

without a finding that SKF Germany had failed to act to the best of its ability. See *SKF Germany*, 675 F. Supp. 2d at 1268.

In its remand order, the CIT directed the Department to “recalculate SKF {Germany’s} margin after redetermining the constructed value of the subject merchandise SKF {Germany} obtained from the unaffiliated supplier” using information that is not adverse to SKF Germany. See *SKF Germany*, 675 F. Supp. 2d at 1278. In accordance with the CIT’s remand order, the Department filed its redetermination on remand of the final results (remand results) on March 16, 2010, in which the Department recalculated the margin for SKF Germany without use of an adverse inference. On July 7, 2010, the CIT affirmed the Department’s remand results. See *SKF USA Inc., v. United States*, Slip Op. 10–76 (CIT July 7, 2010).

Decision Not in Harmony

In *SKF Germany*, the CIT ruled that the Department acted contrary to law in drawing an inference adverse for SKF Germany based upon the failure of an unaffiliated supplier to make a timely submission of the requested COP data without a finding that SKF Germany had failed to act to the best of its ability.

As a result of changes to calculations in our remand results, the weighted-average margin for SKF Germany for the period May 1, 2006, through April 30, 2007, changed from 4.15 percent to 1.97 percent. Accordingly, absent an appeal or, if appealed, upon a “conclusive” court decision, we will amend our final results of this review to reflect the recalculation of the margin for SKF Germany.

Suspension of Liquidation

The United States Court of Appeals for Federal Circuit (CAFC) has 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 determination. See *The Timken Company v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990). Publication of this notice fulfills that obligation. The CAFC also held that, in such a case, the Department must suspend liquidation until there is a “conclusive” decision in the action. *Id.* Therefore, the Department must suspend liquidation pending the expiration of the period to appeal the CIT’s July 7, 2010, decision or, if appealed, pending a final decision of the CAFC.

Because entries of ball bearings and parts thereof from Germany produced by, exported to, or imported into the United States by SKF Germany are

currently being suspended pursuant to the court’s injunction order in effect, the Department does not need to order U.S. Customs and Border Protection to suspend liquidation of affected entries. The Department will not order the lifting of the suspension of liquidation on applicable entries of ball bearings and parts thereof from Germany made during the review period before a court decision in this lawsuit becomes final and conclusive.

We are issuing and publishing this notice in accordance with section 516A(c)(1) of the Tariff Act of 1930, as amended.

Dated: July 12, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–17427 Filed 7–15–10; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 100625269–0269–02]

RIN 0648–XW94

Endangered and Threatened Wildlife; Notice of 90–Day Finding on a Petition to Revise Critical Habitat for the Endangered Leatherback Sea Turtle Under the Endangered Species Act (ESA)

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

ACTION: Notice of 90–day petition finding.

SUMMARY: We, NMFS announce a 90–day finding on a petition to revise critical habitat for the endangered leatherback sea turtle under the Endangered Species Act (ESA). We find that the petition does not present substantial scientific information indicating that the petitioned action may be warranted for leatherback sea turtles and their habitat under our jurisdiction.

FOR FURTHER INFORMATION CONTACT: Dennis Klemm, NMFS, Southeast Regional Office, Protected Resources Division, dennis.klemm@noaa.gov, (727)824–5312; or Marta Nammack, NMFS, Office of Protected Resources, marta.nammack@noaa.gov, (301)713 1401.

