

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-908]

**Sodium Hexametaphosphate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012**

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

**SUMMARY:** On December 7, 2012, the Department of Commerce (the “Department”) published the *Preliminary Results* of the third administrative review of sodium hexametaphosphate from the People's Republic of China (“PRC”).<sup>1</sup> We gave interested parties an opportunity to comment on the *Preliminary Results*. No party commented on the *Preliminary Results*.

**DATES:** *Effective Date:* March 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: 202.482.0413.

**SUPPLEMENTARY INFORMATION:****Scope of the Order**

The scope of this order consists of sodium hexametaphosphate.<sup>2</sup> The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) statistical reporting number 2835.39.5000. However, it may also be imported as a blend or mixture under heading 3824.90.3900. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description, available in the *Order* remains dispositive.<sup>3</sup>

**Final Finding of No Shipments**

As noted in the *Preliminary Results*, because Hubei Xingfa Chemical Group Co., Ltd. (“Hubei Xingfa”) and Sichuan

Mianzhu Norwest Phosphate Co. (“Norwest”) submitted timely no-shipment certifications and U.S. Customs and Border Protection (“CBP”) data indicated that there were no reviewable transactions for these companies during the period of review (“POR”), we determined that Hubei Xingfa and Norwest had no reviewable transactions of subject merchandise and retained their separate rate from the previous administrative review.<sup>4</sup> As no information, or argument, has been placed on the record to challenge these findings, for the final results we continue to find that Hubei Xingfa and Norwest had no reviewable transactions of subject merchandise, and thus, have retained their separate rate from the previous administrative review.

**PRC-Wide Entity**

As noted in the *Preliminary Results*, there are 13 other companies also under review in this segment, none of which have a separate rate from a prior segment of this proceeding.<sup>5</sup> As no information, or argument, has been placed on the record to challenge these findings, for the final results we continue to find that these companies have not established their eligibility for a separate rate, and they will continue to be considered part of the PRC-wide entity.

**Final Results of Review**

The weighted-average dumping margins for the POR are as follows:

Exporter	Weighted-average dumping margin (percent)
PRC-wide Entity <sup>6</sup> .....	188.05

**Assessment**

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of

review. The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported by companies examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the NME-wide rate.<sup>7</sup>

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Tariff Act of 1930, as amended (the “Act”): (1) For previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

**Reimbursement of Duties**

This notice also serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

<sup>1</sup> See *Sodium Hexametaphosphate from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 77 FR 73011 (December 7, 2012) (“*Preliminary Results*”).

<sup>2</sup> See “Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Sodium Hexametaphosphate from the People's Republic of China,” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Import Administration, dated November 29, 2012 (“*Preliminary Decision Memorandum*”).

<sup>3</sup> See *Notice of Antidumping Duty Order: Sodium Hexametaphosphate from the People's Republic of China*, 73 FR 14772 (March 19, 2008) (“*Order*”).

<sup>4</sup> See *Preliminary Results*, 77 FR at 73011–12; see also *Preliminary Decision Memorandum* at 2–3.

<sup>5</sup> See *Preliminary Results*, 77 FR at 73012.

<sup>6</sup> The PRC-wide entity includes Aditya Birla Chemicals (Thailand) Ltd., Anhui Technology Import & Export Co., Ltd., Anshan Career Economic Trade Co., Ltd., Blue Science Limited, Boon Stream Chemical International Trade, Chengdu Boon Stream Chemical Industry Co., Ltd., Dezhou Hualude Hardware Products Co. Ltd., Gatehouse International Freight Ltd., Henan Sinchems Imp and Exp Co., Ltd., Hubei Xingfa Chemical Export Import Co. Ltd., Rushan Wooyoung Trading Co., Ltd., Unison Chemical Industrial Co. Ltd. and Zhejiang Chun-an Foreign Trade Co.

