

Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 8, 2006.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

[FR Doc. E6-2460 Filed 2-21-06; 8:45 am]

**BILLING CODE 3410-XV-P**

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Materials Processing Equipment Technical Advisory Committee; Notice of Open Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on March 15, 2006 at 9 a.m. in Room 1410 of the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

#### Agenda

1. Opening Remarks and Introductions.
2. Presentation of Papers and Comments by the Public.
3. Report on Upcoming April Wassenaar Experts Meeting.
4. Report on proposed changes to the Export Administration Regulation.
5. Other Business.

The meeting will be open to the public and a limited number of seats will be available. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov).

For more information, please contact Ms. Springer at 202-482-4814.

Dated: February 14, 2006.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 06-1610 Filed 2-21-06; 8:45 am]

**BILLING CODE 3510-JT-M**

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet March 7, 2006, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

#### Agenda

##### Public Session

1. Opening remarks by the Chairman
2. Presentation of papers or comments by the Public
3. Regulations update
4. Update on proposed rule on deemed export related regulatory requirements (RIN 0694-AD29)
5. Update on Wassenaar Statement of Understanding on Military End-uses
6. Update on Implementation of 2005 Wassenaar change
7. Update on Encryption Reviews and Licensing
8. Update on Country Group revision project
9. Update on Automated Export System
10. RPTAC proposals on definition of the term "specially designed"
11. Working group reports

##### Closed Session

12. Discussion of matters determined to be exempt from the provisions relating to public meetings and found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3)

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters

forward the public presentation materials prior to the meeting to Ms. Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov).

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 14, 2006, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 §§ (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public. For more information, call Yvette Springer at (202) 482-4814.

Dated: February 14, 2006.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 06-1609 Filed 2-21-06; 8:45 am]

**BILLING CODE 3510-JT-M**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-801]

#### Circumvention and Scope Inquiries on the Antidumping Duty Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order, Partial Preliminary Termination of Circumvention Inquiry, Preliminary Rescission of Scope Inquiry and Extension of Final Determination.

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

**ACTION:** Notice of Preliminary Determination of Circumvention of Antidumping Duty Order and Rescission of Scope Inquiry.

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#### PRELIMINARY DETERMINATION

We preliminarily determine that frozen fish fillets produced by Lian Heng Trading Co. Ltd. ("Lian Heng Trading") and Lian Heng Investment Co. Ltd. ("Lian Heng Investment") (collectively, "Lian Heng"),<sup>1</sup> are circumventing the antidumping duty

<sup>1</sup> Lian Heng Trading and Lian Heng Investment are two separate entities. However, the two companies share the same Chairman and Chief Executive Officer, and both companies have exported subject merchandise to the United States.

order on frozen fish fillets from the Socialist Republic of Vietnam ("Vietnam"), as provided in section 781(b) of the Tariff Act of 1930, as amended ("the Act"). See *Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) ("Order"). We are also terminating the circumvention inquiry with respect to L.S.H. (Cambodia) Pte. Ltd. ("L.S.H."), and Sun Wah Fisheries Co. Ltd. ("Sun Wah"), and preliminarily rescinding the concurrently initiated scope inquiry.

**EFFECTIVE DATE:** February 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** Kit L. Rudd or Alex Villanueva, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482-1385 and (202) 482-3208, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 12, 2004, pursuant to 19 CFR 351.225(c), the Department received a request from Piazza Seafood World LLC ("Piazza") for a scope ruling on whether certain basa and tra fillets from Cambodia made from Vietnamese origin basa or tra fish are excluded from the antidumping duty order on certain frozen fish fillets from Vietnam. The scope of the order on frozen fish fillets from Vietnam includes fillets only of the following species: *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus*,<sup>2</sup> and does not include unprocessed fish of these species. On June 9, 2004, the Department issued a supplemental questionnaire to Piazza requesting additional information pertaining to its scope request. On July 7, 2004, the Department received Piazza's response to this supplemental questionnaire. On July 23, 2004, the Catfish Farmers of America and certain individual U.S. catfish processors (collectively, "Petitioners") commented on Piazza's May 12, 2004, and July 7, 2004, submissions. On August 20, 2004, Petitioners requested that the Department initiate a circumvention inquiry pursuant to section 781(b) of the Act to determine whether imports of frozen fish fillets from Cambodia made from Vietnamese origin basa or tra fish are circumventing the antidumping duty

order on certain frozen fish fillets from Vietnam. On October 19, 2004, Piazza submitted additional information supplementing its July 7, 2004, response.

