

**SUMMARY:** The Department of Commerce (the Department) is extending the time limit for the final results of the administrative review of the antidumping duty order on persulfates from the People's Republic of China (the PRC) to February 2, 2005. This review covers the period July 1, 2002, through June 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** Tisha Loeper-Viti at (202) 482-7425 or David Layton at (202) 481-0371, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:** On August 6, 2004, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on persulfates from the PRC. See *Persulfates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 47887 (August 6, 2004). The final results of this administrative review are currently due not later than December 6, 2004.

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), states that if it is not practicable to complete the review within the time specified, the administering authority may extend the final results to not later than 180 days following the publication of the preliminary results. The Department recalculated its preliminary results on October 29, 2004, and issued them to interested parties on November 1, 2004. In order to allow interested parties sufficient time to comment on the Department's recalculation, it is not practicable to complete this review within the time limit mandated by the Act. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is fully extending the time period for issuing the final results of review until not later than February 2, 2005.

Dated: November 23, 2004.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-838; C-122-839]

#### Antidumping and Countervailing Duty Investigations of Certain Softwood Lumber Products From Canada: NAFTA Panel Decision

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

**ACTION:** Notice of NAFTA Panel decision.

**SUMMARY:** On August 31, 2004, a North American Free Trade Agreement ("NAFTA") Panel reviewing the International Trade Commission's ("ITC's") findings that an industry in the United States was threatened with material injury by reason of imports of softwood lumber from Canada, remanded the case to the ITC with explicit instructions directing the ITC to reverse its affirmative determinations. *Certain Softwood Lumber Products from Canada*, USA-CDA-2002-1904-07, Second [sic] Remand Decision of the Panel (August 31, 2004) ("Panel Decision III"). On September 10, 2004, while the ITC contested the Panel's authority to reverse the ITC's decision in these circumstances, a majority of the ITC Commissioners issued a determination consistent with the Panel's decision. *Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand) (Third) (September 10, 2004) ("Third Remand"). The Panel affirmed the Third Remand on October 12, 2004, and subsequently directed the NAFTA Secretariat to issue a Notice of Final Panel Action on October 25, 2004. Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("Federal Circuit") in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), the Department of Commerce ("Department") is notifying the public that the *Third Remand* for antidumping and countervailing duty investigations in *Certain Softwood Lumber Products from Canada* and the Notice of Final Panel action issued by the NAFTA Panel reviewing the ITC's determinations, discussed below, are not "in harmony" with the ITC's original results.

**EFFECTIVE DATE:** November 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Constance Handley for Antidumping Duty Investigation and James Terpstra for Countervailing Duty Investigation at (202) 482-0631 and (202) 482-3965,

respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 16, 2002, The ITC determined that an industry in the United States is threatened with material injury by reason of imports of softwood lumber from Canada found to be subsidized and sold in the United States at less than fair value. *Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Final), USITC Pub. 3509 (May 2002) ("FINAL INJURY DETERMINATIONS"); 67 Fed. Reg. 36068-36077 (May 22, 2002). Respondent parties subsequently challenged the ITC's FINAL INJURY DETERMINATIONS before the United States-Canada Binational Panel, pursuant to Article 1904 of NAFTA. The parties briefed and argued the case before the Panel, and on September 5, 2003, the Panel issued its decision, affirming in part and remanding in part the ITC's determinations. **CERTAIN SOFTWOOD LUMBER PRODUCTS FROM CANADA**, USA-CDA-2002-1904-07, Decision of the Panel (Sept. 5, 2003). On December 15, 2003, the ITC determined on remand that an industry was threatened with material injury by reason of dumped and subsidized subject imports. **SOFTWOOD LUMBER FROM CANADA**, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 (Dec. 2003). By decision circulated on April 29, 2004, the Panel affirmed in part and remanded in part the ITC's determinations on remand. **CERTAIN SOFTWOOD LUMBER PRODUCTS FROM CANADA**, USA-CDA-2002-1904-07, Remand Decision of the Panel (circulated April 29, 2004). On June 10, 2004, the ITC again determined on remand that the U.S. softwood lumber industry was threatened with material injury by reason of dumped and subsidized subject imports. **SOFTWOOD LUMBER FROM CANADA**, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand) (Second) (June 10, 2004). By decision issued on August 31, 2004, the Panel remanded with explicit instructions directing the ITC to reverse its affirmative determinations. **PANEL DECISION III**. On September 10, 2004, while the ITC contested the Panel's authority to reverse the ITC's decision in these circumstances, a majority of the ITC Commissioners issued a determination consistent with the Panel's decision. **THIRD REMAND**. By decision issued on October 12, 2004, the Panel affirmed the **THIRD REMAND** and

subsequently directed the NAFTA Secretariat to issue a Notice of Final Panel Action on October 25, 2004.

