

Written comments and recommendations for the proposed information collection should be sent on or before May 3, 2010 to Nicholas A. Fraser, OMB Desk Officer, via e-mail to [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov) or by fax to 202-395-5167, marked to the attention of Nicholas A. Fraser.

Dated: March 25, 2010.

**Susan K. Fawcett,**

*Records Officer, USPTO, Office of the Chief Information Officer.*

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**BILLING CODE 3510-16-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review**

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

**FOR FURTHER INFORMATION CONTACT:** Sheila E. Forbes, Office of AD/CVD

Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, *telephone:* (202) 482-4697.

**Background**

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (“the Act”), may request, in accordance with section 351.213 of the Department of Commerce (“the Department”) regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

**Respondent Selection**

In the event the Department limits the number of respondents for individual examination for administrative review initiated pursuant to requests made for the orders identified below, the Department intends to select

respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the period of review (“POR”). We intend to release the CBP data under Administrative Protective Order (“APO”) to all parties having an APO within five days of publication of the initiation notice and make our decision regarding respondent selection within 20 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within 10 calendar days of publication of the **Federal Register** initiation notice.

*Opportunity to Request a Review:* Not later than the last day of April 2010,<sup>1</sup> interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in April for the following periods:

	Period of review
<b>Antidumping Duty Proceedings</b>	
France: Sorbitol, A-427-001 .....	4/1/09-3/31/10
India: 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) A-533-847 .....	4/23/09-3/31/10
Norway: Fresh and Chilled Atlantic Salmon, A-403-801 .....	4/1/09-3/31/10
The People’s Republic of China:	
Activated Carbon, A-570-904 .....	4/1/09-3/31/10
Certain Steel Threaded Rod, A-570-932 .....	10/8/08-3/31/10
Frontseating Service Valves, A-570-933 .....	10/22/08-3/31/10
1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP), A-570-934 .....	4/23/09-3/31/10
Magnesium Metal, A-570-896 .....	4/1/09-3/31/10
Non-Malleable Cast Iron Pipe Fittings, A-570-875 .....	4/1/09-3/31/10
Russia: Magnesium Metal, A-821-819 .....	4/1/09-3/31/10
<b>Countervailing Duty Proceedings</b>	
Norway: Fresh and Chilled Atlantic Salmon, C-403-802 .....	1/1/09-12/31/09

**Suspension Agreements**

None.

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested

described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.<sup>2</sup> If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party’s location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party’s attempts were

<sup>1</sup> Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

<sup>2</sup> If the review request involves a non-market economy country and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the

non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

reasonable, pursuant to 19 CFR 351.303(f)(3)(ii) of the regulations.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration web site at <http://ia.ita.doc.gov>.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Duty Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the Department's regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of April 2010. If the Department does not receive, by the last day of April 2010, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period, of the order, if such a gap period is applicable to the POR.

This notice is not required by statute but is published as a service to the international trading community.

Dated: March 26, 2010.

**John M. Andersen,**

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

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-848]

#### **Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony**

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

**SUMMARY:** On February 9, 2010, the Court of International Trade (CIT or Court) sustained the final results of redetermination made by the Department of Commerce (the Department) regarding the 2005-2006 administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). See *Washington International Insurance Company v. United States*, Court No. 08-00156, Slip Op. 10-16 (February 9, 2010) (*Wash. Int'l Ins. Co. II*). Pursuant to the Court's remand order, in its redetermination the Department continued to apply to Xuzhou Jinjiang Foodstuffs Co., Ltd. (Xuzhou) a total adverse facts available (AFA) rate, but changed this rate from the 223.01 percent applied in the contested administrative review to 188.52 percent. Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department is publishing this notice of the CIT's decision which is not in harmony with the Department's final results in the 2005-2006 antidumping duty administrative review of freshwater crawfish tail meat from the PRC.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen or Howard Smith at (202) 482-2769 or (202) 482-5193, respectively; AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In the final results of the 2005-2006 antidumping duty administrative review

of freshwater crawfish tail meat from the PRC, the Department found that Xuzhou failed to report all of its US sales of subject merchandise and assigned Xuzhou the highest rate in the proceeding as total AFA, *i.e.*, the PRC-wide rate of 223.01 percent. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Rescission of 2005-2006 New Shipper Reviews*, 73 FR 20249 (April 15, 2008).

The surety of certain U.S. imports of subject merchandise from Xuzhou during the 2005-2006 period of review, Washington International Insurance Company, moved for judgment upon the agency record. On July 29, 2009, the CIT remanded the case for the Department to reconsider whether circumstances warranted partial or total AFA and for determination of an AFA rate that more closely reflects Xuzhou's then-current market practices during the period of review. See *Washington International Insurance Company v. United States*, Court No. 08-00156, Slip Op. 09-78 (July 29, 2009).

On October 26, 2009, the Department issued its final results of redetermination, and again found that the extensiveness of the unreported subject merchandise sales necessitated the application of total AFA. The Department then calculated an AFA rate of 188.52 percent using a methodology similar to that employed in the final results of the 2005-2006 administrative review.

On February 9, 2010, the CIT held that substantial evidence supported the Department's application of total AFA. See *Wash. Int'l Ins. Co. II*. Further, the CIT sustained the remand AFA rate as rationally related to the record of Xuzhou's actual trading practices and based on the Department's reasonable interpretation of the record.

##### **Notification**

In its decision in *Timken*, 893 F.2d at 341, the Federal Circuit 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 the Department's determination. The Court's decision in *Washington Int'l Ins. Co. II*, regarding the appropriate AFA rate to assign to Xuzhou, constitutes a final decision of that court that is not in harmony with the Department's decision to apply an AFA rate of 223.01 percent to Xuzhou in the 2005-2006 administrative review. Therefore, publication of this notice fulfills the Department's obligation