

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify the information upon

which we will rely in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing CBP to suspend liquidation of all imports of subject merchandise from Malaysia (except for entries of Bee Lian because this company has a *de minimis* margin) that are entered, or withdrawn from warehouse, for consumption on or after

the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

| Exporter or Producer | Weighted-average percent margin |
|---|---------------------------------|
| Bee Lian Plastic Industries Sdn. Bhd. | 00.14 |
| Teong Chuan Plastic and Timber Sdn. Bhd. | 101.74 |
| Brandpak Industries Sdn. Bhd. | 101.74 |
| Gants Pac Industries | 101.74 |
| Sido Bangun Sdn.Bhd. | 101.74 |
| Zhin Hin/Chin Hin Plastic Manufacturer Sdn. Bhd. | 101.74 |
| All Others | 84.81 |

All companies that we examined have either a *de minimis* margin or rates based on total adverse facts available. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(B) of the Act, we have calculated a simple average of the six margin rates we have determined in the investigation. See All-Others Rate Calculation Memorandum from Laurie Parkhill to Jeffrey May dated January 16, 2004. The Department will disclose calculations performed within five days of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. Section 735(b)(2) of the Act requires that the ITC make a final determination before the later of 120 days after the date of the Department's preliminary determination or 45 days after the Department's final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise. Because we have postponed the deadline for our final determination to 135 days from the date of publication of this preliminary determination, the ITC will make its final determination within 45 days of our final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date of

the final verification report issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, no later than five days after the deadline date for case briefs. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held three days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain (1) the party's name, address, and telephone number, (2) the number of participants, and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c).

We will make our final determination no later than 135 days after the date of

publication of the preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: January 16, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

Docket number: 031120285-3285-01

Certification and Submission of False Statements to Import Administration During Antidumping and Countervailing Duty Proceedings

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

ACTION: Notice of Inquiry

SUMMARY: The Tariff Act of 1930, as amended, requires that any person who provides factual information to Import Administration (IA) during an antidumping or countervailing duty proceeding must certify to the accuracy and completeness of such information. IA regulations set forth the specific content requirements for such certifications. IA may refer and has referred allegations of fraud regarding these certifications to the Department of Commerce's Office of Inspector General or to U.S. Customs and Border Protection, for appropriate disposition. However, IA currently has no regulations setting forth procedures for

investigating or potentially imposing sanctions against persons who certify and submit false statements to IA during antidumping or countervailing duty proceedings. IA is now considering proposing regulations that would establish procedures that the agency would follow when it has reason to believe that a person has certified and submitted false statements, or engaged in a scheme to certify and submit false statements, in the course of an antidumping or countervailing duty proceeding. The goal of this notice of inquiry is to collect information as to whether IA should consider such regulations and, if so, what procedures and administrative sanctions those regulations should establish.

DATES: Comments must be received within 60 days from the date of publication of this notice.

ADDRESSES: Written comments (original and six copies) should be sent to James J. Jochum, Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, Pennsylvania Avenue and 14th Street, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Seastrum, Senior Counsel, or Philip J. Curtin, Attorney Advisor, Office of the General Counsel, Office of Chief Counsel for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, 202-482-0834 or 202-482-4224.

SUPPLEMENTARY INFORMATION:

Background

The Tariff Act of 1930, as amended, requires any person who provides factual information to IA during an antidumping or countervailing duty proceeding to "certify that such information is accurate and complete to the best of that person's knowledge." Tariff Act of 1930, as amended, § 782(b), 19 U.S.C. § 1677m(b). Department of Commerce regulations further stipulate that a company official, when submitting information to IA, must certify that "(1) I have read the attached submission, and (2) the information contained in this submission is, to the best of my knowledge, complete and accurate." 19 CFR 351.303(g)(1). Legal counsel or other representatives for parties appearing before IA must certify that "(1) I have read the attached submission, and (2) based on the information made available to me by (person), I have no reason to believe that the submission contains any material misrepresentations or omission of fact." 19 CFR 351.303(g)(2).

IA may refer and has referred allegations of fraud regarding these certifications to the Department of Commerce's Office of Inspector General or to U.S. Customs and Border Protection for appropriate disposition. However, there are no regulations setting forth internal procedures for IA to investigate the behavior of professionals practicing before the agency and to remedy violations of the certification requirement.¹ Similarly, there are no procedures to investigate and administratively sanction the behavior of company officials certifying to incomplete or inaccurate information.

In order to protect the integrity of its administrative processes, IA is now considering proposing regulations to govern its investigation of allegations of false statements to the agency during antidumping and countervailing duty proceedings and the imposition of sanctions including possible disbarment from practice before the agency against those persons found to have certified and submitted false statements or engaged in any scheme to provide such statements.

The goal of this notice is to collect information from members of the bar who regularly practice before IA, as well as from interested members of the general public, in order to assist IA in determining whether to issue regulations pertaining to false statements and, if so, what those regulations should address. Therefore, comments are solicited until 60 days from the date of publication of this Notice of Inquiry. IA is particularly interested in comments relating to the questions set forth in the attached Appendix.

