

Comment 5: Whether the Department Used the Wrong Figure To Calculate the Duty Drawback Subsidy for Jindal

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-036]

#### Certain Biaxial Integral Geogrid Products From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** *Effective date:* February 16, 2016.

**FOR FURTHER INFORMATION CONTACT:** Julia Hancock at (202) 482-1394 and Susan Pulongbarit (202) 482-4031, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### The Petition

On January 13, 2016, the Department of Commerce ("the Department") received an antidumping duty ("AD") petition concerning imports of certain biaxial integral geogrid products ("geogrids") from the People's Republic of China ("PRC"), filed in proper form on behalf of Tensar Corporation ("Petitioner").<sup>1</sup> The AD petition was accompanied by a countervailing duty ("CVD") petition for the PRC.<sup>2</sup> Petitioner is a domestic producer of geogrids.<sup>3</sup>

On January 15, 2016, the Department requested additional information and clarification of certain areas of the Petition,<sup>4</sup> and Petitioner timely filed responses to these requests on January 20, 2016.<sup>5</sup> On January 26, 2016, the

Department requested additional information and clarification on the calculation of AD margins,<sup>6</sup> and Petitioner timely filed a response to this request on January 28, 2016.<sup>7</sup> On January 27, 2016, the Department determined to toll all deadlines four business days as a result of the Federal Government closure during snowstorm Jonas, which is applicable to this initiation.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the initiation of this investigation is now February 8, 2016.<sup>8</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the "Act"), Petitioner alleges that imports of geogrids from the PRC are being, or are likely to be, sold in the United States at less-than-fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed these Petitions on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that Petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigation that Petitioner is requesting.<sup>9</sup>

##### Period of Investigation

Because the AD Petition was filed on January 13, 2015, the period of investigation ("POI") is, pursuant to 19 CFR 351.204(b)(1), July 1, 2015, through December 31, 2015.

Response to the General Issues Supplemental Questionnaire, dated January 20, 2016 ("General Issues Supplement").

<sup>6</sup> See Letter from the Department to Petitioner entitled "Petition for the Imposition of Antidumping Duties on Imports of Certain Biaxial Integral Geogrid Products from the People's Republic of China: Supplemental Questions," January 26, 2016 ("Second AD Supplemental Questionnaire").

<sup>7</sup> See Petitioner's January 28, 2016 submission ("Second AD Petition Supplement").

<sup>8</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016.

<sup>9</sup> See the "Determination of Industry Support for the Petition" section below.

##### Scope of the Investigation

The products covered by this investigation are geogrids from the PRC. For a full description of the scope of this investigation, see the "Scope of the Investigation," in Appendix I of this notice.

##### Comments on Scope of the Investigation

During our review of the AD and CVD Petitions, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>10</sup>

As discussed in the preamble to the Department's regulations,<sup>11</sup> we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, the scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time ("ET") on February 29, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 10, 2016, which is 10 calendar days after the initial comments deadline.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

##### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

<sup>10</sup> See General Issues Supplemental Questionnaire and General Issues Supplement.

<sup>11</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>1</sup> See the Petitions for the Imposition of Antidumping Duties and Countervailing Duties: Certain Biaxial Integral Geogrid Products from the People's Republic of China, dated January 13, 2016 ("the Petition").

<sup>2</sup> *Id.*

<sup>3</sup> See Volume I of the Petition at 2.

<sup>4</sup> See Letters from the Department to Petitioner entitled "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Biaxial Integral Geogrid Products from the People's Republic of China: Supplemental Questions," January 15, 2016 ("General Issues Supplemental Questionnaire"); and "Petition for the Imposition of Antidumping Duties on Certain Biaxial Integral Geogrid Products from the People's Republic of China," dated January 15, 2016 ("AD Supplemental Questionnaire").

