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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Intent to Rescind Antidumping Duty New Shipper Review; 2012-2013

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

SUMMARY: The Department of Commerce (“the Department”) is conducting a new shipper review (“NSR”) of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (“Vietnam”). The period of review (“POR”) is August 1, 2012, through July 31, 2013. The review covers one producer and exporter of subject merchandise, Thanh Hung Co., Ltd. D/B/A Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. (“Thanh Hung”). The Department preliminarily determines that Thanh Hung’s sale to the United States was not bona fide and is preliminarily rescinding this NSR. Interested parties are invited to comment on these preliminary results.

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION).

FOR FURTHER INFORMATION CONTACT: Susan Pulongbarit, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4031.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 2013, the Department initiated an NSR of fish fillets from Vietnam for the period August 1, 2012, through July 31, 2013.¹ As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.² On March 19, 2014, the Department extended the time period for issuing the preliminary results by 71 days.³ On June 11, 2014, the Department partially extended the deadline for issuing the preliminary results by 14 days.⁴ The revised deadline for the preliminary results of this new shipper review is now July 2, 2014.

Scope of the Order

The product covered by the 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*. These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the

¹ See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Review*, 78 FR 59915 (September 30, 2013).

² See Memorandum to the File, “Frontseating Service Valves From the People’s Republic of China: Tolling of Deadlines for Shutdown of the Federal Government,” dated October 22, 2013.

³ See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations from Susan Pulongbarit, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations, re: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Review of Thanh Hung Co., Ltd. dated March 19, 2014.

⁴ See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations from Susan Pulongbarit, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations, re: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Review of Thanh Hung Co., Ltd. dated June 11, 2014.

Harmonized Tariff Schedule of the United States (“HTSUS”).⁵ Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.⁶

Methodology

The Department conducted these reviews in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (“the Act”) and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* the Appendix accompanying this notice and the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/enforcement/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Bona Fide Analysis

As discussed in the *bona fide* memo, the Department preliminarily finds that the sale by Thanh Hung is not a *bona fide* sale and that the sale does not provide a reasonable or reliable

⁵ Until July 1, 2004, these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007, these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra). On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”): 1604.19.2000 and 1604.19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁶ *See* “Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Certain Frozen Fish Fillets from the Socialist’s Republic of Vietnam” from Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, dated June 18, 2014 (“Preliminary Decision Memorandum”) and hereby adopted by this notice, for a complete description of the Scope of the Order.

basis for calculating a dumping margin.⁷ Specifically, the Department reached this conclusion based on the totality of circumstances, namely: (a) the atypical nature of Thanh Hung's price and quantity; (b) extraordinary expenses arising from the transaction; (c) the importer's regular commercial interest; (d) atypical circumstances surrounding production; and (e) unreported connections to other entities.⁸ Because this non-*bona fide* sale was the only sale of subject merchandise during the POR, the Department is preliminarily rescinding the NSR.

Disclosure and Public Comments

The Department will disclose analysis performed to parties to the proceeding within five days after the date of publication of this notice.⁹

Interested parties are invited to comment on the preliminary results of this review. Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results of review.¹⁰ Rebuttal briefs, limited to issues raised in such briefs, may be filed no later than five days after the time limit for filing the case briefs.¹¹

Any interested party may request a hearing within 30 days of publication of the preliminary results in the *Federal Register*.¹² Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time

⁷ See Memorandum to James Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Susan Pulongbarit, International Trade Analyst, titled "New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: *Bona Fide* Nature of Thanh Hung Co., Ltd.'s Sale," dated concurrently and hereby adopted by this notice.

⁸ See *id.*

⁹ See 19 CFR 351.224(b).

¹⁰ See 19 CFR 351.309(c)(1)(ii); Parties submitting written comments must submit them pursuant to the Department's e-filing regulations. See <https://iaaccess.trade.gov/help/IA%20ACCESS%20User%20Guide.pdf>.

¹¹ See 19 CFR 351.309(d)(1)-(2).

¹² See 19 CFR 351.310(c).

and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.¹³

The Department intends to issue the final results of this NSR, which will include the results of its analysis of issues raised in all comments and at any hearing, within 90 days of publication of these preliminary results, pursuant to section 751(a)(2)(B)(iv) of the Act.

Assessment Rates

Upon completion of the final results, pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. If we proceed to a final rescission of this NSR, Thanh Hung's entry will be assessed at the rate entered.¹⁴ If we do not proceed to a final rescission of this NSR, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) assessment rates on a per unit basis.¹⁵ We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.¹⁶

In either case, the Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

¹³ See 19 CFR 351.310(d).

¹⁴ See 19 CFR 351.212(c).

¹⁵ In the third administrative review, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

¹⁶ See 19 CFR 351.106(c)(2).

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this NSR, pursuant to section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e), the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Thanh Hung. If the Department proceeds to a final rescission of this NSR, the cash deposit rate will continue to be the per-unit Vietnam-wide rate for Thanh Hung because the Department will not have determined an individual margin of dumping for Thanh Hung. If the Department issues final results for this NSR, the Department will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rates established therein.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: July 2, 2014.

Ronald K. Lorentzen,
Acting Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. *Bona Fides* Analysis

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