Comments

Persons wishing to comment should file a signed original and six copies of each set of comments. The period for submission of comments will close 60 days after the publication of this notice in the **Federal Register**. The Department will consider all comments received before the close of the comment period in developing any regulatory proposal. Comments received after the end of the comment period will be considered if possible, but their consideration cannot

¹ In contrast, IA does have regulations that describe the agency's procedures for investigating and imposing sanctions for violations of administrative protective orders. 19 CFR part 354. Additionally, IA routinely responds to parties which have failed to cooperate during an antidumping or countervailing duty proceeding by use of its authority to apply adverse facts available, as appropriate. IA is not considering changing any aspect of these practices, which are based on statutory and regulatory provisions and judicial precedent.

be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in development of any regulations. All comments responding to this Notice of Inquiry will be a matter of public record and will be available for public inspection and copying at Import Administration's Central Records Unit, Room B-099, between the hours of 8:30 a.m. and 5 p.m. on business days. The Department requires that comments be submitted in written form. The Department recommends submission of comments in electronic form to accompany the required paper copies. Comments filed in electronic form should be submitted either by e-mail to the webmaster below, or on CD-ROM. (Comments received on disk are likely to be damaged by postal radiation treatment.)

Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Internet at the IA Web site at the following address: <http://ia.ita.doc.gov/>.

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482-0866, email address: [webmaster—support@ita.doc.gov](mailto:webmaster-support@ita.doc.gov).

Dated: January 20, 2004.

James J. Jochum,
Assistant Secretary for Import Administration.

Appendix

(1) Are the current certification requirements sufficient to protect the integrity of IA's administrative processes? If not, should the current certification statements, as required by IA's regulation, be amended or strengthened? If so, how? For example, should the submission be identified more precisely, and the name of the company and date be more precise? Should the standard of knowledge be stronger or more precise? (Please propose language.) Does the statutory provision need to be amended or strengthened? If so, how? (Please propose language.) If the current certification requirements are sufficient, please comment why and whether improvements in existing procedures may be made.

(2) Should IA promulgate regulations establishing procedures for its investigations of allegations of fraud or false statements, including administrative sanctions against persons found to have committed fraud during antidumping or countervailing duty proceedings?

(3) What should be the definition or scope of the terms "fraud" or "false statements" as they may relate to any regulations which IA may promulgate? Should there be a requirement of actual knowledge, or would a lesser intent requirement suffice? Should there be a standard for materiality, and what should it be? Must the regulations be limited to written materials certified and submitted to the Department, or may oral statements, such as at verifications, be covered as well?

(4) Who should be subject to these regulations? Should they cover only fraud or false statements committed by attorneys and other professionals appearing before the agency, or should they also cover the foreign and domestic companies subject to IA's determinations?

(5) What should be the standard for initiation of an investigation?

(6) Should IA conduct any such investigation, or should another unit outside IA but within the Department conduct the investigation? If within IA, should a special unit be established, or should the existing APO unit assume this task? If outside IA but within the Department, where should the responsibility be placed?

(7) Should there be discovery? What rules would govern discovery, and who would adjudicate any disputes that arise during discovery? Should the Department and the suspected individual have the right to compel witnesses and production of documents?

(8) Should any adjudicatory proceedings include a hearing? Who would preside at a hearing? Would this person be the final decision-maker in the proceeding? What rules would govern a hearing? If there is no hearing, who would be the decision-maker?

(9) What type of remedial sanctions should be imposed upon a finding that a person committed a fraud? Is disbarment from practice before the agency an appropriate remedy in some cases? What type of sanction would apply to non-attorneys or to company officials?

(10) Should the regulations establish a procedure for an appeal within the Department? Who would hear such appeals?

(11) Should the regulations contain a procedure by which disbarred persons

may seek reinstatement? What standards should govern adjudications of reinstatement?

(12) Should final adjudicatory decisions be confidential or public?

(13) Please provide any additional views on any other matter commenters would like to raise, including the necessity of regulations and what these regulations should address, as well as comments on whether any statutory changes are needed. References to the recently amended statutory and regulatory procedures for certification at the Securities and Exchange Commission, pursuant to sections 302 and 906 of the Sarbanes-Oxley Act of 2002, might be useful, as well as any other agency enforcement schemes which might be instructive.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011304C]

Taking of Marine Mammals Incidental to Specified Activities; On-Ice Seismic Operations in the Beaufort Sea

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

ACTION: Notice of receipt of application and proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from ConocoPhillips Alaska (CPA) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting on-ice seismic operations from Cape Halkett to Oliktok Point in the Beaufort Sea. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to CPA to incidentally take, by harassment, small numbers of two species of pinnipeds for a limited period of time within the next year.

DATES: Comments and information must be received no later than February 25, 2004.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. A copy of the application

containing a list of the references used in this document may be obtained by writing to this address or by telephoning the contact listed here and is also available at: http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications

Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Kimberly Skrupky, Office of Protected Resources, NMFS, (301) 713-2322, ext 163.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Under section 3(18)(A), the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

The term "Level A harassment" means harassment described in subparagraph (A)(i). The term "Level B