

Background

The notice announcing the antidumping duty order on certain frozen warmwater shrimp from Vietnam was published in the **Federal Register** on February 1, 2005. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 05152 (February 1, 2005) (“*Vietnam Shrimp Order*”).¹ On January 31, 2006, pursuant to 19 CFR 351.214(c), the Department received a new shipper review request from Grobest & I-Mei Industrial (Vietnam) Co., Ltd. (“Grobest”). On February 24, 2006, the Department requested that Grobest correct certain filing deficiencies. *See* the Department’s letter dated February 24, 2006. On February 28, 2006, Grobest resubmitted its new shipper request. Grobest certified that it is both the producer and exporter of the subject merchandise upon which the request for a new shipper review is based.

Pursuant to section 751(a)(2)(B)(i)(I) of the Tariff Act of 1930 as amended (“the Act”), and 19 CFR 351.214(b)(2)(i), Grobest certified that it did not export frozen warmwater shrimp to the United States during the period of investigation (“POI”). In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Grobest certified that, since the initiation of the investigation, it has never been affiliated with any Vietnamese exporter or producer who exported frozen warmwater shrimp to the United States during the POI, including those not individually examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), Grobest also certified that its export activities were not controlled by the central government of Vietnam.

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Grobest submitted documentation establishing the following: (1) the date on which Grobest first shipped frozen warmwater shrimp for export to the United States and the date on which the frozen warmwater shrimp was first entered, or withdrawn from warehouse, for consumption; (2) the volume of its first shipment;² and (3)

¹ Therefore, a request for a new shipper review based on the anniversary month, February, was due to the Department by the final day of February 2006. *See* 19 CFR 351.214(d)(1).

² Grobest made no subsequent shipments to the United States, which the Department corroborated using data from U.S. Customs and Border Protection.

the date of its first sale to an unaffiliated customer in the United States.

The Department conducted customs database queries to confirm that Grobest’s shipment of subject merchandise had entered the United States for consumption and had been suspended for antidumping duties.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the Department finds that Grobest’s request meets the threshold requirements for initiation of a new shipper review for the shipment of frozen warmwater shrimp from Vietnam it produced and exported. *See Memo to the File from Nicole Bankhead, Case Analyst, through James C. Doyle, Office Director, Office 9: New Shipper Review Initiation Checklist*, dated March 17, 2006.

The POR for this new shipper review is July 16, 2004, through January 31, 2006. *See* 19 CFR 351.214(g)(1)(ii)(A). The Department intends to issue the preliminary results of this review no later than 180 days from the date of initiation, and final results of this review no later than 270 days from the date of initiation. *See* section 751(a)(2)(B)(iv) of the Act.

Because Grobest has certified that it produced and exported the frozen warmwater shrimp upon which it based its request for a new shipper review, the Department will instruct U.S. Customs and Border Protection to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of frozen warmwater shrimp that was both produced and exported by Grobest until the completion of the new shipper review, pursuant to section 751(a)(2)(B)(iii) of the Act.

Interested parties requiring access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: March 17, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration [A-489-807]

Certain Steel Concrete Reinforcing Bars from Turkey: Notice of Court Decision Not In Harmony with Final Results of Administrative Review

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

SUMMARY: On March 13, 2006, the United States Court of International Trade (the Court) sustained the final remand redetermination made by the Department of Commerce (the Department) pursuant to the Court’s remand of the final results of the 2002–2003 administrative review of certain steel concrete reinforcing bars from Turkey. *See Colakoglu Metalurji A.S. v. United States*, Court No. 04-00621, Slip Op. 06-36 (CIT Mar.13, 2006) (*Colakoglu Remand*). This case arises out of the Department’s *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part*, 69 FR 64731 (Nov. 8, 2004) (*Final Results*). The final judgment in this case was not in harmony with the Department’s November 2004 *Final Results*.

EFFECTIVE DATE: March 24, 2006.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Alice Gibbons, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-0656 or (202) 482-0498, respectively.

SUPPLEMENTARY INFORMATION: In *Colakoglu Metalurji A.S. v. United States*, 394 F. Supp. 2d 1379 (CIT 2005), the Court remanded the Department’s determination in the final results for further review based on the Department’s request to reconsider what constitutes the appropriate U.S. date of sale for Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret (collectively “Colakoglu”), a Turkish exporter/producer of subject merchandise.

On November 18, 2005, the Department issued the draft results of redetermination pursuant to remand (draft results) for comment by interested parties. In the draft results, the Department explained that upon reconsideration of the date-of-sale methodology used for Colakoglu, it found that the material terms of sale for Colakoglu’s U.S. sales were established

at the “order” date. Therefore, the Department stated that it would recalculate the margin using Colakoglu’s reported “order” date as the date of sale.

