

instruct CBP to collect the appropriate duties at the time of liquidation.⁸ Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.⁹ We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

Pursuant to the Department's assessment practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide entity rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide entity rate.¹⁰

Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively on any entries made on or after March 20, 2017, the date of publication of the *Final Results*, for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the "Amended Final Results" section (except, if the rate is zero or *de minimis*, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period. (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-Wide rate of 118.04 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

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 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or 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.

These amended final results and notice are issued and published in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: April 19, 2017.

Ronald Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-857, C-122-858]

Antidumping and Countervailing Duty Investigations of Certain Softwood Lumber Products From Canada: Preliminary Determinations of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On November 25, 2016, the Department of Commerce (the Department) received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of certain softwood lumber products (softwood lumber) from Canada. In the petitions, the Department received timely allegations that critical circumstances exist with respect to imports of the

merchandise under investigation. Based on information provided by the Committee Overseeing Action for Lumber International Trade Investigations (Petitioner), data placed on the record of these investigations by the mandatory and voluntary respondents, and data collected by the Department, the Department preliminarily determines that critical circumstances exist for imports of softwood lumber from certain producers and exporters from Canada.

DATES: Effective April 26, 2017.

FOR FURTHER INFORMATION CONTACT:

Stephanie Moore (for CVD) or Thomas Martin (for AD), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3692 and (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

Section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), provides that the Department will preliminarily determine that critical circumstances exist in CVD investigations if there is a reasonable basis to believe or suspect: (A) That "the alleged countervailable subsidy" is inconsistent with the Subsidies and Countervailing Measures (SCM) Agreement of the World Trade Organization; and (B) that there have been massive imports of the subject merchandise over a relatively short period. Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in AD investigations if there is a reasonable basis to believe or suspect: (A)(i) That there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) that the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) that there have been massive imports of the subject merchandise over a relatively short period.

Section 351.206 of the Department's regulations provides that, in general, imports must increase by at least 15 percent during the "relatively short period" to be considered "massive,"¹ and defines a "relatively short period" as normally being the period beginning

⁸ *Id.*

⁹ See 19 CFR 351.106(c)(2).

¹⁰ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

¹ See 19 CFR 351.206(h).

on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.² The regulations also provide, however, that if the Department finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.³

Alleged Countervailable Subsidy Is Inconsistent With the SCM Agreement

To determine whether there exists a reasonable basis to believe or suspect that an alleged countervailable subsidy is inconsistent with the SCM Agreement, in accordance with section 703(e)(1)(A) of the Act, the Department considered the evidence on the record pertaining to Petitioner's allegation that the Export Development Canada: Export Guarantee Program is inconsistent with the SCM Agreement. Specifically, as described in our initiation checklist,⁴ with regard to this program, Petitioner has alleged the elements of a subsidy,⁵ supported with information reasonably available to Petitioner, that appears to be export contingent, which would render it inconsistent with the SCM Agreement. Therefore, the Department preliminarily determines that there is a reasonable basis to believe or suspect that an alleged subsidy in the CVD investigation is inconsistent with the SCM agreement.

History of Dumping and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise. The Department, therefore, considers that it has previously issued an AD order on softwood lumber from Canada, based on nearly identical harmonized tariff schedule numbers.⁶ Furthermore, and with respect to determining whether there is a history of material injury, the

Department determines that it is appropriate to rely on the International Trade Commission's (ITC) section 129 affirmative threat of material injury determination, and finds a history of material injury based on this determination.⁷ Therefore, we preliminarily find that there is a history of dumping and material injury by reason of dumped imports of the subject merchandise.

