

## Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (“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, which continues to govern business proprietary information in this segment of the proceeding. 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.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: March 21, 2013.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-801]

#### Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Review; 2012-2013

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

**DATES:** *Effective Date:* March 28, 2013.

**SUMMARY:** The Department of Commerce (“the Department”) has received a timely request for a new shipper review (“NSR”) of the antidumping duty (“AD”) order on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”). The Department has determined that the request meets the statutory and regulatory requirements for initiation. The period of review (“POR”) for this NSR is August 1, 2012, through January 31, 2013.

**FOR FURTHER INFORMATION CONTACT:** Alexander Montoro, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202-482-0238.

**SUPPLEMENTARY INFORMATION:**

## Background

The AD order on fish fillets from Vietnam was published on August 12, 2003.<sup>1</sup> On February 26, 2013, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.214(b), the Department received a NSR request from Ngoc Ha Co. Ltd. Food Processing and Trading (“Ngoc Ha”).<sup>2</sup> Ngoc Ha certified that it is a producer and exporter of the subject merchandise and that it exported, or has sold for export, subject merchandise to the United States.<sup>3</sup>

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Ngoc Ha certified that it did not export subject merchandise to the United States during the period of investigation (“POI”).<sup>4</sup> In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Ngoc Ha certified that, since the initiation of the investigation, it has never been affiliated with any Vietnamese exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually examined during the investigation.<sup>5</sup> As required by 19 CFR 351.214(b)(2)(iii)(B), Ngoc Ha also certified that its export activities were not controlled by the central government of Vietnam.<sup>6</sup>

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Ngoc Ha submitted documentation establishing the following: (1) The date on which it first shipped subject merchandise for export to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.<sup>7</sup>

Finally, the Department conducted a U.S. Customs and Border Protection (“CBP”) database query and confirmed the price, quantity, date of sale, and date of entry of the sale at issue. In addition, the Department confirmed that the data on any subsequent shipments

<sup>1</sup> See *Notice of Antidumping Duty Order: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003).

<sup>2</sup> See Letter from Ngoc Ha, “Re: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Request for New Shipper Review,” dated February 26, 2013.

<sup>3</sup> See *Id.* at 1-2 and at Exhibit 1.

<sup>4</sup> *Id.* at Exhibit 2.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at Exhibit 1; See also Memorandum to the File from Scot Fullerton, Program Manager, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Placing CBP data on the record,” dated concurrently with this notice.

corresponds with the information provided by Ngoc Ha.<sup>8</sup>

## Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), and based on the documentation provided by Ngoc Ha, we find that the request submitted by Ngoc Ha meets the requirements for initiation of the NSR for shipments of fish fillets from Vietnam.<sup>9</sup> The POR is August 1, 2012, through January 31, 2013.<sup>10</sup> Absent a determination that the case is extraordinarily complicated, the Department intends to issue the preliminary results of this NSR within 180 days from the date of initiation and the final results within 270 days from the date of initiation.<sup>11</sup>

It is the Department’s usual practice, in cases involving non-market economies, to require that a company seeking to establish eligibility for an AD rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company’s export activities. Accordingly, we will issue a questionnaire to Ngoc Ha that will include a separate-rate section. The review of Ngoc Ha will proceed if the response provides sufficient indication that it is not subject to either *de jure* or *de facto* government control with respect to its exports of fish fillets.

We will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from the requesting company in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Ngoc Ha certified that it both produced and exported the subject merchandise, the sale of which is the basis for the new-shipper request for review, we will instruct CBP to permit the use of a bond only for subject merchandise which Ngoc Ha both produced and exported.

Interested parties requiring access to proprietary information in this NSR should submit applications for

<sup>8</sup> See Memorandum to the File from Scot Fullerton, Program Manager, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: New Shipper Initiation Checklists,” dated concurrently with this notice; see also Memorandum to the File from Scot Fullerton, Program Manager, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Placing CBP data on the record,” dated concurrently with this notice.

<sup>9</sup> See Memorandum to the File from Scot Fullerton, Program Manager, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: New Shipper Initiation Checklist,” dated concurrently with this notice.

<sup>10</sup> See 19 CFR 351.214(g)(1)(i)(B).

<sup>11</sup> See section 751(a)(2)(B)(iv) of the Act.

disclosure under administrative protective order, in accordance with 19 CFR 351.305 and 19 CFR 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act, 19 CFR 351.214, and 19 CFR 351.221(c)(1)(i).

Dated: March 21, 2013.

