

Export Corp. (Guangdong) a cash deposit rate of 13.91 percent, rather than the PRC-wide rate assigned to the company in the contested administrative review. Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *The Timken Company v. United States and China National Machinery and Equipment Import and Export Corporation*, 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 determination in the 1999–2000 antidumping duty administrative review of pencils from the PRC.

**EFFECTIVE DATE:** September 29, 2005.

**FOR FURTHER INFORMATION CONTACT:** Magd Zalok or Howard Smith at (202) 482–4162 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**

On December 28, 1994, the Department published the antidumping duty order on pencils from the PRC. See *Antidumping Duty Order: Certain Cased Pencils from the People's Republic of China*, 59 FR 66,909 (December 28, 1994). The Department excluded from this order Guangdong's U.S. sales of pencils produced by Three Star Stationery Industry Corp. (Three Star). However, in the final determination that gave rise to the antidumping duty order, the Department stated that if Guangdong sold subject merchandise to the United States that was produced by manufacturers other than Three Star, such sales would be subject to a cash deposit rate equal to the rate applied to the PRC entity. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the People's Republic of China*, 59 FR 55625, 55627 (November 8, 1994), see also *Certain Cased Pencils From the People's Republic of China; Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision*, 64 FR 25275 (May 11, 1999).

In the 1999–2000 antidumping duty administrative review of pencils from the PRC, the Department “collapsed” Three Star with another entity, China First Pencil Co. Ltd. (China First), based upon information that came to light late in the review. Further, the Department

determined that the combined entity, China First/Three Star, was distinct from the Three Star whose factors of production formed the basis for excluding Guangdong from the order. Because there was no information on the record of the 1999–2000 review from which to calculate a dumping margin for Guangdong, consistent with the investigation in this proceeding, in the final results of review the Department assigned Guangdong's sales of China First/Three Star produced subject merchandise a cash deposit rate equal to the PRC-wide rate. See *Certain Cased Pencils from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 48,612 (July 25, 2002), as amended in *Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Cased Pencils from the People's Republic of China*, 67 FR 59,049 (September 19, 2002).

Respondents in the 1999–2000 administrative review filed a motion of judgement upon the agency record contesting the final results of that review. After considering the respondents' arguments, the CIT remanded the case to the Department instructing it to, among other things, reevaluate the PRC-wide rate applied to Guangdong because the Court found the Department had effectively applied adverse facts available to a participating and cooperative respondent. See *Kaiyuan Group Corp., et al v. United States and the Pencil Section Writing Instrument Manufacturers Ass'n, et al.*, 343 F. Supp. 2d 1289 (May 14, 2004) (*Kaiyuan I*). Consistent with the Court's direction, under protest, in its redetermination the Department assigned Guangdong a cash deposit rate based on the weighted-average of the margins calculated for other respondents in the 1999–2000 administrative review. On August 23, 2005, the CIT sustained the Department's remand redetermination. See *Kaiyuan Group Corp., et al v. United States and the Pencil Section Writing Instrument Manufacturers Association, et al.* Slip Op. 05–103 (*Kaiyuan II*).

**Notification**

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish notice of a CIT decision which is “not in harmony” with the Department's determination. The CIT's decisions in *Kaiyuan I & II* regarding the rate assigned to Guangdong are not in harmony with the Department's determination in the final results of the

1999–2000 antidumping duty administrative review of pencils from the PRC. Therefore, publication of this notice fulfills the Department's obligation under 19 U.S.C. 1516a(e).

The Department will continue to suspend liquidation pending the expiration of the period to appeal the CIT's August 23, 2005, decision, or, if that decision is appealed, pending a “conclusive” decision by the Federal Circuit. Upon expiration of the period to appeal, or if the CIT's decision is appealed and the Federal Circuit's decision is not in harmony with the Department's determination in the 1999–2000 antidumping duty administrative review of pencils from the PRC, the Department will publish in the **Federal Register** a notice of amended final results for the 1999–2000 administrative review of pencils.

Dated: September 22, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

(A–570–504)

**Continuation of Antidumping Duty Order: Petroleum Wax Candles from the People's Republic of China (“PRC”)**

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

**SUMMARY:** As a result of the determinations by the Department of Commerce (“the Department”) and the International Trade Commission (“ITC”) that revocation of the antidumping duty order on petroleum wax candles (“candles”) from the PRC would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing notice of the continuation of this antidumping duty order.