With regard to their August 20, 2004, circumvention inquiry request, Petitioners alleged that the processing in and exporting from Cambodia of frozen fish fillets of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus* produced from Vietnamese-origin fish of the same species constitutes circumvention of the antidumping duty order on certain frozen fish fillets from Vietnam. On October 20, 2004, Piazza submitted comments on Petitioners' August 20, 2004, request for a circumvention inquiry.

On October 22, 2004, the Department initiated concurrent circumvention and scope inquiries on imports of frozen fish fillets from Cambodia. See *Certain Frozen Fish Fillets From The Socialist Republic of Vietnam: Initiation of Anticircumvention Inquiry and Scope Inquiry*, 69 FR 63507 (November 2, 2004) ("Initiation"). In the *Initiation*, the Department stated that it would focus its analysis of the significance of the production process in Cambodia on the single processor identified by Petitioners in their August 20, 2004, circumvention request.<sup>3</sup> The Department, however, provided interested parties an additional 45 days from the date of initiation of the inquiry to present the Department with sufficient evidence that other Cambodian processors were involved in processing Vietnamese-origin fish into frozen fish fillets for export to the United States.

On November 29, 2004, Piazza submitted comments on the *Initiation*. On November 30, 2004, Petitioners submitted comments on the *Initiation*.<sup>4</sup> On December 6, 2004, Piazza submitted rebuttal comments to Petitioners' November 30, 2004, comments. On December 6, 2004, Petitioners submitted rebuttal comments to Piazza's November 29, 2004, comments<sup>5</sup> and factual information identifying Lian Heng, Sun Wah, L.S.H and the Kampuchea Fish Import and Export Company ("KAMFIMEX") as Cambodian fish fillet exporters potentially involved in the processing of Vietnamese-origin fish.

**Questionnaires and Verification of Responses**

On January 31, 2005, the Department issued questionnaires to Lian Heng, Sun Wah and L.S.H.<sup>6</sup> soliciting information regarding their frozen fish fillet production and exports to the United States. On March 10, 2005, the Department reissued its January 31, 2005, questionnaire to L.S.H. with a revised response deadline of March 24, 2005.

On February 18, 2005, the Department received Sun Wah's questionnaire response. On March 10, 2005, the Department issued a letter to Sun Wah requesting that it submit a clarification to its February 18, 2005, questionnaire response by March 17, 2005. On March 12, 2005, Sun Wah submitted a response to the Department's March 10, 2005 letter. On June 7, 2005, and June 21, 2005, the Department issued letters notifying Sun Wah of the Department's intention to verify its February 18, 2005, and March 10, 2005, questionnaire responses.

On March 8, 2005, the Department received Lian Heng's questionnaire response. On March 30, 2005, Petitioners submitted comments to the Department regarding Lian Heng's March 8, 2005, questionnaire response. On April 20, 2005, the Department issued a supplemental questionnaire to Lian Heng. On May 10, 2005, the Department granted Lian Heng an extension of time to May 18, 2005, to respond to its April 20, 2005, supplemental questionnaire and also issued an additional supplemental questionnaire to Lian Heng. On May 18, 2005, the Department received Lian Heng's response to the Department's April 20, 2005, and April 29, 2005, questionnaires. On June 6, 2005, Lian Heng submitted financial statements for Lian Heng Trading and Lian Heng Investment.