SUPPLEMENTARY INFORMATION:

Background

On February 23, 2010, we received a petition from the Sierra Club asking us and the United States Fish and Wildlife Service (USFWS) to revise, pursuant to the ESA, critical habitat for the endangered leatherback sea turtle. Under the ESA, NMFS and USFWS each have respective areas of jurisdiction over sea turtles, as clarified by the 1977 Memorandum of Understanding Defining the Roles of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service in Joint Administration of the Endangered Species Act of 1973 as to Marine Turtles. NMFS has jurisdiction over sea turtles and their associated habitats in the marine environment, while USFWS has jurisdiction when sea turtles are on land. Thus, if Federal agencies are involved in activities that may affect sea turtles involved in nesting behavior, or may affect their nests or their nesting habitats, those Federal agencies are required to consult with the USFWS under section 7 of the ESA to ensure that their activities are not likely to jeopardize the continued existence of the sea turtles. If a Federal action may affect sea turtles while they are in the marine environment, feeding and migrating for example, the Federal agency involved must engage in a section 7 consultation with NMFS, to ensure that the action is not likely to jeopardize the continued existence of the sea turtles. Similarly, if critical habitat has been designated, and Federal actions may affect such habitat, an ESA section 7 consultation would be required to ensure that the Federal action is not likely to destroy or adversely modify the critical habitat; if the habitat has been designated on land the consultation would be with USFWS, and if the habitat has been designated in the marine environment, the consultation would be with NMFS. This 90–day finding is responsive only to aspects of the petition that fall under our jurisdiction.

The portion of the petitioned critical habitat that falls under NMFS’ jurisdiction is described in the petition as: “the waters off the coastline of the Northeast Ecological Corridor of Puerto Rico, sufficient to protect leatherbacks using the Northeast Ecological Corridor, and extending at least to the hundred fathom contour, or 9 nautical miles offshore, whichever is further, and including the existing marine extensions of Espiritu Santo, Cabezas de San Juan, and Arrecifes de la Cordillera Nature Reserves.” The petition also asserts that the beaches of the Northeast Ecological Corridor of Puerto Rico

(which would fall under the separate jurisdiction of USFWS) are “centrally important to the U.S. Caribbean leatherback population, and should be designated as critical habitat,” and also maintains that the near-shore coastal waters off those beaches (which would fall under NMFS’ jurisdiction) “provide room for turtles to mate and access the beaches, and for hatchlings and adults to leave the beaches.” It likewise asserts that the coastal zone within the Northeast Ecological Corridor (the “corridor”) is particularly vulnerable to developmental pressure and to the growing impacts of climate change, and so warrants protection as critical habitat.

ESA Statutory Provisions and Policy Considerations

Section 4(b)(3)(D) of the ESA of 1973, as amended (16 U.S.C. 1533 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receiving a petition to revise a critical habitat designation, the Secretary of Commerce (Secretary) make a finding as to whether the petition presents substantial scientific information indicating that the revision may be warranted. The finding is to be published promptly in the **Federal Register**. If it is found that substantial information indicating that the petitioned action may be warranted is presented in the petition, the Secretary shall determine how he intends to proceed with the requested revision within 12 months after receiving the petition and shall promptly publish notice of such intention in the **Federal Register**. Joint ESA-implementing regulations issued by NMFS and the USFWS (50 CFR 424.14(b)) define “substantial information” as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In making this finding on a petition to revise critical habitat to include additional areas, the Secretary must consider whether the petition contains information indicating that areas petitioned to be added to critical habitat contain physical and biological features essential to, and that may require special management to provide for, the conservation of the species involved (50 CFR 424.14(c)(2)(i)). Thus, in reviewing a petition to revise critical habitat as defined in the ESA: the physical or biological features identified; the explanation of how such features may be essential to a species’ conservation; and how those features

may require special management considerations.

Analysis of Petition

The petition asserts that the revision of leatherback critical habitat to include the waters off the Northeast Ecological Corridor of Puerto Rico is necessary to protect leatherback sea turtles. The petitioner cites a number of studies about the population status of leatherback sea turtles in the Pacific Ocean, and concludes that populations of leatherback sea turtles in the Atlantic Ocean could experience a similar decline if their habitat is not protected.

The petition identifies the nesting beaches and the open water space off the nesting beaches as the essential features of critical habitat. The petition accurately states what little is known from a few accounts of leatherback mating behavior, that it seems to occur, at least in part, in areas adjacent to nesting beaches. The petition states “the near-shore coastal waters provide room for turtles to mate and to access the beaches, and for hatchlings and adults to leave the beaches after nesting. If these waters are disturbed, reproductive success is likely to decline.” Open marine space to access beaches for the purposes of nesting may be relevant to USFWS’ review of the petition because nesting activities, and section 7 consultations regarding impacts to such activities are under their jurisdiction.