Massive Imports

In determining whether there are "massive imports" over a "relatively short period," pursuant to sections 703(e)(1)(B) and 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the "base period") to a comparable period of at least three months following the filing of the petition (*i.e.*, the "comparison period"). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

Based on evidence provided by Petitioner, the Department finds that, pursuant to 19 CFR 351.206(i), importers, exporters or producers had reason to believe, at some time prior to the filing of the petition, that a proceeding was likely. Specifically, the Softwood Lumber Agreement (SLA) between the United States and Canada expired on October 12, 2015, and expressly provided for a "standstill" period of 12 months after the expiration of the agreement, during which the U.S. domestic industry agreed to not file AD/

CVD petitions.⁸ Because of the unique circumstance of the expiration of the SLA in October 2015, importers and Canadian producers/exporters were aware that potential AD/CVD petitions could be filed as early as October 12, 2016. Thus, the Department finds that, pursuant to 19 CFR 351.206(i), importers, exporters or producers had reason to believe that proceedings were likely following expiration of the SLA on October 12, 2015.

In order to determine whether there has been a massive surge in imports for each mandatory respondent (Canfor Corporation (Canfor), Resolute FP Canada Inc. (Resolute), Tolko Marketing Sales Ltd. (Tolko), West Fraser Mills Ltd. (West Fraser)) and J.D. Irving (the voluntary respondent in the CVD investigation), the Department compared the total volume of shipments from October 2015 through June 2016 (*i.e.*, the comparison period) with the preceding nine-month period of January 2015 through September 2015 (*i.e.*, the base period).⁹ For "all others," the Department compared Global Trade Atlas (GTA) data for the period October 2015 through June 2016 with the preceding nine-month period of January 2015 through September 2015.¹⁰ The Department first subtracted the shipments reported by the mandatory respondents and J.D. Irving from the GTA data. Based on these comparisons, we preliminarily determine that J.D. Irving and "all others" had massive surges in imports.¹¹ The shipment data do not demonstrate massive surges in imports for Canfor, Resolute, Tolko, and West Fraser.

⁷ On May 16, 2002, the ITC determined that an industry in the United States was threatened with material injury by reason of imports from Canada of softwood lumber found to be subsidized and sold in the United States at less than fair value, leading the Department to publish antidumping and countervailing duty orders on softwood lumber from Canada. Subsequently, the Government of Canada initiated a dispute settlement proceeding against the United States at the World Trade Organization, resulting in findings, *inter alia*, that the ITC did not act in conformity with the United States' obligations under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and the Agreement on Subsidies and Countervailing Measures. Accordingly, pursuant to section 129 of the Uruguay Round Agreements Act (19 U.S.C. 3538), the ITC took action that would render its original determination not inconsistent with the findings of the dispute settlement panel. The ITC again determined that an industry in the United States was threatened with material injury by reason of imports from Canada of softwood lumber found to be subsidized and sold in the United States at less than fair value. See U.S. International Trade Commission, *Softwood Lumber from Canada: Investigation Nos. 701-TA-414 and 731-TA-928 (Section 129 Consistency Determination)*, Pub. 3740 (Nov. 2004); see also *Amended Orders*.

⁸ See Petitions at Volume I, pp. 70–73.

⁹ Because we only have data from the respondents dating back to January 2015, we intend to solicit shipment data for an equal number of months prior to January 2015 as the base period to compare to the most recent shipment data available through the months of the preliminary determinations.

¹⁰ The GTA data includes the following harmonized tariff schedule numbers: 4407.10.01.01; 4407.10.01.02; 4407.10.01.15; 4407.10.01.16; 4407.10.01.17; 4407.10.01.18; 4407.10.01.19; 4407.10.01.20; 4407.10.01.42; 4407.10.01.43; 4407.10.01.44; 4407.10.01.45; 4407.10.01.46; 4407.10.01.47; 4407.10.01.48; 4407.10.01.49; 4407.10.01.52; 4407.10.01.53; 4407.10.01.54; 4407.10.01.55; 4407.10.01.56; 4407.10.01.57; 4407.10.01.58; 4407.10.01.59; 4407.10.01.64; 4407.10.01.65; 4407.10.01.66; 4407.10.01.67; 4407.10.01.68; 4407.10.01.69; 4407.10.01.74; 4407.10.01.75; 4407.10.01.76; 4407.10.01.77; 4407.10.01.82; 4407.10.01.83; 4407.10.01.92; 4407.10.01.93; 4409.10.05.00; 4409.10.10.20; 4409.10.10.40; 4409.10.10.60; 4409.10.10.80; 4409.10.20.00; 4409.10.90.20; 4409.10.90.40; and 4418.90.25.00.

