

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-549-502]

Certain Welded Carbon Steel Pipes and Tubes From Thailand: Notice of Court Decision and Suspension of Liquidation

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

SUMMARY: On March 22, 2001, in *Allied Tube and Conduit, Corp. v. United States*, Court No. 99-11-00715, Slip. Op. 01-31 (CIT 2001), a lawsuit challenging the Department of Commerce's ("the Department's") final results of administrative review of the antidumping order on certain welded carbon steel pipes and tubes from Thailand, the Court of International Trade (CIT) affirmed the Department's remand determination and entered a judgment order. In its remand determination, the Department addressed the issue of use of facts available for the duty drawback amount received by producer/exporter Saha Thai Steel Pipe Co., Ltd. (Saha Thai). As a result of the remand determination, the final antidumping duty rate for Saha Thai was increased from 9.65 percent to 9.84 percent. This decision was not in harmony with the Department's original final determination. Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department will continue to order the suspension of liquidation of the subject merchandise until there is a "conclusive" decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct Customs to liquidate Saha Thai's entries of subject merchandise during the March 1997-February 1998 period of review.

EFFECTIVE DATE: May 7, 2001.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos or Sally Gannon, AD/CVD Enforcement Group III, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2243 or (202) 482-0162, respectively.

SUPPLEMENTARY INFORMATION:**Background**

The Department published notice of its final results of administrative review of the antidumping order on certain welded carbon steel pipes and tubes, on October 21, 1999. *Certain Welded*

Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Administrative Review, 64 FR 56759 (October 21, 1999) (*Final Results*).

Following publication of the *Final Results*, Allied Tube and Conduit, Corp., petitioner in this case, filed a lawsuit with the CIT challenging the Department's date of sale and duty drawback determinations in the *Final Results*. On January 18, 2001, the CIT remanded the above-referenced proceeding to the Department of Commerce for reconsideration of the following issue: (1) To explain why the Department's duty drawback methodology, which employed facts available, is consistent with the objectives of the facts available provision, 19 U.S.C. 1677(e)(a), and accounts for gaps in respondent's information; or alternatively calculate a new duty drawback adjustment which is consistent with this objective. See *Allied Tube and Conduit Corp. v. United States*, Court No. 99-11-00715, Slip Op. 01-03 (CIT 2001). On February 14, 2001, the Department issued its Draft Results of Redetermination to the plaintiff and defendant-intervenor to comment.

In the Draft Results of Redetermination, we reconsidered our methodology in accordance with the CIT's order and determined that the simple average methodology applied did not adequately function as a modified duty drawback adjustment for respondent. Therefore, we recalculated the adjustment using the weighted average of the duty drawback unit values by invoice. Neither party submitted comments to the Department on the Draft Results of Redetermination. The Department's Final Results of Redetermination were identical to the Draft Results of Redetermination.

The CIT affirmed the Department's Final Results of Redetermination on March 22, 2001. See *Allied Tube and Conduit, Corp. v. United States*, Court No. 99-11-00715, Slip. Op. 01-31 (CIT 2001).

Suspension of Liquidation

The U.S. Court of Appeals for the Federal Circuit in *Timken* held that the Department must publish notice of a decision of the CIT or the Federal Circuit which is not "in harmony" with the Department's final determination. Publication of this notice fulfills that obligation. The Federal Circuit also held that the Department must suspend liquidation of the subject merchandise until there is a "conclusive" decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation pending the

expiration of the period to appeal the CIT's March 22, 2001 decision or, if that decision is appealed, pending a final decision by the Federal Circuit. The Department will instruct Customs to liquidate relevant entries covering the subject merchandise effective May 22, 2001, in the event that the CIT's ruling is not appealed.

Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 30, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 042501E]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the Oregon Department of Fish and Wildlife (ODFW) has submitted a Fisheries Management and Evaluation Plan (FMEP) pursuant to the protective regulations promulgated for Upper Willamette River (UWR) steelhead under the Endangered Species Act (ESA). The FMEP specify the future management of inland recreational fisheries potentially affecting the UWR steelhead. This document serves to notify the public of the availability of the FMEP for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft FMEPs must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on June 6, 2001.

ADDRESSES: Written comments and requests for copies of the draft FMEPs should be addressed to Lance Kruzic, Sustainable Fisheries Division, Hatchery and Inland Fisheries Branch, Roseburg Field Office, 2900 NW Stewart Parkway, Roseburg, OR 97470 or fax (541) 957-3386. The documents are also available on the Internet at <http://www.nwr.noaa.gov/>. Comments will not