

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-549-821]

**Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Polyethylene Retail Carrier Bags From Thailand**

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

**SUMMARY:** On July 28, 2010, the U.S. Trade Representative (USTR) instructed the Department of Commerce (the Department) to implement its determination under section 129 of the Uruguay Round Agreements Act (URAA) regarding the investigation of polyethylene retail carrier bags from Thailand. The Department issued its determination on June 29, 2010, regarding the offsetting of dumped comparisons with non-dumped comparisons when making average-to-average comparisons of export price and normal value in the investigation challenged by Thailand before the World Trade Organization (WTO) in *United States—Antidumping Measure on Polyethylene Retail Carrier Bags from Thailand*. The Department is now implementing this determination.

**DATES:** *Effective Date:* July 28, 2010.

**FOR FURTHER INFORMATION CONTACT:** Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0410, or (202) 482-4477, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 27, 2010, the Department informed interested parties that it was initiating a proceeding under section 129 of the URAA to issue a determination that would implement the findings of the WTO dispute settlement panel in *United States—Antidumping Measure on Polyethylene Retail Carrier Bags from Thailand*, WT/DS383/R (February 18, 2010). On April 27, 2010, the Department issued the memorandum entitled “Preliminary Results Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Polyethylene Retail Carrier Bags from Thailand” (Preliminary Results) in which it recalculated the weighted-average

dumping margins from the antidumping investigation of polyethylene retail carrier bags from Thailand<sup>1</sup> by applying the calculation methodology described in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006). The Department also invited interested parties to comment on the Preliminary Results. After receiving comments and rebuttal comments from the interested parties, the Department issued its final results for the section 129 determination on June 29, 2010. See the June 29, 2010, memorandum entitled “Issues and Decision Memorandum for the Final Results of the Proceeding Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Polyethylene Retail Carrier Bags from Thailand” (Issues and Decision Memorandum).

In its July 28, 2010, letter, the USTR notified the Department that, consistent with section 129(b)(3) of the URAA, the USTR had held consultations with the Department and the appropriate congressional committees with respect to the June 29, 2010, determination. On July 28, 2010, in accordance with section 129(b)(4) of the URAA, the USTR directed the Department to implement this determination.

**Nature of the Proceeding**

Section 129 of the URAA governs the nature and effect of determinations issued by the Department to implement findings by WTO dispute settlement panels and the Appellate Body. Specifically, section 129(b)(2) of the URAA provides that, “notwithstanding any provision of the Tariff Act of 1930,” within 180 days of a written request from the USTR, the Department shall issue a determination that would render its actions not inconsistent with an adverse finding of a WTO panel or the Appellate Body. See 19 U.S.C. 3538(b)(2). The Statement of Administrative Action, URAA, H. Doc. 316, Vol. 1, 103d Cong. (1994) (SAA), variously refers to such a determination by the Department as a “new,” “second,” and “different” determination. See SAA at 1025, 1027. After consulting with the Department and the appropriate congressional committees, the USTR may direct the Department to implement, in whole or in part, the new

determination made under section 129 of the URAA. See 19 U.S.C. 3538(b)(4). Pursuant to section 129(c) of the URAA, the new determination shall apply with respect to unliquidated entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date on which the USTR directs the Department to implement the new determination. See 19 U.S.C. 3538(c). The new determination is subject to judicial review separate and apart from judicial review of the Department’s original determination. See 19 U.S.C. 1516a(a)(2)(B)(vii).

**Analysis of Comments Received**

The issues raised in the case and rebuttal briefs submitted by interested parties to this proceeding are addressed in the Issues and Decision Memorandum dated June 29, 2010, which is hereby adopted by this notice. The Issues and Decision Memorandum is on file in the Central Records Unit (CRU), room 1117 of the main Department of Commerce building, and can be accessed directly at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content. A list of the issues addressed in the Issues and Decision Memorandum is appended to this notice.

**Final Antidumping Duty Margins**

The recalculated margins, unchanged from the Preliminary Results, are as follows:

- The margin for Thai Plastic Bags Industries Co., Ltd., Winner’s Pack Co., Ltd., and APEC Film Ltd. (collectively TPBI), decreases from 2.26 percent to zero.
- The margin for Advance Polybag Inc., Alpine Plastics Inc., API Enterprises Inc., and Universal Polybag Co., Ltd. (collectively Universal), decreases from 5.35 percent to 4.69 percent.
- The margins for Champion Paper Polybags Ltd., TRC Polypack, and Zip-Pac Co., Ltd., remain 122.88 percent.
- Because the margin for Universal is the only margin that is neither *de minimis* nor based wholly on adverse facts available, the all-others rate is based on the margin for Universal consistent with section 735(c)(5)(A) of the Tariff Act of 1930, as amended. Therefore, the all-others rate changes from 2.80 percent to 4.69 percent.