On June 10, 2005, the Department issued a supplemental questionnaire to Lian Heng. On June 22, 2005, the Department issued a letter to Lian Heng requesting it submit sales and cost reconciliations for Lian Heng Trading and Lian Heng Investment. On June 29, 2005, the Department issued its verification outline to Lian Heng. On July 1, 2005, Lian Heng submitted its supplemental response to the Department's June 10, 2005, supplemental questionnaire. On July 5,

<sup>2</sup> Whole fish of these species will be hereinafter referred to as "basa" and "tra" fish, which are the Vietnamese common names for these species of fish. Likewise, frozen fish fillets produced from these species shall be referred to as frozen "basa" or "tra" fillets.

<sup>3</sup> Lian Heng was the single processor identified by Petitioners in their August 20, 2004 circumvention request.

<sup>4</sup> On December 9, 2004, Piazza submitted a clarification of its November 29, 2004, submission.

<sup>5</sup> On December 7, 2004, Petitioners resubmitted its December 6, 2004, rebuttal comments.

<sup>6</sup> The Department did not issue a questionnaire to KAMFIMEX because the Department had information indicating that KAMFIMEX did not actually produce fish fillets, but was rather a reseller of fish to licensed export agents or processing plants. See Memorandum to the File dated March 9, 2005.

2005, Lian Heng submitted its sales and cost reconciliations, tax returns and documentation supporting its value-added calculations. On July 6, 2005, Lian Heng submitted translated tax returns for Lian Heng Trading and Lian Heng Investment. On July 7, 2005, Petitioners submitted pre-verification comments for Lian Heng. On July 19, 2005, Lian Heng submitted its pre-verification corrections.

From July 12 through July 15, 2005, the Department conducted verification of Lian Heng's questionnaire responses at the production facilities and offices of Lian Heng Trading in Phnom Penh, Cambodia. On July 15, 2005, Lian Heng company officials terminated the verification prior to its scheduled completion.<sup>7</sup> See *Memorandum to the File Regarding Verification of Sales and Cost of Production for Lian Heng Trading* ("Lian Heng Verification Report") dated August 8, 2005, at 23.

On July 22, 2005, counsel to Lian Heng submitted its formal withdrawal of representation for Lian Heng in the circumvention/scope inquiries and a reaffirmation of its representation of importer Piazza. On August 8, 2005, the Department released to interested parties its verification report of the questionnaire responses for Lian Heng in the circumvention/scope inquiries. On August 16, 2005, the Department issued an extension from August 18, 2005, to November 17, 2005, of the final determination in the circumvention/scope inquiries. On September 12, 2005, the Department received notification of new counsel for Piazza. On September 19, 2005, the Department received Petitioners' comments on the upcoming preliminary determination.

#### Scope of the Antidumping Duty Order

The product covered by this 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*. Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact ("regular" fillets), boneless fillets with the belly flap removed ("shank" fillets), boneless shank fillets cut into strips ("fillet strips/finger"),

<sup>7</sup> As Lian Heng's questionnaire responses concerned both Lian Heng Trading and Lian Heng Investment, the Department scheduled verification at the facilities of both companies. As a result of the termination of verification prior to its scheduled completion, the Department was able to conduct on-site verification at the production facilities and offices of Lian Heng Trading only.

which include fillets cut into strips, chunks, blocks, skewers, or any other shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly-flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone-in, cross-section cuts of dressed fish. Nuggets are the belly-flaps. The subject merchandise will be hereinafter referred to as frozen "basa" and "tra" fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States ("HTSUS").<sup>8</sup> This order covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive. See *Order* at 47909.

#### Preliminary Rescission of Scope Inquiry

As noted above, on May 12, 2004, the Department received a scope ruling request from Piazza on whether certain basa and tra fillets from Cambodia made from Vietnamese origin live basa and tra fish are excluded from the antidumping duty order on certain frozen fish fillets from Vietnam. Subsequent to Piazza's scope ruling request, the Department received a request from Petitioners to initiate a circumvention inquiry on August 20, 2004, pursuant to 781(b) of the Act.