For leatherback sea turtles, we cannot identify, nor has the petitioner presented, any specific values, ranges, or qualities of “open space,” or any thresholds for the quantity of “open space” necessary for hatchling access to open water or for courtship and mating by adults that explains how such space is “essential” to the conservation of the species. The petition merely identifies an area and suggests that all the space therein that could be occupied by leatherback sea turtles should be included in the critical habitat designation. As explained below, this lack of differentiation of habitat used by leatherback sea turtles does not provide substantial information to either identify physical or biological features, or explain how such features could be essential to the species’ conservation.

The petition describes the open space feature as all of the marine environment from the coastline of the Northeast Ecological Corridor of Puerto Rico extending to the hundred fathom contour or 9 nautical miles, whichever is further. The 9 nautical mile boundary is based simply on the political boundary of Puerto Rico’s territorial waters but has no demonstrated scientific/ecological basis as defining a

boundary for a biological or physical feature to be included in a critical habitat designation. The “space” within this area is too varied and undefined to comprise a tangible physical feature, and instead seems to comprise simply all of the space that leatherback sea turtles could theoretically occupy between the shore and the 9 nautical mile or 100 fathom boundary. A critical habitat designation requires the identification of some parameters or values for physical or biological features included in a designation, so that the features can be effectively and meaningfully protected by a designation, including through section 7 consultations evaluating the effects of Federal agency actions on critical habitat through application of the destruction or adverse modification standard. This petition, however, includes no information that would provide a basis for implementing section 7 consultations on impacts to designated critical habitat, because no sufficiently defined features of the habitat have been identified, so there is no habitat aspect that could be identified as being impacted by a proposed Federal action, and thus no trigger for section 7 consultation. As discussed above, our regulations at 50 CFR 424.14(c)(2) specifically direct us to consider whether a petition contains this information.

The petition also cites our 1979 designation of critical habitat off the nesting beaches of Sandy Point, St. Croix (50 CFR 226.207; 44 FR 17711, March 23, 1979) as rationale for likewise designating the waters off the Northeast Ecological Corridor of Puerto Rico. However, that designation did not identify physical or biological features that are essential to the leatherback’s conservation with any degree of specificity. As explained in our consultation handbook (USFWS NMFS 1998, at 4–39), many early critical habitat designations were issued without identification of constituent elements or habitat qualities essential to a species’ conservation. The 1979 critical habitat designation off of St. Croix did not identify essential features for the leatherback’s conservation, and thus that designation alone does not provide substantial information establishing that features meeting the ESA’s definition of critical habitat exist in the nearshore waters off the Northeast Ecological Corridor of Puerto Rico.

Even if open space in the nearshore waters off the Northeast Ecological corridor out to either the 9 nautical mile or 100–fathom boundary could be viewed as a tangible physical feature, there is not substantial scientific or

commercial information to indicate that this feature is essential to the conservation of leatherback sea turtles. In other words, there is not substantial information to indicate that the successful conservation of leatherback sea turtles requires including this open space feature in a designation of critical habitat. The petitioner's discussions of the status of leatherback sea turtles rely primarily on Pacific population assessments to illustrate the precarious situation for leatherback sea turtles. More recent, readily available sources of information specific to Atlantic populations were not cited. The Turtle Expert Working Group published An Assessment of the Leatherback Turtle Population in the Atlantic Ocean in 2007 (NOAA Technical Memorandum NMFS-SEFSC-555) that characterizes the Atlantic population as stable or increasing overall. That assessment characterizes the nesting trend for the North Caribbean stock, which includes Puerto Rico, as increasing. Further, this assessment concludes that inter-nesting threats throughout the North Caribbean for those rookeries are generally "low" in a range including "low," "medium," and "high." No new or substantial information is presented to support the petitioner's assertions that leatherback populations in the Atlantic, or in the North Caribbean, have seriously declined in the years since the original critical habitat designation in St. Croix, or that the Atlantic populations are likely to follow the Pacific population trajectory if critical habitat is not revised to include open marine space off the Northeast Ecological corridor.

