de jure* or *de facto* government control with respect to their exports of fresh garlic. However, if the exporter does not demonstrate the company's eligibility for a separate rate, then the company will be deemed not separate from the PRC-wide entity, which exported during the POI, and its new shipper review will be rescinded. See 19 CFR 351.214(b)(2)(iii)(A); see also *Notice of Preliminary Results of Antidumping Duty New Shipper Review and Rescission of New Shipper Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China*, 69 FR 53669 (September 2, 2004) and *Brake Rotors from the People's Republic of China: Rescission of Second New Shipper*

Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review, 64 FR 61581 (November 12, 1999).

In accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e), we will instruct CBP to allow, at the option of the importer, the posting, until the completion of these reviews, of a single entry bond or security in lieu of a cash deposit for certain entries of the merchandise exported by either Xinboda, Shandong Wonderland, Tianma Freezing, or Weifang Hongqiao. We will apply the bonding option under 19 CFR 351.107(b)(1)(i) only to entries from these four exporters for which the respective producers under review are the suppliers.

Interested parties that need access to proprietary information in these new shipper reviews should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: June 27, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-10575 Filed 7-6-06; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Circumvention and Scope Inquiries on the Antidumping Duty Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Affirmative Final Determination of Circumvention of the Antidumping Duty Order, Partial Final Termination of Circumvention Inquiry and Final Rescission of Scope Inquiry

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

Final Determination

We determine that frozen fish fillets produced by Lian Heng Trading Co. Ltd. ("Lian Heng Trading") and Lian Heng

Investment Co. Ltd. (“Lian Heng Investment”) (collectively, “Lian Heng”),¹ are circumventing the antidumping duty order on frozen fish fillets from the Socialist Republic of Vietnam (“Vietnam”), as provided in section 781(b) of the Tariff Act of 1930, as amended (“the Act”). See *Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) (“Order”). In addition, we determine that frozen fish fillets produced by Lian Heng are covered by the antidumping duty order on frozen fish fillets from Vietnam. We are also terminating the circumvention inquiry with respect to L.S.H. (Cambodia) Pte. Ltd. (“L.S.H.”), and Sun Wah Fisheries Co. Ltd. (“Sun Wah”), and rescinding the concurrently initiated scope inquiry. See *Memorandum from Stephen J. Claeys, Deputy Assistant Secretary, Import Administration to David M. Spooner, Assistant Secretary, Import Administration* (“Decision Memorandum”), dated June 16, 2006.

EFFECTIVE DATE: July 7, 2006.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-3208.

SUPPLEMENTARY INFORMATION:

Background

On February 22, 2006, the Department published the preliminary circumvention determination and rescission of scope inquiry. See *Notice of Partial Affirmative Preliminary Determination of Circumvention, Preliminary Rescission of Scope Inquiry and Extension of Final Determination*, 71 FR 9068 (February 22, 2006) (“Preliminary Determination”). On March 30, 2006, the Department was notified by the International Trade Commission (“ITC”) that consultations pursuant to section 781(e)(2) of the Act were not necessary. See *Memorandum to the File from Alex Villanueva, Program Manager*, dated April 3, 2006. On April 5, 2006, Piazza Seafood World LLC (“Piazza”) submitted new information on the record. On April 6, 2006, the Department notified all interested parties that it was retaining

Piazza’s April 5, 2006, submission in its entirety and that additional information could be placed on the record by C.O.B. April 10, 2006. See *Memorandum to the File from Alex Villanueva, Program Manager*, dated April 6, 2006. The Department also informed parties that the deadline for submission of case and rebuttal briefs would be extended until April 19, 2006, and May 3, 2006, respectively. See *Id.* On April 10, 2006, Petitioners and Piazza submitted additional new information. On April 19, 2006, Petitioners and Piazza filed case briefs. On May 3, 2006, Petitioners and Piazza filed rebuttal case briefs. On June 9, 2006, the Department held a public hearing.

Scope of the Antidumping Duty Order

The product covered by this order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus*. Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact (“regular” fillets), boneless fillets with the belly flap removed (“shank” fillets), boneless shank fillets cut into strips (“fillet strips/finger”), which include fillets cut into strips, chunks, blocks, skewers, or any other shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly-flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone-in, cross-section cuts of dressed fish. Nuggets are the belly-flaps. The subject merchandise will be hereinafter referred to as frozen “basa” and “tra” fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (“HTSUS”).² This order covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this

proceeding is dispositive. See *Order* at 47909.

Final Rescission of Scope Inquiry

The Department continues to find that rescission of the scope inquiry is appropriate for the reasons stated in the *Preliminary Determination*. See *Decision Memorandum* at Comment 1.

Termination of the Circumvention Inquiry for L.S.H. and Sun Wah

The Department continues to find that it is appropriate to terminate circumvention inquiry with respect to L.S.H. and Sun Wah for the reasons stated in the *Preliminary Determination*. See *Decision Memorandum* at Comment 4. As a result, no action will be taken with respect to exports of frozen fish fillets to the United States from these companies.