In the *Initiation* of the concurrent scope and circumvention inquiries, the Department found that because the circumvention and scope requests may necessitate an analysis of the significance of the production process in Cambodia, it was appropriate to initiate them concurrently. However, we are preliminarily rescinding the scope inquiry because Lian Heng, the Cambodian fish producer/exporter upon which Piazza relied for information to file its scope request, is also subject to the concurrent circumvention inquiry.

#### Termination of the Circumvention Inquiry for L.S.H. and Sun Wah

In reviewing the record evidence we note that the Department's decision to

<sup>8</sup> Until July 1, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS.

issue questionnaires to L.S.H. and Sun Wah in the context of this proceeding was based solely on information submitted by Petitioners that such processors were producing frozen fish fillets for export. In reviewing Petitioners' submission and all evidence to date on the record of this proceeding, however, we find no evidence that either of the two processors exported frozen fish fillets to the United States. Indeed, one processor has claimed to have made no shipments to the United States, and data from U.S. Customs and Border Protection ("CBP") do not indicate shipments from either of the two companies at issue. In general, a circumvention inquiry should be supported by evidence of shipments to the United States of the product in question. Moreover, in this particular case, there is insufficient data to satisfy the explicit criteria set out in the initiation notice regarding the identification of Cambodian processors involved in processing Vietnamese-origin fish into fish fillets for export to the United States. Accordingly, we do not believe this circumvention inquiry should proceed for Sun Wah and L.S.H., as the evidentiary standard which was established for purposes of this inquiry has not been met. See section 781(b) of the Act. Therefore, the Department is preliminarily terminating the inquiry with respect to these companies. The Department is, however, allowing Petitioners to provide additional information on Sun Wah and L.S.H. regarding their processing and export of fish fillets to the United States. Specifically, if sufficient information is received that meets the evidentiary standard established in the notice of *Initiation*, the Department may initiate a new and separate circumvention inquiry with regard to these companies.

With respect to Lian Heng, record evidence exists that Lian Heng was involved in processing and exporting frozen fish fillets to the United States made from Vietnamese-origin live basa and tra fish. See Piazza's May 12, 2004, submission. In addition, the Department corroborated that Lian Heng is an exporter of frozen fish fillets from Cambodia by examining CBP data. See Memo to File from Kit Rudd, dated January 27, 2006. As such, the Department is continuing the inquiry with respect to Lian Heng.

#### Statutory Provisions Regarding Circumvention

Section 781(b) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is

completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries under section 781(b) of the Act, the Department relies upon the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is subject to an antidumping duty order; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in (B) is minor or insignificant; and (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States. Section 781(b)(3) of the Act further provides that, in determining whether to include merchandise assembled or completed in a foreign country in an antidumping duty order, the Department shall consider: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise described in accordance with section 781(b)(1)(B) of the Act is affiliated with the person who uses the merchandise described in accordance with section 781(b)(1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported in to the United States; and (C) whether imports into the foreign country of the merchandise described in accordance with section 781(b)(1)(B) have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

#### **Analysis/Facts Available/Adverse Facts Available**

The Department's questionnaires issued to Lian Heng were designed to elicit information for purposes of conducting both qualitative and quantitative analyses in accordance with the criteria enumerated in section 781(b) of the Act as outlined above. This approach is consistent with our analysis in previous circumvention inquiries. *See, e.g., Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany and the United Kingdom; Negative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders (Carbon Steel Products)*, 64 FR 40336 (July 26, 1999) and *Steel Wire Rope from Mexico; Affirmative Preliminary Determination of*

*Circumvention of Antidumping Duty Order*, 59 FR 29176 (June 3, 1994). Although the Department received information addressing these criteria under section 781(b) of the Act, we are unable to complete an analysis of the criteria for Lian Heng in this proceeding because Lian Heng prematurely terminated the verification of its questionnaire responses.

Section 776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Further, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See* Statement of Administrative Action ("SAA") accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act.