<sup>5</sup> See Petitioner's Response to the AD Supplemental Questionnaire, dated January 20, 2016 ("AD Petition Supplement") and Petitioner's

(“ACCESS”).<sup>12</sup> An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance’s APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

#### Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of geogrids to be reported in response to the Department’s AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors and costs of production as accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe geogrids, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all comments must be filed by 5:00 p.m. ET on February 29, 2016, which is twenty calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. ET on March 4, 2016. All comments and submissions to the Department must be filed electronically using ACCESS.

#### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>13</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not

render the decision of either agency contrary to law.<sup>14</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that geogrids, as defined in the scope, constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>15</sup>

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, Petitioner provided its own production of the domestic like product in 2015.<sup>16</sup> On February 1, 2016, we received a letter from the only other known U.S. producer of geogrids, Tenax Corporation (“Tenax”), stating that the company supports the Petition.<sup>17</sup> Tenax also provided its own production of the domestic like product in 2015.<sup>18</sup> Petitioner states that, based on reasonably available information regarding the U.S. geogrids industry, there are no other known producers of

<sup>14</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>15</sup> For a discussion of the domestic like product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: Certain Biaxial Integral Geogrid Products from the People’s Republic of China (“PRC AD Initiation Checklist”), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Biaxial Integral Geogrid Products from the People’s Republic of China (“Attachment II”). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>16</sup> See General Issues Supplement, at 13.

<sup>17</sup> See Letter from Tenax Corporation, dated January 28, 2016. We note that, although this letter is dated January 28, 2016, it was filed after 5:00 p.m. on January 29, 2016 (via ACCESS); therefore, we consider it received on the next business day (February 1, 2016).

<sup>18</sup> See Letter from Tenax Corporation, dated February 1, 2016.

<sup>12</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department’s electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>13</sup> See section 771(10) of the Act.

geogrids in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.<sup>19</sup>

Our review of the data provided in the Petition, General Issues Supplement, letters from Tenax, and other information readily available to the Department indicates that Petitioner has established industry support.<sup>20</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>21</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>22</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>23</sup> Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting the Department initiate.<sup>24</sup>

### **Allegations and Evidence of Material Injury and Causation**

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (“NV”). In addition, Petitioner

alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>25</sup>

Petitioner contends that the industry’s injured condition is illustrated by reduced market share; underselling and price suppression or depression; negative impact on the domestic industry’s performance, including capacity utilization, shipments, and operating income; and lost sales and revenues.<sup>26</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>27</sup>

### **Allegation of Sales at Less-Than-Fair Value**

The following is a description of the allegation of sales at less-than-fair value upon which the Department based its decision to initiate the investigation of geogrids from the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the initiation checklist.

### **Export Price**

Petitioner based U.S. prices on geogrids produced in and exported from the PRC by one producer, Feicheng Lianyi Engineering Plastics Co., Ltd. (“Feicheng”), and offered for sale to customers in the United States.<sup>28</sup> Petitioner made deductions from U.S. price for movement expenses consistent with the delivery terms.

### **Normal Value**

Petitioner stated that the Department has found the PRC to be a non-market economy (“NME”) country in every administrative proceeding in which the PRC has been involved.<sup>29</sup> In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in

effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production (“FOP”) valued in a surrogate market economy country, in accordance with section 773(c) of the Act. In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the issues of the PRC’s NME status and the granting of separate rates to individual exporters.

Petitioner claims that South Africa is an appropriate surrogate country because it is a market economy that is at a level of economic development comparable to that of the PRC and it is a significant producer of the merchandise under consideration.<sup>30</sup>

Based on the information provided by Petitioner, we believe it is appropriate to use South Africa as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

### **Factors of Production**

Petitioner based the FOPs for materials, labor, and energy on its own consumption rates for producing geogrids.<sup>31</sup> Petitioner notes that Tensar, like Feicheng, is a large producer of geogrids using the same production process as Tensar.<sup>32</sup> Petitioner valued the estimated factors of production using surrogate values from South Africa.<sup>33</sup>

### **Valuation of Raw Materials**

Petitioner valued the FOPs for raw materials (*e.g.*, polypropylene, black masterbatch) using public import data for South Africa from the Global Trade Atlas (“GTA”) from June 2015 through November 2015, the most recent POI-contemporaneous data available at the time the Petition was filed.<sup>34</sup> Petitioner excluded all import values from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries. In addition, in

<sup>19</sup> See Volume I of the Petition, at 2–15 and Exhibits I–1 through I–4, I–6 through I–34, I–44, and I–52 through I–58; *see also* Letter from Tenax Corporation, dated February 1, 2016, at 1.