As discussed above, the petitioner provided no information, nor is any available in the literature and other material readily available in our files, to prescribe some parameters of an open space feature off the Northeast Ecological Corridor that is essential to the leatherback sea turtle's conservation, thus there is not substantial scientific information indicating that habitat features may exist that meet the first two criteria of the definition of critical habitat. Without such parameters there is no basis on which to conclude that such a feature may require special management considerations or protections, to address potential threats or impacts to the feature, or management needs of the feature, to provide for the conservation of leatherback sea turtles. Thus, there is not substantial scientific information indicating the third aspect of the definition of critical habitat may be met that special management considerations may be required to protect essential

physical or biological features to provide for the conservation of the species.

Petition Finding

After considering the petition, the information cited by the petitioner, and relevant information readily available in our files, we conclude that, with respect to areas under NMFS' jurisdiction, the petition does not present substantial scientific information indicating that the petitioned revision of designated critical habitat for leatherback sea turtles may be warranted.

Authority

The authority for this action is the ESA, as amended (16 U.S.C. 1533 *et seq.*).

Dated: July 14, 2010.

Eric C. Schwaab,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

[FR Doc. 2010-17531 Filed 7-15-10; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-810]

Stainless Steel Bar from India: Extension of Time Limit for the Final Results of the 2008-2009 Antidumping Duty Administrative Review

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

EFFECTIVE DATE: July 16, 2010.

FOR FURTHER INFORMATION CONTACT: Austin Redington or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-1664 and (202) 482-0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, the Department of Commerce ("Department") published the antidumping duty order on stainless steel bar ("SSB") from India. See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995). On March 24, 2009, in accordance with section 751(a) of the Tariff Act of 1930, as amended ("the Act"), the Department initiated an administrative review of the order for two companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request*

for Revocation in Part, and Deferral of Administrative Review, 74 FR 12310 (March 24, 2009). On March 15, 2010, the Department published its preliminary results of the 2008-2009 antidumping duty administrative review. See *Stainless Steel Bar from India: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 12199 (March 15, 2010). The final results for this review are currently due no later than July 13, 2010.

Extension of Time Limit of Final Results

Section 751(a)(3)(A) of the Act requires the Department to issue final results within 120 days after the date on which the preliminary results are 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 period to a maximum of 180 days.

Completion of the final results of the administrative review within the 120-day period in this case is not practicable because, following the preliminary results, the Department received additional cost information from Venus, as requested by the Department, which required the Department to produce a post-preliminary analysis involving a comprehensive cost analysis, significantly delaying the briefing schedule. See Memorandum from Susan Kuhbach, Senior Office Director to Ronald K Lorentzen, Assistant Secretary, entitled "Post-Preliminary Analysis Calculation Memorandum for Venus Wire Industries Pvt. Ltd.," dated May 19, 2010. Further, the Department requires additional time to review and address the detail and complexity of the cost accounting issues and arguments brought forward in the case and rebuttal briefs from both Venus Wire Industries Pvt. Ltd. and the domestic interested parties. Thus, we have determined it is not practicable to complete this review within the time specified under the Act, we are extending the time period for issuing the final reand sults of the administrative review by 45 days in accordance with section 751(a)(3)(A) of the Act. Therefore, the final results are now due no later than August 27, 2010.

This notice is published pursuant to sections 751(a) and 777(i) of the Act.

Dated: July 12, 2010.

Edward C. Yang,

*Acting Deputy Assistant Secretary for
Antidumping and Countervailing Duty
Operations.*

[FR Doc. 2010-17423 Filed 7-15-10; 8:45 am]

BILLING CODE 3510-DS-S