In accordance with sections 776(a)(2)(C) and (D) of the Act, the Department finds that applying facts available is warranted for Lian Heng because Lian Heng prematurely terminated verification, thereby significantly impeding this proceeding and rendering the information submitted unverifiable. In addition, we disagree with Piazza's rebuttal comments that the Department's verification confirmed Piazza's responses on the record with respect to several elements of the statutory analysis under section 781(b) of the Act. The Department finds that Lian Heng's termination of verification constitutes a failure by Lian Heng to provide verifiable data and thus renders the totality of the record responses

unverified. Furthermore, pursuant to section 776(b) of the Act, the Department finds that Lian Heng failed to cooperate to the best of its ability as a result of its termination of verification, and therefore we find an adverse inference is warranted in determining the facts otherwise available.

#### **Summary**

We have made an affirmative preliminary determination that Lian Heng has engaged in circumvention of the antidumping duty order on frozen fish fillets from Vietnam within the meaning of section 781(b) of the Act. In the course of this proceeding, Lian Heng was given an opportunity to provide verifiable documentation supporting the country of origin of the fish used to produce frozen fish fillets in Cambodia for export to the United States. However, as noted above, Lian Heng failed to provide verifiable data supporting the country of origin of the fish used in the frozen fish fillet production process. Specifically, at verification the Department attempted to verify documentation regarding the origin of Lian Heng's whole fish used to produce fish fillets for the period January 1, 2003, to July 15, 2005 (the last day of verification). Lian Heng prematurely terminated the verification on July 15, 2005. Moreover, it was apparent during the verification that Lian Heng could not provide adequate documentation supporting the origin of the whole fish. *See Lian Heng Verification Report* at 1-2 and 16-17.

Therefore, as adverse facts available under section 776(b) of the Act, the Department concludes that Lian Heng's processing in and exporting from Cambodia constitutes circumvention of the antidumping duty order within the meaning of section 781(b) of the Act. A second adverse inference is that for the period of October 22, 2004 through July 15, 2005, Lian Heng used Vietnamese-origin fish. As a result of these inferences, the Department finds that the use of Vietnamese-origin fish by Lian Heng to produce frozen fish fillets for export to the United States constitutes circumvention of the antidumping duty order on frozen fish fillets from Vietnam under section 781(b) of the Act. As such, the Department will consider all entries of frozen fish fillets of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus* produced by Lian Heng entered, or withdrawn from warehouse, for consumption on or after October 22, 2004, the date of initiation of the circumvention inquiry, through July 15,

2005, the last day of the Lian Heng verification, to be produced from Vietnamese-origin fish. Therefore, for all such merchandise entered between October 22, 2004, and July 15, 2005, but not yet liquidated, we preliminarily determine to require suspension of liquidation and to require a cash deposit at the Vietnam-wide rate of 63.88 percent.

For all entries of frozen fish fillets produced by Lian Heng entered on or after July 16, 2005, CBP will allow Lian Heng to certify that no Vietnamese-origin fish was used in the production of the frozen fish fillets. Any entries of frozen fish fillets not accompanied by this certification will be subject to antidumping duty cash deposits at the Vietnam-wide rate of 63.88 percent. See Attachment I. Upon request, the Department may conduct a review of these certified entries during the third administrative review period (August 1, 2005 to July 31, 2006). The Department will expand the third administrative review period back to October 22, 2004, the date of initiation of the circumvention inquiry, to include all of Lian Heng's entries covered by this determination. In addition, we hereby serve notice to Lian Heng that such certified entries are subject to verification by the Department. If a review of these certified entries is conducted, the Department will, at a minimum, examine whole fish country of origin documentation that Lian Heng is required to maintain, as an exporter of fish products to the United States, by the United States Food and Drug Administration's Hazard Analysis Critical Control Point ("HACCP")<sup>9</sup> program and Bioterrorism Act of 2002.<sup>10</sup> The Department will also examine any other records Lian Heng maintains in its normal course of business supporting its certifications that no Vietnamese-origin fish was used in the production of its frozen fish fillets.