<sup>20</sup> See PRC AD Initiation Checklist, at Attachment II.

<sup>21</sup> See section 732(c)(4)(D) of the Act; *see also* PRC AD Initiation Checklist, at Attachment II.

<sup>22</sup> See PRC AD Initiation Checklist, at Attachment II.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See Volume I of the Petition, at 34 and Exhibit I–4; *see also* General Issues Supplement, at 19.

<sup>26</sup> See Volume I of the Petition, at 24–28, 32–45 and Exhibits I–4, I–35, I–39 through I–43, I–47, I–50, and I–51; *see also* General Issues Supplement, at 13–24 and Exhibits Supp. I–1 through I–5, I–10 through I–12, and I–43.

<sup>27</sup> See PRC AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Biaxial Integral Geogrid Products from the People’s Republic of China.

<sup>28</sup> See Volume II of the Petition at 7.

<sup>29</sup> *Id.* at 2.

<sup>30</sup> *Id.* at 4.

<sup>31</sup> See Volume II of the Petition at Exhibit II–18; *see also* AD Petition Supplement, at 4–5 and Exhibit Supp. II–18.

<sup>32</sup> See Volume II of the Petition at Exhibit II–18.

<sup>33</sup> *Id.*

<sup>34</sup> See AD Petition Supplement at Exhibits Supp II–18 Attachments E–G.

accordance with the Department's practice, the average import value excludes imports that were labeled as originating from an unidentified country. The Department determines that the surrogate values used by Petitioner are reasonably available, and thus, are acceptable for purposes of initiation.

#### *Valuation of Labor*

Petitioner valued labor using 2012 data for South Africa from the International Labor Organization for "Manufacturing."<sup>35</sup> Specifically, Petitioner relied on data pertaining to wages earned by South African workers engaged in the manufacturing sector of the economy.<sup>36</sup> Petitioner inflated the wage rate using data for the South African Consumer Price Index ("CPI") published for the POI.<sup>37</sup> Next, Petitioner converted the wage rates to hourly and converted South African Rands ("ZAR") to U.S. Dollars ("USD") using the average exchange rate for the POI.<sup>38</sup>

#### *Valuation of Packing Materials*

Petitioner valued the packing materials used by PRC producers based on South African import data obtained from GTA.<sup>39</sup>

#### *Valuation of Energy*

Petitioner valued electricity using data published by the South African electricity producer Eksom.<sup>40</sup> The Eksom price information was reported in South African ZAR/kilowatt hour. Petitioner converted the price to USD using the average exchange rate during the POI.<sup>41</sup> Petitioner valued natural gas using data from the National Energy Regulator of South Africa for natural gas provider ROMPCO.<sup>42</sup> Petitioner converted ZAR/Gigajoule ("GJ") to USD/therm.<sup>43</sup>

#### *Valuation of Factory Overhead, Selling, General and Administrative (SG&A) Expenses, and Profit*

Petitioner relied on surrogate financial ratios (*i.e.*, factory overhead, SG&A expenses, and profit) it calculated using the 2015 audited financial statement of Bowler Metcalf, a South African producer of comparable

merchandise (*i.e.*, rigid plastic packaging for consumer products).<sup>44</sup>

#### **Fair Value Comparisons**

Based on the data provided by Petitioner, there is reason to believe that imports of geogrids from the PRC are being, or are likely to be, sold in the United States at less-than-fair value. Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margin for geogrids from the PRC range from 289.23 to 372.81 percent.<sup>45</sup>

