

### Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Act, and section 351.213(h)(2) of the Department's regulations, the Department may extend the deadline for completion of the preliminary results of a review if it determines that it is not practicable to complete the preliminary results within the statutory time limit of 245 days from the date on which the review was initiated. Due to the complexity of the issues, the Department requires additional time to fully develop the record with respect to factors of production information. Accordingly, the Department has determined that it is not practicable to complete this review within the original time period provided in section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations.

Therefore, we are extending the due date for the preliminary results by 120 days, until no later than September 7, 2003. The final results continue to be due 120 days after the publication of the preliminary results.

We are issuing this notice in accordance with section 751(a)(1) and 777(i)(1) of the Act.

Dated: May 19, 2003.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration, Group III.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-801]

#### Notice of Affirmative Preliminary Determination of Critical Circumstances for Voluntary Section A Respondents: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam

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

**ACTION:** Preliminary Critical Circumstances Determination.

**EFFECTIVE DATE:** May 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Alex Villanueva or James C. Doyle, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3208, or (202) 482-0159, respectively.

### Critical Circumstances

On November 15, 2002, the Catfish Farmers of America ("CFA") and the individual U.S. catfish processors America's Catch Inc.; Consolidated Catfish Co., L.L.C.; Delta Pride Catfish, Inc.; Harvest Select Catfish, Inc.; Heartland Catfish Company; Pride of the Pond; Simmons Farm Raised Catfish, Inc.; and Southern Pride Catfish Co., Inc., hereinafter referred to collectively as "the petitioners," alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigations of certain frozen fish fillets from Vietnam. In accordance with section 351.206(c)(2)(i) of the Department's regulations, because the petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, the Department of Commerce ("Department") must issue preliminary critical circumstances determinations not later than the date of the preliminary determination.

On January 24, 2003, the Department determined that, pursuant to section 733(e) of the Tariff Act of 1930, as amended ("the Act"), preliminary critical circumstances exist for the four mandatory respondents: An Giang Fisheries Import Export Joint Stock Company ("Agifish"), Can Tho Agricultural and Animal Products Import Export Company ("CATACO") Nam Viet Company Limited ("Nam Viet"), Vinh Hoan Company Limited ("Vinh Hoan"), as well as for the Vietnam-wide entity. However, at that time, we did not make critical circumstances determinations for the six voluntary Section A respondents with preliminary separate rates<sup>1</sup>: An Giang Agriculture and Food Import Export Company ("Afiex"), Can Tho Animal Fishery Products Processing Export Enterprise ("CAFATEX"), Da Nang Seafoods Import-Export Corporation ("Da Nang"), Mekong Fish Company ("Mekonimex"), QVD Food Company Limited ("QVD"), and Viet Hai Seafood Company Limited ("Viet Hai"). Consequently, the Department determined that the most appropriate action was to obtain producer-specific shipment data from the non-selected respondents to form the basis of its analyses, and to publish the preliminary critical circumstances determinations with respect to the voluntary Section A respondent companies upon obtaining

<sup>1</sup> Vinh Long Import-Export Company submitted a Section A response, but did not receive a preliminary separate rate, and therefore does not receive a preliminary critical circumstances determination.

the additional data. (*See Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam*, 68 FR 4986, (January 31, 2003)).

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) 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) 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) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive." Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds importers, 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.

In determining whether the relevant statutory criteria have been satisfied, we considered: (i) The evidence presented by petitioners in their November 15, 2002 letter; (ii) new evidence obtained since the initiation of the less-than-fair-value ("LTFV") investigation (*i.e.*, additional import statistics released by the U.S. Census Bureau); and (iii) the International Trade Commission's ("ITC") preliminary threat of injury determination.