¹¹ See the AD and CVD Preliminary Critical Circumstances Memoranda, dated concurrently with this notice.

² See 19 CFR 351.206(i).

³ *Id.*

⁴ See CVD Initiation Checklist, dated December 15, 2016 at 37.

⁵ See Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Imports of Certain Softwood Lumber Products from Canada, dated November 25, 2016 (Petitions) at Volume III, pp. 231–236.

⁶ See *Amendment to Antidumping and Countervailing Duty Orders on Certain Softwood Lumber Products from Canada*, 69 FR 75916 (December 20, 2004) (*Amended Orders*).

Conclusion

Based on the criteria and findings discussed above, we preliminarily determine that critical circumstances exist with respect to imports of softwood lumber shipped by J.D. Irving and “all others.” We preliminarily determine that critical circumstances do not exist with respect to Canfor, Resolute, Tolko, and West Fraser.

Final Critical Circumstances Determinations

We will issue final determinations concerning critical circumstances when we issue our final subsidy and less-than-fair-value determinations. All interested parties will have the opportunity to address the Department’s determinations with regard to critical circumstances in case briefs to be submitted after completion of the preliminary subsidy and less than fair value determinations.

International Trade Commission Notification

In accordance with sections 703(f) and 733(f) of the Act, we will notify the ITC of our determinations.

Suspension of Liquidation

In accordance with section 703(e)(2) of the Act, because we have preliminarily found that critical circumstances exist with regard to imports exported by certain producers and exporters, if we make an affirmative preliminary determination that countervailable subsidies have been provided to these same producers/exporters at above *de minimis* rates,¹² we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from these producers/exporters that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the effective date of “provisional measures” (e.g., the date of publication in the **Federal Register** of the notice of an affirmative preliminary determination that countervailable subsidies have been provided at above *de minimis* rates). At such time, we will also instruct CBP to require a cash deposit equal to the estimated preliminary subsidy rates reflected in the preliminary determination published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

In accordance with section 733(e)(2) of the Act, because we have preliminarily found that critical circumstances exist with regard to

imports exported by certain producers and exporters, if we make an affirmative preliminary determination that sales at less than fair value have been made by these same producers/exporters at above *de minimis* rates, we will instruct CBP to suspend liquidation of all entries of subject merchandise from these producers/exporters that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the effective date of “provisional measures” (e.g., the date of publication in the **Federal Register** of the notice of an affirmative preliminary determination of sales at less than fair value at above *de minimis* rates). At such time, we will also instruct CBP to require a cash deposit equal to the estimated preliminary dumping margins reflected in the preliminary determination published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.206(C)(2).

Dated: April 13, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–08469 Filed 4–25–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF319

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Coast Boulevard Improvements Project, La Jolla, California

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

ACTION: Proposed incidental harassment authorization (IHA); request for comments.

SUMMARY: NMFS has received a request from the City of San Diego for authorization to take marine mammals incidental to Coast Boulevard improvements in La Jolla, California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to incidentally take marine mammals during the specified activities.

DATES: Comments and information must be received no later than May 26, 2017.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to ITP.Carduner@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at www.nmfs.noaa.gov/pr/permits/incidental/construction.htm without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: www.nmfs.noaa.gov/pr/permits/incidental/construction.htm. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements

¹² The preliminary subsidy determination is currently scheduled for April 24, 2017.