#### Timken Notice

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. § 1516a(c)(1) and 1516a(e), the Department must publish notice of decision of the Court of International Trade ("CIT") which is "not in harmony" with the Department's results. *Timken*, 893 F.2d at 340. This is true for CIT decisions which are "not in harmony" with the results of ITC injury, or threat of injury, determinations as well. Because NAFTA panels step into the shoes of the courts they are replacing, they must apply the law of the national court that would otherwise review the administrative determination. Therefore, we are publishing notice that the NAFTA Panel's October 25, 2004, Notice of Final Panel Action and its October 12, 2004, decision are "not in harmony" with the ITC's *Final Injury Determinations*. Publication of this notice fulfills the obligation imposed upon the Department by the decision in *Timken*. In addition, this notice will serve to suspend liquidation of entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after November 4, 2004, i.e., 10 days from the issuance of the Notice of Final Action, at the current cash deposit rate.

Dated: November 23, 2004.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[I.D. 112304D]

##### Endangered Species; File No. 1514

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

**ACTION:** Receipt of application.

**SUMMARY:** Notice is hereby given that Pacific Islands Regional Office, National Marine Fisheries Service, 1601 Kapiolani Blvd., Ste. 1110, Honolulu, HI 96814, has applied in due form for a permit to take green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), olive ridley (*Lepidochelys olivacea*), and

loggerhead (*Caretta caretta*) sea turtles for purposes of scientific research.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before December 30, 2004.

**ADDRESSES:** The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376; and

Assistant Regional Administrator for Protected Resources, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4020; fax (562)980-4027.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: File No. 1514.

#### FOR FURTHER INFORMATION CONTACT:

Patrick Opay or Ruth Johnson, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

The proposed research would occur in the Pacific Ocean and provide data on the at sea distribution and movement patterns of green, hawksbill, leatherback, olive ridley, and loggerhead sea turtles. Researchers would also use pop-up satellite tags (PSATs) to investigate post-release mortality of hard-shelled turtles that have been hooked or entangled by longline gear. Data from the PSATs would be used to compare the behavior of longline caught turtles to the known behavior of turtles

that have not been caught in fishing gear (controls) to investigate potential effects of the fishery interactions on turtle behavior patterns after release. Seven green, 34 leatherback, 21 loggerhead, and 42 olive ridley sea turtles that have been captured in the Hawaii longline fishery would be measured, photographed, tissue sampled, flipper tagged, and released, or salvaged (if dead). The hard-shelled species would also have a PSAT attached to their shell.

An additional six (combined total of all species) hawksbill, olive ridley, loggerhead, and green sea turtles captured in the American Samoa longline fishery would be measured, photographed, tissue sampled, flipper tagged, PSAT tagged and released, or salvaged (if dead). One leatherback captured in this fishery would also be measured, photographed, tissue sampled, flipper tagged, and released, or salvaged (if dead). All turtles would have been captured in the longline fishery and coverage for the incidental capture of these turtles would be provided under the incidental take statement of the 2004 Biological Opinion for the Western Pelagics Fishery Management Plan. The applicant requests a five year permit.

Dated: November 24, 2004.

**Tammy C. Adams,**

*Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*  
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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[I.D. 111204C]

##### Marine Mammals; File Nos. 1034-1685 and 1065-1749

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

**ACTION:** Issuance of permit amendment and new permit.

**SUMMARY:** Notice is hereby given that Dr. Markus Horning, Texas A&M University, Laboratory for Applied Biotelemetry and Biotechnology, Department of Marine Biology, 5007 Avenue U, Galveston, TX 77551 has been issued an amendment to scientific research Permit No. 1034-1685 and Dr. Patrick Butler, University of Birmingham, School of Biosciences, Edgbaston, Birmingham, United