

Commission},” and found those to be non-dispositive as well.¹⁰ The Department thus reincorporated its earlier analysis under 19 CFR 351.225(k)(2) to conclude that SSPC with a nominal thickness greater than or equal to 4.75 mm regardless of the actual thickness is included within the scope of the *AD and CVD Orders*.¹¹

On July 12, 2011, the CIT sustained the Department’s First Remand Redetermination.¹² AMS Belgium appealed the CIT’s final judgment to the CAFC.

On September 7, 2012, the CAFC reversed the CIT’s judgment. The CAFC concluded that substantial evidence did not support the Department’s determination that the language of the SSPC orders is ambiguous and held that “the plain meaning of the orders regarding the 4.75 mm thickness is a reference to actual thickness of products subject to the orders.”¹³

On January 4, 2013, the CIT issued a remand order directing the Department to take action in accordance with the CAFC’s decision in *ArcelorMittal* and to find that SSPC with an actual thickness of less than 4.75 mm is outside the scope of the *AD and CVD Orders*.¹⁴ Pursuant to that order, the Department construed the scope of the *AD and CVD Orders* so that SSPC from Belgium with an actual thickness of less than 4.75 mm is not subject to the *AD and CVD Orders* on SSPC, regardless of its nominal thickness.¹⁵ The CIT sustained the Department’s remand redetermination on March 26, 2013.¹⁶

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CAFC’s September 7, 2012, judgment in *ArcelorMittal* constitutes a final decision of that court that is not in harmony with the Department’s Final Scope Ruling. This notice is published

in fulfillment of the publication requirements of *Timken*.

Amended Final Scope Ruling

Because there is now a final court decision with respect to SSPC with an actual thickness of less than 4.75 mm, the Department amends its Final Scope Ruling and now finds that the scope of the *AD and CVD Orders* excludes SSPC with an actual thickness of less than 4.75 mm, regardless of its nominal thickness. Accordingly, the Department will issue revised instructions to U.S. Customs and Border Protection.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: May 14, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–12223 Filed 5–21–13; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–838]

Certain Frozen Warmwater Shrimp from Brazil: Notice of Rescission of Antidumping Duty Administrative Review; 2012–2013

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

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4929 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2013, the Department of Commerce (the Department) published in the **Federal Register** a notice of “Opportunity to Request Administrative Review” of the antidumping duty order on certain frozen warmwater shrimp from Brazil for the period of review (POR) of February 1, 2012, through January 31, 2013.¹ The Department received a timely request from the Ad Hoc Shrimp Trade Action Committee (Domestic Producers) in accordance with 19 CFR

351.213(b), for an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Brazil. On March 29, 2013, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Brazil with respect to two companies.²

The Department stated in its initiation of this review that it intended to rely on U.S. Customs and Border Protection (CBP) data to select respondents.³ However, our review of the CBP database, with respect to the companies for which this review was requested, showed no entries of subject merchandise during the POR.⁴ We released the results of our CBP data query to the Domestic Producers, the only interested party to this segment of the proceeding, and invited them to comment on the CBP data. We received no comments on the CBP data.

On April 4, 2013, we sent a “No Shipments Inquiry” to CBP to confirm that there were no shipments or entries of subject merchandise during the POR from the companies subject to review. We received no information from CBP to contradict the results of our data query.

On April 29, 2013, we stated that because information from CBP indicates that there were no entries of subject merchandise during the POR from the companies covered by this review, we intend to rescind this review.⁵ We invited parties to comment on our intent to rescind this administrative review. We did not receive comments from any interested party.

Rescission of Review

Section 351.213(d)(3) of the Department’s regulations stipulates that the Secretary may rescind an administrative review if there were no entries, exports, or sales of the subject merchandise during the POR. As there were no entries, exports, or sales of the subject merchandise during the POR, we are rescinding this review of the antidumping duty order on certain frozen warmwater shrimp from Brazil pursuant to 19 CFR 351.213(d)(3). We intend to issue assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review.

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 19197 (March 29, 2013).

³ See *id.*

⁴ See April 3, 2013, Memorandum to the File entitled “Release of Customs and Border Protection (CBP) Data.”

⁵ See April 29, 2013, Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, entitled “Intent to Rescind Administrative Review.”

¹⁰ See *id.* at 8–12, 22–24.

¹¹ See *id.* at 25.

¹² See *ArcelorMittal Stainless Belg. N.V. v. United States*, Court No. 08–00434, Slip Op. 11–82 (Ct. Int’l Trade July 12, 2011).

¹³ See *ArcelorMittal*, 694 F.3d at 88–90.

¹⁴ See *ArcelorMittal Stainless Belgium N.V. v. United States*, Court No. 08–00434 (Ct. Int’l Trade Jan. 4, 2013) (remand order).

¹⁵ See Second Remand Determination at 6–7, 10.

¹⁶ See *Final CIT Order*.

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 78 FR 7397 (February 1, 2013).

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 16, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013-12211 Filed 5-21-13; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 84-24A12]

Export Trade Certificate of Review

ACTION: Notice of Application to Amend the Export Trade Certificate of Review Issued to Northwest Fruit Exporters, Application no. 84-24A12.

SUMMARY: The Office of Competition and Economic Analysis ("OCEA") of the International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT:

Joseph Flynn, Director, Office of Competition and Economic Analysis, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or email at etca@trade.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked

and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7025X, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 84-24A12."

The Northwest Fruit Exporters' ("NWF") original Certificate was issued on June 11, 1984 (49 FR 24581, June 14, 1984), and last amended on January 3, 2013 (78 FR 1837, January 9, 2013). A summary of the current application for an amendment follows.

Summary of the Application

Applicant: Northwest Fruit Exporters, 105 South 18th Street, Suite 227, Yakima, WA 98901.

Contact: James R. Archer, Manager, (509) 576-8004.

Application No.: 84-24A12.

Date Deemed Submitted: May 14, 2013.

Proposed Amendment: NWF seeks to amend its Certificate to:

1. Add the following companies as new Members of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)): Phillippi Fruit Company, Inc. (Wenatchee, WA); Quincy Fresh Fruit Co. (Quincy, WA); Western Sweet Cherry Group, LLC (Yakima, WA); and Whitby Farms, Inc. dba: Farm Boy Fruit Snacks LLC (Mesa, WA); and

2. Remove the following companies as Members of NWF's Certificate: Andrus & Roberts Produce Co. (Sunnyside, WA); Crown Packing, LLC (Wenatchee, WA); Garrett Ranches Packing (Wilder, ID); IM EX Trading Company (Yakima, WA); and Orondo Fruit Co., Inc. (Orondo, WA); and

3. Change the name of the following member: Broetje Orchards of Prescott, WA is now Broetje Orchards LLC; and Nuchief Sales Inc. of Wenatchee, WA is now Honey Bear Tree Fruit Co., LLC.

Dated: May 15, 2013.

Joseph E. Flynn,

Director, Office of Competition and Economic Analysis.

[FR Doc. 2013-12062 Filed 5-21-13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC647

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Barge Mooring Project

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the U.S. Navy (Navy) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to construction activities as part of a barge mooring project. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to the Navy to take, by Level B Harassment only, four species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than June 21, 2013.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is ITP.Laws@noaa.gov. NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record. 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.

A copy of the application as well as a list of the references used in this document may be obtained by writing to the address specified above, telephoning