Statutory Provisions Regarding Circumvention

Section 781(b)(1) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries of an antidumping duty order under section 781(b) of the Act, the Department relies upon the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is subject to an antidumping duty order; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in (B) is minor or insignificant; and (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding, the administering authority, after taking into account any advice provided by the Commission under section 781(e) of the Act, may include such imported merchandise within the scope of the such order or finding at any time such order or finding is in effect.

Section 781(b)(2) of the Act provides for the determination of whether the

¹ Lian Heng Trading Co. Ltd. (“Lian Heng Trading”) or Lian Heng Investment Co. Ltd. (“Lian Heng Investment”) (collectively “Lian Heng”). Lian Heng Trading and Lian Heng Investment are two separate entities. However, the two companies share the same Chairman and Chief Executive Officer, and both companies have exported subject merchandise to the United States.

² Until July 1, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS.

process is minor or insignificant. In determining whether the process of assembly or completion is minor or insignificant under paragraph (1)(C), the administering authority shall take into account (A) the level of investment in the foreign country, (B) level of research and development in the foreign country, (C) nature of the production process in the foreign country, (D) extent of production facilities in the foreign country, and (E) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

Section 781(b)(3) of the Act further provides that, in determining whether to include merchandise assembled or completed in a foreign country in an antidumping duty order or a finding under paragraph (1), the Department shall take into account: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise described in accordance with section 781(b)(1)(B) of the Act is affiliated with the person who uses the merchandise described in accordance with section 781(b)(1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported in to the United States; and (C) whether imports into the foreign country of the merchandise described in accordance with section 781(b)(1)(B) have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

Analysis

We considered all of the comments submitted by the parties and find that application of adverse facts available, as applied to the factors under section 781(b)(1) of the Act, is appropriate. Specifically, with respect to section 781(b)(1)(A) of the Act, we find that the product subject to the circumvention inquiry and exported to the United States by Lian Heng, frozen fish fillets, is the same class or kind of merchandise subject to the *Order*. With respect to section 781(b)(1)(B)(ii) of the Act, we find that, before importation, frozen fish fillets are completed by Lian Heng in Cambodia from Vietnamese-origin whole, live fish. With respect to section 781(b)(1)(C) of the Act, we find that, based on adverse facts available due to Lian Heng's failure to provide data that could be verified, the processing of basa and tra fish into frozen fish fillets with respect to Lian Heng's exports from Cambodia is a minor or insignificant process.³ The Department also

continues to find that under section 781(b)(1)(D) of the Act, based on Petitioners' record evidence, and as adverse facts available due to Lian Heng's failure to provide data that could be verified, the value of the Vietnamese-origin whole, live fish is significant compared to the value of the frozen fish fillets. Therefore, pursuant to section 781(b)(1)(E) of the Act, we affirm our preliminary determination that action is appropriate and necessary to prevent Lian Heng from circumventing the antidumping duty order on frozen fish fillets from Vietnam. Additionally, based on the additional factors to consider under section 781(b)(3) of the Act, we find that the patterns of trade and the levels of Cambodian importation of Vietnamese-origin whole, live fish support an affirmative finding of circumvention.

Consequently, under sections 781(b)(1), (2), and (3) of the Act, we find that Lian Heng has circumvented the *Order* by importing Vietnamese-origin whole live fish into Cambodia, where it was subsequently processed and completed into frozen fish fillets for export to the United States. Thus, pursuant to section 781(b) of the Act, frozen fish fillets processed in Cambodia by Lian Heng from Vietnamese-origin whole, live fish for export to the United States should be included in the antidumping duty order on frozen fish fillets from Vietnam. Finally, because the Department continues to find that AFA is appropriate in this final determination, the Department relied on the information supplied by Petitioners, and subsequently used for purposes of initiating this inquiry, to corroborate the secondary information used as adverse facts available, pursuant to section 776(c) of the Act. We find that the information supplied by Petitioners is reliable and relevant because it is based upon information from public sources including government publications regarding the processing of live fish into fish fillets from Cambodia. In addition, Petitioners provided information from Agifish, the largest fish fillets exporter from Vietnam, which the Department verified in the underlying investigation as well as information used by the ITC in making its final injury determination. Therefore, we find that the secondary information used as adverse facts available has probative value.

All issues raised by the interested parties to which we have responded are listed in the Appendix to this notice and addressed in the Issues and Decision

Memorandum, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this inquiry and the corresponding recommendation in this public memorandum, which are on file in the Central Records Unit ("CRU"), Room B-099 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, the Department will continue to direct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the Vietnam-wide rate, on all unliquidated entries of frozen fish fillets produced by Lian Heng that were entered, or withdrawn from warehouse, for consumption from October 22, 2004, the date of initiation of the circumvention inquiry, through July 15, 2005.

For all entries of frozen fish fillets produced by Lian Heng entered on or after July 16, 2005, the Department will direct CBP to allow Lian Heng to certify that no Vietnamese-origin fish was used in the production of the frozen fish fillets. The Department will not request that CBP suspend liquidation, or require a cash deposit of estimated duties, at the Vietnam-wide rate, for any entries of frozen fish fillets accompanied by the certification in Appendix II in this notice. However, the Department will direct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the Vietnam-wide rate of 63.88 percent of any entries of frozen fish fillets not accompanied by this certification in Appendix II of this notice.