#### **Initiation of Less-Than-Fair-Value Investigation**

Based upon the examination of the AD Petition on geogrids from the PRC, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of geogrids from the PRC are being, or are likely to be, sold in the United States at less-than-fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law.<sup>46</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>47</sup> The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this AD investigation.<sup>48</sup>

#### **Respondent Selection**

Petitioner named 78 companies from the PRC as producers/exporters of

geogrids.<sup>49</sup> Following standard practice for respondent selection in cases involving NME countries, we intend to issue quantity and value ("Q&V") questionnaires to each potential respondent, for which the Petitioner has provided a complete address, and base respondent selection on the responses received. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance Web site at <http://www.trade.gov/enforcement/news.asp>.

Exporters/producers of geogrids from the PRC that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement and Compliance Web site. The Q&V response must be submitted by all PRC exporters/producers no later than February 22, 2016, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically *via* ACCESS.

#### **Separate Rates**

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>50</sup> The specific requirements for submitting a separate-rate application are outlined in detail in the application itself, which is available on the Department's Web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>51</sup> Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that respondents submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

<sup>44</sup> See AD Petition Supplement at Exhibit II-18 Attachment K(3) and K(5); see also Second AD Supplemental Questionnaire; Second AD Petition Supplement at 1 and Exhibit Second Supp. II-18; and PRC AD Initiation Checklist.

<sup>45</sup> See PRC AD Initiation Checklist.

<sup>46</sup> See Trade Preferences Extension Act of 2015, Public Law 114-27, 129 Stat. 362 (2015).

<sup>47</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) ("Applicability Notice").

<sup>48</sup> *Id.* at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>49</sup> See Volume I of Petition at Exhibit I-37; see also AD Petition Supplement at 1 and Exhibit Supp. I-37.

<sup>50</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>51</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

<sup>35</sup> See Volume II of the Petition at Exhibit II-18.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*; see also AD Petition Supplement at 5 and Exhibit Supp. II-18 Attachment H(1).

<sup>39</sup> See AD Petition Supplement at Exhibits Supp. II-18 Attachments M and N.

<sup>40</sup> See Volume II of the Petition at Exhibit II-18.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

### Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>52</sup>

### Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the government of the PRC *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of geogrids from the PRC are materially injuring or threatening material injury to a U.S. industry.<sup>53</sup> A negative ITC determination will result in the investigation being terminated;<sup>54</sup> otherwise, this investigation will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of

allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>55</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>56</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Please review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.html>, prior to submitting factual information in this investigation.

### Certification Requirements

Any party submitting factual information in an AD or CVD

proceeding must certify to the accuracy and completeness of that information.<sup>57</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>58</sup> The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order ("APO") in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: February 8, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I—Scope of the Investigation

The merchandise covered by the investigation is certain biaxial integral geogrid products. Biaxial integral geogrid products are a polymer grid or mesh material (whether or not finished, slit, cut-to-length, attached to woven or non-woven fabric or sheet material, or packaged) in which four-sided openings in the form of squares, rectangles, rhomboids, diamonds, or other four-sided figures predominate. The products covered have integral strands that have been stretched to induce molecular orientation into the material (as evidenced by the strands being thinner toward the middle between the junctions than at the junctions themselves) constituting the sides of the openings and integral junctions where the strands intersect. The scope includes products in which four-sided figures predominate whether or not they also contain additional strands intersecting the four-sided figures and

<sup>57</sup> See section 782(b) of the Act.

<sup>58</sup> See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>52</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

<sup>53</sup> See section 733(a) of the Act.

<sup>54</sup> *Id.*

<sup>55</sup> See 19 CFR 351.301(b).