**Gary Taverman,**

*Senior Advisor for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-893; A-570-900]

#### **Certain Frozen Warmwater Shrimp From the People's Republic of China and Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders**

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

**SUMMARY:** On March 22, 2013, the U.S. Trade Representative ("USTR") instructed the Department of Commerce ("Department") to implement its determinations under section 129 of the Uruguay Round Agreements Act ("URAA") regarding the antidumping investigations of certain frozen warmwater shrimp ("shrimp") from the People's Republic of China ("PRC") and diamond sawblades and parts thereof ("sawblades") from the PRC. The Department issued its final determinations on March 4, 2013, regarding the offsetting of dumped comparisons with non-dumped comparisons when making average-to-average comparisons of export price and normal value in the investigation challenged by the PRC before the World Trade Organization ("WTO") in *United States—Anti-Dumping Measures on Certain Shrimp and Diamond Saw Blades from China* (DS422). The Department is now implementing these determinations.

**DATES:** The effective date of this determination is March 22, 2013.

**FOR FURTHER INFORMATION CONTACT:** Irene Gorelik (shrimp) and Matthew Renkey (sawblades), AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW.,

Washington, DC 20230; telephone: (202) 482-6905 and (202) 482-2312, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

At the written request of USTR, the Department informed interested parties on September 5, 2012, that it was initiating proceedings under section 129 of the URAA to implement the findings of the WTO dispute settlement panel in *United States—Anti-Dumping Measures on Certain Shrimp and Diamond Saw blades from China* (DS422) ("Panel Report"). On December 7, 2012, the Department issued the memorandum entitled "Preliminary Results Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China," dated December 7, 2012 ("Preliminary Shrimp 129 Determination"), in which the Department recalculated the weighted-average dumping margins from the antidumping investigation of shrimp from the PRC<sup>1</sup> by applying the calculation methodology described in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006) ("Final Modification for Investigations").

On December 17, 2012, the Department issued the memorandum entitled "Preliminary Results under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Diamond Sawblades and Parts Thereof from the People's Republic of China," dated December 17, 2012 ("Preliminary Sawblades 129 Determination"), in which the Department recalculated one of the weighted-average dumping margins from the antidumping investigation of

<sup>1</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China*, 69 FR 70997 (December 8, 2004) ("PRC Shrimp Final Determination"). See also *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the People's Republic of China*, 70 FR 5149 (February 1, 2005) ("PRC Shrimp Amended Final" or "PRC Shrimp Order"). On January 21, 2005, the ITC notified the Department of its final determination that two domestic like products exist for the merchandise covered by the Department's investigation: (i) Certain non-canned warmwater shrimp and prawns, and (ii) canned warmwater shrimp and prawns. The ITC determined that there is no injury regarding imports of canned warmwater shrimp and prawns from the PRC. Therefore, canned warmwater shrimp and prawns is not covered by the *PRC Shrimp Order*.

sawblades from the PRC<sup>2</sup> by applying the calculation methodology described in *Final Modification for Investigations*.

The Department invited interested parties for both shrimp and sawblades to comment on the respective preliminary recalculations. After receiving comments and rebuttal comments from the interested parties in both cases, the Department issued its final section 129 determinations on March 4, 2013.<sup>3</sup>

In a March 22, 2013, letter, USTR notified the Department that, consistent with section 129(b)(3) of the URAA, consultations with the Department and the appropriate congressional committees with respect to the March 4, 2013, determinations have been completed. On March 22, 2013, in accordance with section 129(b)(4) of the URAA, USTR directed the Department to implement these determinations.

##### **Nature of the Proceeding**

Section 129 of the URAA governs the nature and effect of determinations issued by the Department to implement findings by WTO dispute settlement panels and the Appellate Body. Specifically, section 129(b)(2) of the URAA provides that, "notwithstanding any provision of the Tariff Act of 1930," within 180 days of a written request from the USTR, the Department shall issue a determination that would render its actions not inconsistent with an adverse finding of a WTO panel or the Appellate Body report. The Statement of Administrative Action, URAA, H. Doc. 316, Vol. 1, 103d Cong. (1994) ("SAA"), variously refers to such a determination by the Department as a "new," "second," and "different" determination.<sup>4</sup> After consulting with

<sup>2</sup> See *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006). See also *Notice of Amended Final Determination of Sales at Less Than Fair Value: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 35864 (June 22, 2006); *Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 FR 57145 (November 4, 2009) ("Sawblades Order").

<sup>3</sup> See Memoranda from Christian Marsh to Paul Piquado, "Final Results of the Proceeding under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China," dated March 4, 2013 ("Shrimp Final 129 Determination Memo"), and "Final Results of the Proceeding under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Diamond Sawblades and Parts Thereof from the People's Republic of China," dated March 4, 2013 ("Sawblades Final 129 Determination Memo").

<sup>4</sup> See Statement of Administrative Action accompanying the URAA, H. Doc. 316, Vol. 1, 103d Cong. (1994) ("SAA") at 1025, 1027.