The Department will not direct CBP to take any action with respect to Sun Wah and L.S.H. or any other Cambodian exporter other than Lian Heng.

Future Administrative Reviews

If requested, the Department may expand the third administrative review period back to October 22, 2004, the date of initiation of the circumvention inquiry, to include all of Lian Heng's entries covered by this determination. In addition, we hereby serve notice to Lian Heng that any certified entries are subject to verification by the Department. If a review of these certified entries is conducted, the Department will, at a minimum,

³ To determine whether a process is minor or insignificant pursuant to section 781(b)(1)(C) of the

Act, the Department must consider the factors in section 781(b)(2) of the Act.

examine whole fish country of origin documentation that Lian Heng is required to maintain, as an exporter of fish products to the United States, by the United States Food and Drug Administration's Hazard Analysis Critical Control Point ("HACCP")⁴ program and by the Bioterrorism Act of 2002.⁵ The Department will also examine any other records Lian Heng maintains in its normal course of business supporting its certifications that no Vietnamese-origin fish was used in the production of its frozen fish fillets.

Notice to Parties

This notice also serves as the only reminder to parties subject to the administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations. 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.

This final circumvention determination is in accordance with section 781(b) of the Act and 19 CFR 351.225.

Dated: June 30, 2006.

David M. Spooner,
Assistant Secretary for Import
Administration.

Appendix I

Comment 1: Rescission of Scope Request

Comment 2: Lian Heng Determination
A. Application of AFA and the
Criteria under Section 781(b) of the
Act

B. Corroboration of AFA

Comment 3: Certification Requirements

Comment 4: Partial Rescission of
Circumvention Inquiry

Appendix II

Certification of Lian Heng¹

CERTIFICATION TO U.S. CUSTOMS AND BORDER PROTECTION

1. Lian Heng hereby certifies that the frozen fish fillets being exported and

⁴ Hazard Analysis Critical Control Point. Details regarding this program can be found at <http://www.cfsan.fda.gov/lrd/haccp.html>.

⁵ Details regarding the Bioterrorism Act of 2002 can be found at: <http://www.fda.gov/oc/bioterrorism/bioact.html>.

¹ Lian Heng Trading Co. Ltd. ("Lian Heng Trading") or Lian Heng Investment Co. Ltd. ("Lian Heng Investment") (collectively "Lian Heng")

subject to this certification were not produced from fish of Vietnamese origin of the following species: *Pangasius Bocourti* (commonly known as basa or trey basa), *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius* and commonly known as tra or trey pra), or *Pangasius Micronemus*.

2. By signing this certificate, Lian Heng also hereby agrees to maintain sufficient documentation supporting the above statement such as country of origin certificates for all fish used to process the exported frozen fish fillets.² Further, Lian Heng agrees to submit to verification of the underlying documentation supporting the above statement. Lian Heng agrees that failure to submit to verification of the documentation supporting these statements will result in immediate revocation of Lian Heng's certification rights and that Lian Heng will be required to post a cash deposit equal to the Vietnam-wide entity rate on all entries of frozen fish fillets of the species *Pangasius Bocourti* (commonly known as basa or trey basa), *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius* and commonly known as tra or trey pra), or *Pangasius Micronemus*. In addition, if the Department of Commerce identifies any misrepresentation or inconsistencies regarding the certifications, it may report the matter to U.S. Customs and Border Protection for possible enforcement action.

Signature:
Printed Name:
Title:

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-818]

Low Enriched Uranium from France: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: July 7, 2006.

FOR FURTHER INFORMATION CONTACT:
Mark Hoadley or Myrna Lobo, AD/CVD
Operations, Office 6, Import

² Documentation may include, but is not limited to the records that (EXPORTER OF RECORD) is required to maintain by the United States Food and Drug Administration's HACCP program and Bioterrorism Act of 2002 and other documents kept in the normal course of business.

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3148 or (202) 482-2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2006, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on low enriched uranium from France for the period February 1, 2004, through January 31, 2005. See *Low Enriched Uranium from France: Preliminary Results of Antidumping Duty Administrative Review* (71 FR 11386). The current deadline for the final results of this review is July 5, 2006.

Extension of Time Limit for Final Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) requires the Department to issue the final results in an administrative review within 120 days after the date on which the preliminary results were published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to 180 days from the date of publication of the preliminary results.

The Department finds that it is not practicable to complete the review within the original time frame due to the complex nature of the case. As this case involves a unique cost calculation methodology and the consideration of requested cost information received after the issuance of the preliminary results, completion of this review is not practicable within the original time limit of July 5, 2006. Consequently, in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations, the Department is extending the time limit for the completion of the final results of the review until no later than August 21, 2006, which is within 180 days from the publication of the preliminary results.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: June 30, 2006.

Stephen J. Claeys,
Deputy Assistant Secretary for Import
Administration.

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