#### Extension of Final Determination

Section 781(f) of the Act states that the administering authority shall, to the maximum extent practicable, make determinations under section 781 of the Act within three-hundred days from the date of the initiation of an antidumping circumvention inquiry. At this time, the Department requires additional time to allow parties to submit briefs, conduct a hearing if requested, and analyze all comments submitted prior to issuance

<sup>9</sup> Hazard Analysis Critical Control Point. Details regarding this program can be found at <http://www.cfsan.fda.gov/lrd/haccp.html>.

<sup>10</sup> Details regarding the Bioterrorism Act of 2002 can be found at the following URL: <http://www.fda.gov/oc/bioterrorism/bioact.html>.

of the final determination. Therefore, the Department is extending the current deadline of the final determination by sixty days until Monday, April 17, 2006.

#### Suspension of Liquidation

As noted, in accordance with section 733(d) of the Act, the Department will direct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the Vietnam-wide rate, on all unliquidated entries of frozen fish fillets produced by Lian Heng that were entered, or withdrawn from warehouse, for consumption from on or after October 22, 2004, the date of initiation of the circumvention inquiry, through July 15, 2005.

#### Notification to the International Trade Commission

The Department, consistent with section 781(e) of the Act, has notified the International Trade Commission ("ITC") of this preliminary determination to include the merchandise subject to this inquiry within the antidumping duty order on certain frozen fish fillets from Vietnam. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning the Department's proposed inclusion of the subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days to provide written advice to the Department.

#### Public Comment

Interested parties may request a hearing within 10 days from the date of publication of this notice. Comments from interested parties may be submitted no later than 20 days from the publication of this notice. Rebuttals limited to issues raised in the initial comments may be filed no later than 27 days after publication of this notice. Any hearing, if requested, will be held no later than 34 days after publication of this notice. The Department will publish the final determination with respect to this circumvention inquiry, including the results of its analysis of any written comments.

This affirmative preliminary circumvention determination is in accordance with section 781(b) of the Act and 19 CFR 351.225.

Dated: February 15, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

#### Attachment I

Certification of Lian Heng<sup>1</sup>

#### CERTIFICATION TO U.S. CUSTOMS AND BORDER PROTECTION

1. Lian Heng hereby certifies that the frozen fish fillets being exported and subject to this certification were not produced from fish of Vietnamese origin of the following species: *Pangasius Bocourti* (commonly known as basa or trey basa), *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius* and commonly known as tra or trey pra), or *Pangasius Micronemus*.

2. By signing this certificate, Lian Heng also hereby agrees to maintain sufficient documentation supporting the above statement such as country of origin certificates for all fish used to process the exported frozen fish fillets.<sup>2</sup> Further, Lian Heng agrees to submit to verification of the underlying documentation supporting the above statement. Lian Heng agrees that failure to submit to verification of the documentation supporting these statements will result in immediate revocation of Lian Heng's certification rights and that Lian Heng will be required to post a cash deposit equal to the Vietnam-wide entity rate on all entries of frozen fish fillets of the species *Pangasius Bocourti* (commonly known as basa or trey basa), *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius* and commonly known as tra or trey pra), or *Pangasius Micronemus*. In addition, if the Department of Commerce identifies any misrepresentation or inconsistencies regarding the certifications, it may report the matter to Customs and Border Protection for possible enforcement action.

Signature:

Printed Name:

Title:

[FR Doc. E6-2510 Filed 2-21-06; 8:45 am]

**BILLING CODE 3510-DS-S**

<sup>1</sup> Lian Heng Trading Co. Ltd. ("Lian Heng Trading") or Lian Heng Investment Co. Ltd. ("Lian Heng Investment") (collectively "Lian Heng")

<sup>2</sup> Documentation may include, but is not limited to the records that (EXPORTER OF RECORD) is required to maintain by the United States Food and Drug Administration's HACCP program and Bioterrorism Act of 2002 and other documents kept in the normal course of business.