**Implementation of Partial Revocation and Recalculated Margins**

Upon recalculation, TPBI does not have a dumping margin. Therefore, the

<sup>1</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 34122 (June 18, 2004), as amended in *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 42419 (July 15, 2004).

Department is revoking the order with respect to TPBI effective July 28, 2010, the date upon which USTR directed the Department to implement its final results. Accordingly, we will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to antidumping duties entries of the subject merchandise manufactured and exported by TPBI which were entered, or withdrawn from warehouse, for consumption on or after that date and to discontinue the collection of cash deposits for estimated antidumping duties for merchandise manufactured and exported by TPBI.

We will instruct CBP to continue to suspend liquidation of all entries of subject merchandise from all other exporters or producers. We will instruct CBP to continue to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price. The suspension-of-liquidation instructions will remain in effect until further notice. The all-others rate of 4.69 percent established in this section 129 determination will be the new cash-deposit rate on or after July 28, 2010, for all exporters of subject merchandise for which the Department has not calculated an individual rate.

This determination is issued and published in accordance with section 129(c)(2)(A) of the URAA.

Dated: August 5, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

## Appendix I

### Issues Raised in the Issues and Decision Memorandum

1. Targeted Dumping.
2. All-Others Rate.
3. Effective Date.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XY04

### General Advisory Committee to the U.S. Section to the Inter-American Tropical Tuna Commission; Meeting Announcement

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

**ACTION:** Notice of public meeting.

**SUMMARY:** NMFS announces a meeting of the General Advisory Committee and

the Scientific Advisory Subcommittee to the U.S. Section to the Inter-American Tropical Tuna Commission (IATTC) on September 17, 2010. Meeting topics are provided under the **SUPPLEMENTARY INFORMATION** section of this notice.

**DATES:** The meeting will be held on September 17, 2010, from 9 a.m. to 5 p.m. PDT (or until business is concluded).

**ADDRESSES:** The meeting will be held in the Large Conference Room (Room 370) at NMFS, Southwest Fisheries Science Center, 3333 North Torrey Pines Court, La Jolla, California, 92037-1023. Please notify Heidi Hermismeyer prior to September 10, 2010, of your plans to attend the meeting, or interest in a teleconference option.

**FOR FURTHER INFORMATION CONTACT:** Heidi Hermismeyer, Southwest Region, NMFS at [Heidi.Hermismeyer@noaa.gov](mailto:Heidi.Hermismeyer@noaa.gov), or at (562) 980-4036.

**SUPPLEMENTARY INFORMATION:** In accordance with the Tuna Conventions Act, as amended, the Department of State has appointed a General Advisory Committee (GAC) and a Scientific Advisory Subcommittee (SAS) to the U.S. Section to the IATTC. The U.S. Section consists of four U.S. Commissioners to the IATTC and a representative of the Deputy Assistant Secretary of State for Oceans and Fisheries. The advisory bodies support the work of the U.S. Section in an advisory capacity with respect to U.S. participation in the work of the IATTC, with particular reference to the development of policies and negotiating positions pursued at meetings of the IATTC. NMFS, Southwest Region, administers the GAC and SAS in cooperation with the Department of State.

### Meeting Topics

The meeting topics will include, but are not limited to, the following: (1) updates from the IATTC scientific staff on issues such as the status of tropical tuna stocks and conservation recommendations; (2) updates on other international agreements in the Pacific Ocean such as the Western and Central Pacific Fisheries Commission; (3) regulatory changes that could affect tuna fisheries in the eastern Pacific Ocean; (4) the status of Antigua Convention implementing legislation; (5) input and advice from the advisory bodies on issues that may arise at the upcoming AIDCP/IATTC meetings in September 2010, including, but not limited to, potential U.S. proposals, potential proposals from other IATTC members, the potential for an albacore working group, and potential revisions to IATTC

Resolution C-09-01; (6) relevant changes in personnel and responsibilities at NOAA and the U.S. Department of State; and (7) other issues as they arise.

### Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Heidi Hermismeyer at (562) 980-4036 by September 10, 2010.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 6, 2010.

**Carrie Selberg,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XY07

### Takes of Marine Mammals Incidental to Specified Activities; Piling and Structure Removal in Woodard Bay Natural Resources Conservation Area, Washington

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments.

**SUMMARY:** NMFS has received an application from the Washington State Department of Natural Resources (DNR) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to derelict creosote piling and structure removal within the Woodard Bay Natural Resources Conservation Area (NRCA). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to the DNR to incidentally harass, by Level B Harassment only, harbor seals during the specified activity.

**DATES:** Comments and information must be received no later than September 13, 2010.

**ADDRESSES:** Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-