**EFFECTIVE DATE:** August 10, 2005

**FOR FURTHER INFORMATION CONTACT:** Maureen Flannery, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–3020.

**SUPPLEMENTARY INFORMATION:**

## Background

On August 2, 2004, the Department initiated and the ITC instituted a sunset review of the antidumping duty order on candles from the PRC pursuant to section 751(c) of the Act. *See Initiation of Five-year ("Sunset") Reviews*, 69 FR 46134 (August 2, 2004). As a result of its review, the Department found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked. *See Petroleum Wax Candles from the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 69 FR 75302 (December 16, 2004).

On August 3, 2005, pursuant to section 751(c) of the Act, the ITC determined that revocation of the antidumping duty order on candles from the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Petroleum Wax Candles from the People's Republic of China*, Investigation 731-TA-282 (Second Review), 70 FR 44695 (August 3, 2005).

## Scope of the Order

The products covered by this order are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers. The products were originally classifiable under the Tariff Schedules of the United States item 755.25, Candles and Tapers. The products are currently classifiable under the Harmonized Tariff Schedule item number 3406.00.00. The Department determined several products were excluded from the scope of this order. For a complete list of the Department's scope rulings, please check our website at <http://www.ia.ita.doc.gov/download/candles-prc-scope>. Also, additional scope determinations are pending. The written description remains dispositive.

## Determination

As a result of the determinations by the Department and the ITC that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the

antidumping duty order on candles from the PRC.

U.S. Customs and Border Protection will continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this order is August 10, 2005. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than August 2010.

Dated: September 20, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 050906238-5243-02; I.D. 090705E]

RIN 0648-ZB68

### 2006 Monkfish Research Set-Aside Program

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

**ACTION:** Notice; solicitation for proposals for research activities; correction.

**SUMMARY:** NMFS corrects the notice, published on September 13, 2005, soliciting proposals for research activities to be conducted under the 2006 Monkfish Research Set-Aside (RSA) Program to be consistent with the full Federal Funding Opportunity Announcement (FFO). Specifically, NMFS is correcting the "Evaluation Criteria" contained in the September 13, 2005, notice to be consistent with the "Evaluation Criteria" contained in the FFO. All other requirements remain the same.

**DATES:** Applications must be received on or before 5 p.m. eastern standard time on October 13, 2005. Delays may be experienced when registering with Grants.gov near the end of a solicitation period. Therefore, NOAA strongly recommends that applicants do not wait until the deadline date to begin the application process through <http://www.grants.gov>.

**ADDRESSES:** Electronic application submissions must be transmitted on-line through <http://www.grants.gov>. Applications submitted through [http://](http://www.grants.gov)

[www.grants.gov](http://www.grants.gov) will be accompanied by a date and time receipt indication on them. If an applicant does not have Internet access, hard copy proposals will be accepted, and date recorded when they are received in the program office. Paper applications must be sent to NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Electronic or hard copies received after the deadline will not be considered, and hard copy applications will be returned to the sender.

### FOR FURTHER INFORMATION CONTACT:

Information may be obtained from Paul Howard, Executive Director, New England Fishery Management Council (NEFMC), by phone 978-465-0492, or by fax 978-465-3116; Philip Haring, Senior Fishery Analyst, NEFMC, by phone 978-465-0492, or by e-mail at [pharing@nefmc.org](mailto:pharing@nefmc.org); or Allison Ferreira, Fishery Policy Analyst, NMFS, by phone 978-281-9103, by fax 978-281-9135, or by e-mail at [allison.ferreira@noaa.gov](mailto:allison.ferreira@noaa.gov).

### SUPPLEMENTARY INFORMATION:

#### Background

On September 13, 2005, NMFS published a notice in the **Federal Register** announcing the 2006 Monkfish RSA Program (70 FR 54028). This program, established through Amendment 2 to the Monkfish Fishery Management Plan (FMP) to annually set aside 500 monkfish days-at-sea (DAS) from the total DAS allocated to limited access monkfish permit holders, is to be utilized for monkfish related research activities. The September 13, 2005, notice also solicited proposals for monkfish research activities to be conducted under this RSA program. However, the "Evaluation Criteria" listed on pages 54029 and 54030 of the **Federal Register** notice did not include all of the information contained in the "Evaluation Criteria" listed in the FFO. Therefore, in order to make the **Federal Register** notice announcing the 2006 Monkfish RSA Program consistent with the FFO for the Monkfish RSA Program, NMFS corrects the "Evaluation Criteria" contained in the September 13, 2005, **Federal Register** notice to read as follows:

1. *Importance and/or relevance and applicability of the proposed project:* This criterion ascertains whether there is intrinsic value in the proposed work and/or relevance to NOAA, Federal, regional, state, or local activities. For the 2006 Monkfish RSA Program, provide a clear definition of the problem, need, issue, or hypothesis to be addressed. The proposal should describe its relevance to RSA program priorities and