To determine whether there is a history of injurious dumping of the

merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers the existence of a current or recent antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. See *Preliminary Determination of Sales at Less Than Fair Value: Refined Brown Aluminum Oxide from the People's Republic of China*, 68 FR 23966 (May 6, 2003). With regard to imports of certain frozen fish fillets from Vietnam, the petitioners make no specific mention of a history of dumping for Vietnam. We are not aware of any antidumping order in the United States or elsewhere on certain frozen fish fillets from Vietnam. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from Vietnam pursuant to section 733(e)(1)(A)(i) of the Act.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known the exporter was selling certain frozen fish fillets at less than fair value, the Department normally considers margins of 25 percent or more for export price sales or 15 percent or more for constructed export price transactions sufficient to impute knowledge of dumping. See e.g. *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (October 19, 2001). The Department normally bases its preliminary decision with respect to knowledge on the margins calculated in the preliminary determination. Because the preliminary dumping margins for the six voluntary Section A respondents with separate rates are greater than 25 percent, we find there is a reasonable basis to impute knowledge of dumping with respect to these imports from Vietnam.

In determining whether there is a reasonable basis to believe or suspect an importer knew or should have known there was likely to be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the Commission. If the Commission finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will normally determine a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. See e.g. *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61967 (November 20, 1997). If, as in this case,

the Commission preliminarily finds threat of material injury, the Department will also consider: (1) the extent of the increase in the volume of imports of the subject merchandise during the critical circumstances period and (2) the magnitude of the margins in determining whether a reasonable basis exists to impute knowledge that material injury was likely. (See *Preliminary Determination of Sales at Less Than Fair Value; Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972 (June 11, 1997); *Preliminary Determination of Sales at Less Than Fair Value, Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, 62 FR 31967 (June 11, 1997); *Preliminary Determination of Sales at Less Than Fair Value, Certain Cut-To-Length Carbon Steel Plate from Ukraine*, 62 FR 31958 (June 11, 1997)).

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 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"). However, as stated in section 351.206(i) of the Department's regulations, if the Secretary finds importers, exporters, or producers had reason to believe at some time prior to the beginning of the proceeding that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time. 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.

For the reasons set forth in the *Memorandum for Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III, from Edward Yang, Director, Office IX, Antidumping Duty Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Critical Circumstances for Voluntary Section A Respondents* ("Voluntary Critical Circumstances Memo"), we find sufficient bases exist for finding that importers, or exporters, or producers knew or should have known an antidumping case was pending on certain frozen fish fillet imports from Vietnam by May 2002 at the latest. Accordingly, we determined December 2001 through April 2002 should serve as the "base period," while

May 2002 through September 2002 should serve as the "comparison period" in determining whether or not imports have been massive.

In this case, the volume of imports of certain frozen fish fillets from Vietnam increased 72.91 percent from the critical circumstances base period (December 2001 to April 2002) to the critical circumstances comparison period (May 2002 to September 2002), nearly five times the level of increase needed to find "massive imports." Furthermore, the amended preliminary dumping margins range from 31.45 to 41.06 percent for the mandatory respondents.

Based on the Commission's preliminary determination of threat of injury, the increase in the volume of imports of subject merchandise noted above, and the high preliminary dumping margins, the Department preliminarily finds that there is a reasonable basis to believe or suspect that the importer knew or should have known that there was likely to be material injury by means of sales at less than fair value of certain frozen fish fillets from Vietnam.

Pursuant to section 351.206(h) of the Department's regulations, we will not consider imports to be massive unless imports in the comparison period have increased by at least 15 percent over imports in the base period. On January 29, 2003, the Department requested company specific shipment data from the seven voluntary Section A respondent companies in order to determine whether there have been massive imports from these respondents. On February 10, 2003 and February 12, 2003, the Department received company-specific data from the seven voluntary Section A respondents. When we compared the import data during the base period with the comparison period for the six companies with preliminary separate rates, we found imports increased by more than 15 percent for QVD, Da Nang, Afiex, Cafatex, but did not increase by more than 15 percent for Viet Hai and Mekonimex. We therefore find that imports of subject merchandise were massive in the comparison period for QVD, Da Nang, Afiex, and Cafatex, but not for Viet Hai and Mekonimex.

In summary, we find there is a reasonable basis to believe or suspect importers had knowledge of dumping and the likelihood of material injury with respect to imports of certain frozen fish fillets from Vietnam. We further find there have been massive imports of certain frozen fish fillets over a relatively short period from respondents QVD, Da Nang, Afiex, and Cafatex. However, such imports have been found

to be not massive over a relatively short period from Viet Hai and Mekonimex.