On November 28, 2005, the Department received comments on the draft results from Gerdau AmeriSteel Corporation, Commercial Metals Company (SMI Steel Group), and Nucor Corporation (collectively “the petitioners”). On November 30, 2006, the Department received rebuttal comments from Colakoglu. On January 13, 2006, the Department issued its final results of redetermination pursuant to remand to the Court. After analyzing the comments submitted by interested parties, we continued to find that the appropriate date of sale for Colakoglu’s U.S. sales for the time period in question was the “order” date. Accordingly, Colakoglu’s antidumping duty margin percentage for the 2002–2003 period of review is 4.91 percent.

On March 13, 2006, the Court found that the Department complied with the Court’s remand order and sustained the Department’s remand redetermination. *See Colakoglu Remand.*

Timken Notice

In its decision in *Timken Co., v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*), the United States Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination, and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s decision in *Colakoglu Remand* on March 13, 2006, constitutes a final decision of that court that is not in harmony with the Department’s final results in the 2002–2003 administrative review of certain steel concrete reinforcing bars from Turkey. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or, if appealed, pending a final and conclusive court decision.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: March 20, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. No. 031606B]

Endangered and Threatened Wildlife and Plants: Announcement of Initiation of a Status Review of the Cook Inlet Beluga Whale under the Endangered Species Act (ESA)

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

ACTION: Notice; request for information.

SUMMARY: We, NOAA’s National Marine Fisheries Service (NMFS), intend to review the status of the Cook Inlet beluga whale pursuant to the ESA to determine if this group of beluga whales should be listed as an endangered or threatened species. We previously reviewed the status of these whales in 1998, and in 2000 concluded that a listing under the ESA was not warranted at that time. We solicit information to be used in reassessing the status of the Cook Inlet beluga whale.

DATES: Comments and information must be received by April 24, 2006.

ADDRESSES: Comments and information should be sent to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, NMFS, Alaska Region, Attn: Ellen Walsh. Comments may be submitted by:

(1) Mail: P.O. Box 21668, Juneau, AK 99802-1668;

(2) Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK;

(3) FAX: 907-586-7557; or

(4) Email: CIB-ESA-Status-Review@noaa.gov.

Include in the subject line of the email the following document identifier: CI Belugas Status Review. Email comments, with or without attachments, are limited to five (5) megabytes.

FOR FURTHER INFORMATION CONTACT: Brad Smith, NMFS Alaska Region, Anchorage Field Office, (907) 271-5006, Kaja Brix, NMFS, Alaska Region, (907) 586-7235, or Marta Nammack, Office of Protected Resources, (301) 713-1401.

SUPPLEMENTARY INFORMATION: ESA section 4 contains provisions and procedures for adding and removing species to the lists of endangered and threatened species. In particular, section 4(a) provides that NMFS shall determine whether any species is threatened or endangered because of any of the following factors: (1) The present or threatened destruction,

modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence.

Pursuant to the ESA, and in response to petitions from external organizations, we reviewed the status of the Cook Inlet beluga whale under the ESA. We determined in 2000 that this group is a distinct population segment (DPS) and, thus, a separate \geq species \geq as defined by the ESA. We also determined that listing the Cook Inlet beluga whale DPS as a threatened or endangered species was not warranted at that time (65 FR 38778; June 22, 2000).

Between 1994, when we initiated abundance surveys for the stock, and 1998, the Cook Inlet beluga whale population declined from an estimated 673 animals to an estimated 347 animals. We stated that the population was likely declining when the 1994 abundance was estimated, and the historical abundance was likely more than 1,000 animals. Subsistence harvest in 1995-1997 was estimated at 87 whales per year, and we concluded this level of harvest accounted for the observed decline of the population. At the time, no other factors could be identified as having a significant effect on the beluga population. Because there was an adequate regulatory mechanism in place to address subsistence harvest, we concluded that an ESA listing was not warranted. This determination was based in part on the expectation that the population would increase after the harvest was reduced to sustainable levels.

We are concerned that recovery may not be occurring as expected, and we recognize that long-term persistence at a small population size increases the risk to this population. Therefore, we plan to re-evaluate the status of the Cook Inlet beluga whale DPS under the ESA.

ESA section 4(a)(3) provides that NMFS shall, concurrent with making a determination that a species is threatened or endangered, designate critical habitat for that species. Critical habitat consists of specific areas in which are found physical and biological features essential to the conservation of the species and which may require special management considerations or protection. Cook Inlet beluga whales occur primarily in upper Cook Inlet, where human development and occupation have been extensive. The status review concerns only whether the Cook Inlet beluga whales should be listed. However, if we determine listing