

this proceeding in accordance with 19 CFR 351.224(b).

### Reimbursement of Duties

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 has 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, 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: January 21, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I—Issues and Decision Memorandum

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[FR Doc. 2015–01601 Filed 1–27–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## 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 Reviews; 2013–2014

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

**SUMMARY:** The Department of Commerce ("the Department") is conducting new shipper reviews of the antidumping duty order on certain frozen fish fillets ("fish fillets") from the Socialist Republic of Vietnam ("Vietnam"). The period of review is August 1, 2013, through January 31, 2014. The review covers two companies that are producers and exporters of subject merchandise, Nam Phuong Seafood Co., Ltd. ("Nam Phuong") and NTACO Corporation ("NTACO"). The Department preliminarily determines that Nam Phuong's and NTACO's sales to the United States were not *bona fide* and is preliminarily rescinding these new shipper reviews. Interested parties are invited to comment on these preliminary results.

**DATES:** *Effective Date:* January 28, 2015.

**FOR FURTHER INFORMATION CONTACT:** Matthew Renkey (Nam Phuong) or Steven Hampton (NTACO), 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) 482–2312 or (202) 482–0116, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 3, 2014, the Department published notice of initiation of new shipper reviews of fish fillets from Vietnam for the period August 1, 2013, through January 31, 2014.<sup>1</sup> On August 20, 2014, the Department partially extended the deadline for issuing the preliminary results by 60 days.<sup>2</sup> On

<sup>1</sup> See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Reviews; 2013–2014*, 79 FR 18666 (April 3, 2014).

<sup>2</sup> See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty

October 29, 2014, the Department fully extended the deadline for issuing the preliminary results by an additional 60 days.<sup>3</sup> The revised deadline for the preliminary results of these new shipper reviews is January 20, 2015.<sup>4</sup>

##### 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 Harmonized Tariff Schedule of the United States ("HTSUS").<sup>5</sup> Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.<sup>6</sup>

Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations, regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Reviews of Nam Phuong Seafood Co., Ltd. and NTACO Corporation, dated August 20, 2014.

<sup>3</sup> See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Full Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Reviews of Nam Phuong Seafood Co., Ltd. and NTACO Corporation, dated October 29, 2014.

<sup>4</sup> *Id.*

<sup>5</sup> 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.

<sup>6</sup> See "Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Reviews: Certain Frozen Fish Fillets From the Socialist's Republic of Vietnam" from Gary

## Methodology

The Department is conducting 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 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 ("ACCESS").<sup>7</sup> ACCESS is available to registered users at <http://access.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 Fides Analysis

As discussed in the *bona fides* memos, the Department preliminarily finds that the sales by Nam Phuong and NTACO are not *bona fide*, and that these sales do not provide a reasonable or reliable basis for calculating dumping margins.<sup>8</sup> With respect to Nam Phuong, the Department reached this conclusion

based on the totality of circumstances, namely: (a) The atypical nature of Nam Phuong's price; (b) the atypical involvement of other entities in the sale; (c) atypical circumstances surrounding production; and (d) late payment. With respect to NTACO, the Department reached this conclusion based on the totality of circumstances, namely: (a) The atypical nature of NTACO's price; (b) the atypical involvement of another entity in the sale; (c) atypical circumstances surrounding production; and (d) late payment. Because these non-*bona fide* sales were the only sales of subject merchandise that Nam Phuong and NTACO made during the POR, the Department is preliminarily rescinding these new shipper reviews.

## 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.<sup>9</sup>

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

Any interested party may request a hearing within 30 days of publication of the preliminary results in the **Federal Register**.<sup>12</sup> 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 and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.<sup>13</sup>

The Department intends to issue the final results of these new shipper reviews, 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 U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If we proceed to a final rescission of these new shipper reviews, Nam Phuong's and NTACO's entries will be assessed at the rate entered.<sup>14</sup> If we do not proceed to a final rescission of these new shipper reviews, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) assessment rates on a per unit basis.<sup>15</sup> We will instruct CBP to assess antidumping duties on all appropriate entries covered by these reviews if any importer-specific assessment rate calculated in the final results of these reviews is above *de minimis*.<sup>16</sup>

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

## Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of these new shipper reviews, 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 Nam Phuong and NTACO. If the Department proceeds to a final rescission of these new shipper reviews, the cash deposit rate will continue to be the per-unit Vietnam-wide rate for Nam Phuong and NTACO because the Department will not have determined an individual margin of dumping for Nam Phuong and NTACO. If the Department issues final results for these new shipper reviews, 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

Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated January 20, 2015 ("Preliminary Decision Memorandum"), which is hereby adopted by this notice, for a complete description of the Scope of the Order.

<sup>7</sup> On November 24, 2014, Enforcement and Compliance changed the name of its centralized electronic service system to ACCESS. The Web site location was changed from <http://iaaccess.trade.gov> to <http://access.trade.gov>. The Final Rule changing the references to the centralized electronic service system to ACCESS in the Department's regulations can be found at 79 FR 69046 (November 20, 2014).

<sup>8</sup> See Memorandum to James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Matthew Renkey, Senior International Trade Compliance Analyst, Office V, titled "New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: *Bona Fide* Nature of Nam Phuong Seafood Co., Ltd.'s Sale," dated concurrently and hereby adopted by this notice; Memorandum to James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, titled "New Shipper Review of Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: *Bona Fide* Nature of NTACO Corporation's Sale," dated concurrently and hereby adopted by this notice.

<sup>9</sup> See 19 CFR 351.224(b).