Given the analysis summarized above, and described in more detail in the *Voluntary Critical Circumstances Memo*, we preliminarily determine that critical circumstances exist for imports of certain frozen fish fillets from QVD, Da Nang, Afiex, and Cafatex.

In accordance with section 733(e)(2) of the Act, the Department will direct the U.S. Customs Service (as of March 1, 2003, renamed the U.S. Bureau of Customs and Border Protection) ("Customs") to suspend liquidation of all entries of certain frozen fish fillets from QVD, Da Nang, Afiex, and Cafatex that are entered, or withdrawn from warehouse, for consumption on or after November 2, 2002. Customs shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins reflected in the amended preliminary determinations published in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

We will make a final determination concerning critical circumstances for all producers and exporters of the subject merchandise from Vietnam when we make our final dumping determinations in this investigation, which will be 135 days after publication of the preliminary dumping determination.

This notice is published pursuant to section 777(i) of the Act.

Dated: May 19, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-501]

#### Notice of Final Results of Administrative Review: Natural Bristle Paintbrushes and Brush Heads From the People's Republic of China

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

**SUMMARY:** On March 7, 2003, the Department published the preliminary results of review of the antidumping duty order on natural bristle paintbrushes and brush heads from the People's Republic of China (68 FR 11041). The review covers one manufacturer, Hunan Provincial Produce & Animal By-Products Import & Export Corporation (Hunan), and

exports of the subject merchandise to the United States during the period February 1, 2001 through January 31, 2002.

We gave interested parties an opportunity to comment on the preliminary results of review. We received no comments from any of the parties.

**EFFECTIVE DATE:** May 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Douglas Kirby or Sean Carey, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482-3782 or (202) 482-3964, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 1, 2002, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on natural paintbrushes from the People's Republic of China (PRC) (67 FR 4945). On February 28, 2002, the Department received a timely request from the Paint Applicator Division of the American Brush Manufacturers Association, the petitioner, for administrative reviews of Hunan and Hebei Founder Import and Export Company (Hebei). On March 27, 2002, the Department initiated an administrative review of the antidumping duty order on natural paintbrushes, for the period from February 1, 2001 through January 31, 2002, in order to determine whether merchandise imported into the United States is being sold at less than fair value with respect to these two companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 67 FR 14696 (March 27, 2002).

On May 1, 2002, the Department issued antidumping questionnaires to Hunan and Hebei. In its reply to Section A of the questionnaire, Hebei stated that it had made no sales or shipments of subject merchandise to the United States during the POR. The Department also performed a U.S. Customs Service (Customs) data query for entries of paintbrushes from the PRC during the POR. We found no entries or shipments from Hebei during the POR. Thus, the Department rescinded the review with respect to Hebei. *See Natural Bristle Paintbrushes From the People's Republic of China; Notice of Rescission, In Part, of Antidumping Administrative Review*, 67 FR 58018 (September 13, 2002). On November 1, 2002, the

Department extended the deadline for the preliminary results of review of Hunan until January 23, 2003 (67 FR 66614). This deadline was then fully extended, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930 ("the Act") by another 36 days (68 FR 4761). On March 7, 2003, the Department published the preliminary results of review (68 FR 11041). The Department has now completed this review in accordance with section 751 of the Act.

#### Scope of the Antidumping Duty Order

The products covered by the order are natural paintbrushes from the PRC. Excluded from the order are paintbrushes and brush heads with a blend of 40 percent natural bristles and 60 percent synthetic filaments. The merchandise under review is currently classifiable under item 9603.40.40.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

#### Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no comments. Accordingly, we continued to find that a margin of 0.00 percent exists for Hunan for the period February 1, 2001 through January 31, 2002. The Department will issue assessment instructions directly to the U.S. Bureau of Customs and Border Protection ("Customs").

#### Duty Assessment and Cash Deposit Requirement

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to Customs within 15 days of publication of the final results of review. Furthermore, the following deposit rates will be effective with respect to all shipments of paintbrushes from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed company will be the rate indicated above; (2) for companies previously found to be eligible for a separate rate and for which no review was requested, the cash deposit rate will be the rate established in the most recent review of that company; (3) for all other PRC exporters of subject merchandise, the cash deposit