

below-cost sales were made in “substantial quantities” within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. See sections 773(b)(2)(B) – (D) of the Act.

Therefore, for purposes of these final results, we found that Ekinciler and Kaptan made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for Ekinciler and Kaptan and used the remaining sales as the basis for determining NV pursuant to section 773(b)(1) of the Act.

**Analysis of Comments Received**

The issues raised in Kaptan’s case brief are listed in the Appendix to this notice and addressed in the Decision Memo, which is adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room 1117, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memo are identical in content.

**Changes Since the Preliminary Results**

Based on our analysis of the comments received, we have made certain changes in the margin calculation for Kaptan. These changes are discussed in detail in the relevant sections of the Decision Memo.

**Final Results of Review**

We determine that the following weighted-average margin percentages exist for the period April 1, 2007, through March 25, 2008:

Manufacturer/Producer/Exporter	Margin Percentage
Ekinciler Demir ve Celik Sanayi A.S./Ekinciler Dis Ticaret A.S. ....	0.35
Kaptan Demir Celik Endustrisi ve Ticaret A.S. ....	0.00

**Assessment**

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific assessment rates for each respondent based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its “automatic assessment” regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

**Cash Deposit Requirements**

In December 2008, the International Trade Commission (ITC) determined, pursuant to section 751(c) of the Act, that revocation of this order would not be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See *Steel Concrete Reinforcing Bar From Turkey; Determination*, 73 FR 77841 (Dec. 19, 2008). See also *Steel Concrete Reinforcing Bars from Turkey*, Inv. No. 701-TA-745 (Second Review), USITC Pub. 4 (Jan. 2009). As a result of the ITC’s negative determination, the Department revoked the order on rebar from Turkey on January 5, 2009, effective as of March 26, 2008 (i.e., the fifth anniversary of the date of publication in the **Federal Register** of the notice of continuation of this antidumping duty order). See *Revocation of Antidumping Duty Order: Certain Steel Concrete Reinforcing Bars from Turkey*, 74 FR 266 (Jan. 5, 2009). Consequently, the collection of cash deposits of antidumping duties on entries of the subject merchandise is no longer required.

**Notification to Importers**

This notice serves as a final reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption

that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification to Interested Parties**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: August 27, 2009.

**Ronald K. Lorentzen**,  
Acting Assistant Secretary for Import Administration.

**Appendix – Issues in Decision Memorandum**

**Company-Specific Issues**

1. Duty Drawback Adjustment for Kaptan
2. Cost of Raw Materials Adjustment for Kaptan
3. Date of Sale for Kaptan
4. Affiliated Party Freight Revenue for Kaptan

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**DEPARTMENT OF COMMERCE**

**Foreign-Trade Zones Board**

[Docket 36–2009]

**Foreign-Trade Zone 170—Clark County, IN; Application for Subzone; Schwarz Pharma Manufacturing Ltd. (Pharmaceuticals Manufacturing), Seymour, IN**

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Ports of Indiana, grantee of FTZ 170, requesting special-purpose subzone status for pharmaceutical manufacturing facility of Schwarz Pharma Manufacturing Ltd. (Schwarz Pharma), located in Seymour, Indiana. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 25, 2009.

The Schwarz Pharma facility (450 employees, 28.8 acres, 1. 8 billion

doses) is located at 1101 C Avenue West, Seymour, Indiana. The facility is used to manufacture, test, package and warehouse pharmaceutical products. Components and materials sourced from abroad (representing 75% of the value of the finished product) include:

alprostadil, edex applicators, lacosamide, moexipril, kremozin, vanlafaxim, and esomeprazole magnesium (duty rate ranges from duty free to 5.3%). The application also requests authority to include a broad range of inputs and finished pharmaceutical products that Schwarz Pharma may produce under FTZ procedures in the future. New major activity involving these inputs/products would require review by the FTZ Board.

FTZ procedures could exempt Schwarz Pharma from customs duty payments on the foreign components used in export production. The company anticipates that less than 5 percent of the plant's shipments will be exported. On its domestic sales, Schwarz Pharma would be able to choose the duty rates during customs entry procedures that apply to Edex kits, Vimpat, Moexipril, Kremozin, Vanlafaxim and an acid reflux pharmaceutical (all duty free) for the foreign inputs noted above. FTZ designation would further allow Schwarz Pharma to realize logistical benefits through the use of weekly customs entry procedures. Customs duties also could possibly be deferred or reduced on foreign status production equipment. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, Diane Finver of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 2, 2009. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 17, 2009.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230-0002, and in the "Reading Room" section of the Board's Web site,

which is accessible via <http://www.trade.gov/ftz>.

For further information, contact Diane Finver at [diane\\_finver@ita.doc.gov](mailto:diane_finver@ita.doc.gov) or (202) 482-1367.

Dated: August 26, 2009.

**Andrew McGilvray,**

*Executive Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XN24**

#### Taking and Importing Marine Mammals; Operations of a Liquefied Natural Gas Port Facility in Massachusetts Bay

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

**ACTION:** Notice of issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to operation of an offshore liquefied natural gas (LNG) facility in the Massachusetts Bay, has been issued to Northeast Gateway Energy Bridge™ LLC (Northeast Gateway or NEG) for a period of 1 year.

**DATES:** This authorization is effective from August 31, 2009, until August 30, 2010. NMFS has also made the required findings to support future modification of the IHA to include take of marine mammals by Northeast Gateway's partner, Algonquin Gas Transmission, LLC, incidental to operations and maintenance of the Algonquin Pipeline Lateral upon completion of consultation under section 7 of the Endangered Species Act.

**ADDRESSES:** A copy of the application, IHA, and a list of references used in this document may be obtained by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. A copy of the application 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/pr/permits/incidental.htm#applications>.

#### FOR FURTHER INFORMATION CONTACT:

Shane Guan, Office of Protected Resources, NMFS, (301) 713-2289, ext 137.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) 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 regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking 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. Except with respect to certain activities not pertinent here, 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 [Level A harassment]; 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 [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.