<sup>10</sup> See 19 CFR 351.309(c)(1)(ii). Parties submitting written comments must submit them pursuant to the Department's e-filing regulations. See <http://enforcement.trade.gov/download/access/home.html>.

<sup>11</sup> See 19 CFR 351.309(d)(1)–(2).

<sup>12</sup> See 19 CFR 351.310(c).

<sup>13</sup> See 19 CFR 351.310(d).

<sup>14</sup> See 19 CFR 351.212(c).

<sup>15</sup> 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).

<sup>16</sup> See 19 CFR 351.106(c)(2).

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: January 20, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix

### List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. *Bona Fides* Analysis
5. Conclusion

[FR Doc. 2015-01599 Filed 1-27-15; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XD738

### Endangered and Threatened Species; Take of Anadromous Fish

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

**ACTION:** Notice of final determination and discussion of underlying biological analysis.

**SUMMARY:** NMFS has evaluated the joint resource management plan (RMP), represented by five Hatchery and Genetic Management Plans (HGMPs), submitted by the Lower Elwha Klallam Tribe and the Washington Department of Fish and Wildlife to NMFS pursuant to the limitation on take prohibitions for actions conducted under Limit 6 of the 4(d) Rule for salmon and steelhead promulgated under the Endangered Species Act (ESA). The plans specify the propagation of five species of salmon and steelhead in the Elwha River of Washington state. This document serves to notify the public that NMFS, by delegated authority from the Secretary of Commerce, has determined pursuant to Limit 6 of the ESA 4(d) Rule for salmon and steelhead

that implementing and enforcing the RMP will not appreciably reduce the likelihood of survival and recovery of ESA-listed Puget Sound Chinook salmon and Puget Sound steelhead.

**DATES:** The final determination on the plans was made on January 9, 2015.

**ADDRESSES:** Written responses to the determination should be sent to Sustainable Fisheries Division, 1201 NE., Lloyd Boulevard, Suite 1100, Portland, OR 97232.

**FOR FURTHER INFORMATION CONTACT:** Tim Tynan at (360) 753-9579 or email: [tim.tynan@noaa.gov](mailto:tim.tynan@noaa.gov).

### SUPPLEMENTARY INFORMATION:

### ESA-Listed Species Covered in This Notice

Chinook salmon (*Oncorhynchus tshawytscha*): threatened, Puget Sound, naturally produced and artificially propagated.

Steelhead (*O. mykiss*): threatened, Puget Sound, naturally produced and artificially propagated.

### Background

The plans describe hatchery operations intended to protect five species of salmon and steelhead (two of them ESA-listed) during the removal of two dams on the Elwha River, and subsequent propagation intended to enhance the rebuilding of those salmonid species. Four of the plans are submitted by the Lower Elwha Klallam Tribe, and one by the Washington Department of Fish and Wildlife (WDFW); the plans were developed jointly by the Tribe and the WDFW. NMFS has determined that implementing and enforcing the RMP will not appreciably reduce the likelihood of survival and recovery of ESA-listed Puget Sound Chinook salmon or Puget Sound steelhead.

As required by § 223.203(b)(6) of the ESA 4(d) Rule, NMFS must determine pursuant to 50 CFR 223.209 and pursuant to the government-to-government processes therein whether the RMP for Elwha River basin hatcheries would appreciably reduce the likelihood of survival and recovery of the Puget Sound Chinook Salmon ESU or Puget Sound Steelhead DPS. NMFS must take comments on how the RMP addresses the criteria in § 223.203(b)(5) in making that determination.

### Discussion of the Biological Analysis Underlying the Determination

The proposed hatchery activities described in the RMP are intended to conserve salmon and steelhead populations in the Elwha River basin

during operations to remove two dams on the Elwha River, and for a period of time after the dams have been removed, as the salmonid habitat is restored. The RMP provides the framework through which the Lower Elwha Klallam Tribe and the State of Washington can jointly manage Elwha River salmon and steelhead hatchery, monitoring, and evaluation activities while meeting requirements specified under the ESA. The proposed action covers continued operation of the five hatchery programs over the initial phases of fish restoration in the Elwha River—the preservation and recolonization phases—with transitions between phases gauged by achievement of population viability parameters for listed Chinook salmon and steelhead. Using native Elwha River fish as broodstock, the programs would continue to be operated to minimize any impacts on genetic integrity of the natural salmon and steelhead populations while providing the intended benefits. The benefits include preserving and assisting in the recolonization of the indigenous populations of Elwha River salmon and steelhead in the wake of dam removal when natural productivity conditions will be poor. The hatchery programs would add marine-derived nutrients to the aquatic and terrestrial ecosystems above Glines Canyon Dam, which were inaccessible to salmon and steelhead from the early 1900s until completion of dam removal in 2014. The programs would increase total and natural-origin abundance and spatial structure of the Chinook salmon and steelhead populations as hatchery-origin fish of the same native lineage return to spawn naturally with fish produced naturally, and as new habitat becomes available. The hatchery programs would protect the Elwha River salmon and steelhead populations when turbidity and bedload movement levels are high and detrimental to natural-origin fish survival due to dam removal activities. The proposed plans are interrelated and interdependent through shared population preservation and recolonization objectives and effects, broodstock collection locations and actions, fish rearing and release sites, monitoring and evaluation actions, and funding sources.

The RMP includes provisions for annual reports that will assess compliance with performance standards established through the RMP. Reporting and inclusion of new information derived from RMP research, monitoring, and evaluation activities provides assurance that performance standards will be achieved in future seasons.