<sup>7</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

## Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department’s regulations, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: March 21, 2013.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-801]

#### Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Review; 2012-2013

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

**DATES:** *Effective Date:* March 28, 2013.

**SUMMARY:** The Department of Commerce (“the Department”) has received a timely request for a new shipper review (“NSR”) of the antidumping duty (“AD”) order on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”). The Department has determined that the request meets the statutory and regulatory requirements for initiation. The period of review (“POR”) for this NSR is August 1, 2012, through January 31, 2013.

**FOR FURTHER INFORMATION CONTACT:** Alexander Montoro, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202-482-0238.

#### SUPPLEMENTARY INFORMATION:

## Background

The AD order on fish fillets from Vietnam was published on August 12, 2003.<sup>1</sup> On February 26, 2013, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.214(b), the Department received a NSR request from Ngoc Ha Co. Ltd. Food Processing and Trading (“Ngoc Ha”).<sup>2</sup> Ngoc Ha certified that it is a producer and exporter of the subject merchandise and that it exported, or has sold for export, subject merchandise to the United States.<sup>3</sup>

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Ngoc Ha certified that it did not export subject merchandise to the United States during the period of investigation (“POI”).<sup>4</sup> In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Ngoc Ha certified that, since the initiation of the investigation, it has never been affiliated with any Vietnamese exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually examined during the investigation.<sup>5</sup> As required by 19 CFR 351.214(b)(2)(iii)(B), Ngoc Ha also certified that its export activities were not controlled by the central government of Vietnam.<sup>6</sup>

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Ngoc Ha submitted documentation establishing the following: (1) The date on which it first shipped subject merchandise for export to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.<sup>7</sup>

Finally, the Department conducted a U.S. Customs and Border Protection (“CBP”) database query and confirmed the price, quantity, date of sale, and date of entry of the sale at issue. In addition, the Department confirmed that the data on any subsequent shipments

corresponds with the information provided by Ngoc Ha.<sup>8</sup>

## Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), and based on the documentation provided by Ngoc Ha, we find that the request submitted by Ngoc Ha meets the requirements for initiation of the NSR for shipments of fish fillets from Vietnam.<sup>9</sup> The POR is August 1, 2012, through January 31, 2013.<sup>10</sup> Absent a determination that the case is extraordinarily complicated, the Department intends to issue the preliminary results of this NSR within 180 days from the date of initiation and the final results within 270 days from the date of initiation.<sup>11</sup>

It is the Department’s usual practice, in cases involving non-market economies, to require that a company seeking to establish eligibility for an AD rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company’s export activities. Accordingly, we will issue a questionnaire to Ngoc Ha that will include a separate-rate section. The review of Ngoc Ha will proceed if the response provides sufficient indication that it is not subject to either *de jure* or *de facto* government control with respect to its exports of fish fillets.

We will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from the requesting company in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Ngoc Ha certified that it both produced and exported the subject merchandise, the sale of which is the basis for the new-shipper request for review, we will instruct CBP to permit the use of a bond only for subject merchandise which Ngoc Ha both produced and exported.

Interested parties requiring access to proprietary information in this NSR should submit applications for

<sup>1</sup> See *Notice of Antidumping Duty Order: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003).

<sup>2</sup> See Letter from Ngoc Ha, “Re: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Request for New Shipper Review,” dated February 26, 2013.

<sup>3</sup> See *Id.* at 1–2 and at Exhibit 1.

<sup>4</sup> *Id.* at Exhibit 2.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at Exhibit 1; See also Memorandum to the File from Scot Fullerton, Program Manager, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Placing CBP data on the record,” dated concurrently with this notice.

<sup>8</sup> See Memorandum to the File from Scot Fullerton, Program Manager, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: New Shipper Initiation Checklists,” dated concurrently with this notice; see also Memorandum to the File from Scot Fullerton, Program Manager, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Placing CBP data on the record,” dated concurrently with this notice.

<sup>9</sup> See Memorandum to the File from Scot Fullerton, Program Manager, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: New Shipper Initiation Checklist,” dated concurrently with this notice.

<sup>10</sup> See 19 CFR 351.214(g)(1)(i)(B).

<sup>11</sup> See section 751(a)(2)(B)(iv) of the Act.