<sup>56</sup> See 19 CFR 351.301(b)(2).

whether or not the inside corners of the four-sided figures are rounded off or not sharp angles. As used herein, the term "integral" refers to strands and junctions that are homogenous with each other. The products covered have a tensile strength of greater than 5 kilonewtons per meter ("kN/m") according to American Society for Testing and Materials ("ASTM") Standard Test Method D6637/D6637M in any direction and average overall flexural stiffness of more than 100,000 milligram-centimeter according to the ASTM D7748/D7748M Standard Test Method for Flexural Rigidity of Geogrids, Geotextiles and Related Products, or other equivalent test method standards.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise further processed in a third country, including by trimming, slitting, coating, cutting, punching holes, stretching, attaching to woven or non-woven fabric or sheet material, or any other finishing, packaging, or other further processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the biaxial integral geogrid.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under the following subheading: 3926.90.9995. Subject merchandise may also enter under subheadings 3920.20.0050 and 3925.90.0000. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XD608

#### Endangered Species; File No. 19255

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

**ACTION:** Notice; issuance of a permit, and termination of a permit.

**SUMMARY:** Notice is hereby given that the Delaware Department of Natural Resources and Environmental Control (DNREC) [Responsible Party: Michael Stangl], 3002 Bayside Dr., Dover, Delaware 19977, has been issued a permit to take shortnose (*Acipenser brevirostrum*) and Atlantic (*Acipenser oxyrinchus oxyrinchus*) sturgeon in the Delaware River for purposes of scientific research. Additionally, Permit No. 16431, issued to the same Permit Holder for study of Atlantic sturgeon, is hereby terminated.

**ADDRESSES:** The permit and related documents are available for review

upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376.

#### FOR FURTHER INFORMATION CONTACT:

Malcolm Mohead or Rosa L. González, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

On November 17, 2014, notice was published in the **Federal Register** (79 FR 68413) of a request for a permit to conduct research on shortnose sturgeon had been submitted by the above-named applicant. On June 26, 2015, notice was published in the **Federal Register** (80 FR 36770) that the application was amended to include a request to conduct research on Atlantic sturgeon. The requested permit has been issued 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 parts 222-226).

Permit No. 19255 authorizes annual takes of endangered shortnose and Atlantic sturgeon to document nursery areas, individual movement patterns, seasonal movements, home ranges, and habitat usage(s) in the Delaware River. The authorized activities include capture of shortnose and Atlantic shortnose with gillnets. It also authorizes individuals to be weighed, measured, marked with Passive Integrated Transponder (PIT), T-bar tagged, anesthetized, acoustic tagged, genetic tissue sampled, gastric lavaged, and photographed. It also authorized one unintentional mortality per species during the life of the permit. Specific activities and number of animals authorized per species are found on the permit. The shortnose sturgeon research activities are a continuation of the ones authorized under the DNREC expired Permit No. 14396 (75 FR 4043). The Atlantic sturgeon research activities were incorporated from the ones authorized under the DNREC Permit No. 16431 (76 FR 58469), which was set to expire April 5, 2017. Permit No. 16431 was terminated with issuance of Permit No. 19225, valid until February 5, 2021.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: February 9, 2016.

**Perry F. Gayaldo,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2016-03026 Filed 2-12-16; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XE437

#### Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

**ACTION:** Notice of SEDAR 41 Review Workshop for South Atlantic red snapper and gray triggerfish.

**SUMMARY:** The SEDAR 41 assessments of the South Atlantic stocks of *red snapper* (*Lutjanus campechanus*) and gray triggerfish (*Balistes capricus*) will consist of a series of workshops and webinars: Data Workshops; an Assessment Workshop and webinars; and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

**DATES:** The SEDAR 41 Review Workshop will be held on March 15-17, 2016, from 8:30 a.m. until 6 p.m. and March 18, 2016, from 8 a.m. until 1 p.m. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

#### ADDRESSES:

**Meeting address:** The SEDAR 41 Assessment Workshop will be held at the Crowne Plaza Hotel, 4831 Tanger Outlet Boulevard, North Charleston, SC 29418; phone: (843) 744-4422.

**SEDAR address:** South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; [www.sedarweb.org](http://www.sedarweb.org).

**FOR FURTHER INFORMATION CONTACT:** Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571-4366; email: [julia.byrd@safmc.net](mailto:julia.byrd@safmc.net).

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions,