

record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address listed below. The closing period for their receipt is June 4, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 21, 2010).

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230-0002, and in the "Reading Room" section of the Board's website, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz). For further information, contact Kathleen Boyce at [Kathleen.Boyce@trade.gov](mailto:Kathleen.Boyce@trade.gov) or (202) 482-1346.

Dated: March 25, 2010.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2010-7669 Filed 4-2-10; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-894]

#### **Certain Tissue Paper Products from the People's Republic of China: Notice of Initiation of Anti-circumvention Inquiry**

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

**SUMMARY:** In response to a request from Seaman Paper Company of Massachusetts, Inc. (the petitioner), the Department of Commerce (the Department) is initiating an anti-circumvention inquiry to determine whether certain imports of tissue paper from Vietnam are circumventing the antidumping duty order on certain tissue paper products (tissue paper) from the People's Republic of China (PRC). See *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 16223 (March 30, 2005) (Tissue Paper Order).

**EFFECTIVE DATE:** April 5, 2010.

**FOR FURTHER INFORMATION CONTACT:** Brian Smith or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-3773, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On February 18, 2010, the petitioner submitted a letter requesting that the Department initiate and conduct an anti-circumvention inquiry, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), to determine whether imports of tissue paper from Vietnam which the petitioner alleges Max Fortune (Vietnam) Paper Products Company Limited (Max Fortune Vietnam) made from jumbo rolls and cut sheets of tissue paper produced in the PRC are circumventing the antidumping duty order on tissue paper from the PRC. Specifically, the petitioner alleges that Max Fortune Vietnam is importing into Vietnam PRC-produced jumbo rolls and cut sheets of tissue paper for completion or assembly into merchandise of the same class or kind as that covered by the antidumping duty order on tissue paper from the PRC prior to exporting that merchandise to the United States; and that such activity on the part of Max Fortune Vietnam constitutes circumvention of the PRC tissue paper order.

On February 24, 2010, the Department requested that the petitioner provide additional information pertinent to its anti-circumvention inquiry request. See Letter to Seaman Paper Company of Massachusetts, Inc., dated February 24, 2010. The petitioner provided the requested information on March 1, 2010.

On March 10, 2010, Department officials spoke with the foreign market researcher who provided certain information contained in the anti-circumvention inquiry request. See memorandum to the file entitled, "Telephone Conversation with Foreign Market Researcher," dated March 17, 2010.

On March 16, 2010, Max Fortune Vietnam responded to the petitioner's circumvention allegation. In its submission, Max Fortune Vietnam asserts, among other things, that it has never imported raw tissue paper from the PRC, and that its tissue paper production and processing operations in Vietnam are significant. Therefore, Max Fortune Vietnam requests that the Department reject the petitioner's request to initiate an anti-circumvention inquiry with respect to its operations.

##### **Scope of the Order**

The tissue paper products subject to order are cut-to-length sheets of tissue paper having a basis weight not exceeding 29 grams per square meter. Tissue paper products subject to this order may or may not be bleached, dye-colored, surface-colored, glazed, surface decorated or printed, sequined, crinkled, embossed, and/or die cut. The tissue paper subject to this order is in the form of cut-to-length sheets of tissue paper with a width equal to or greater than one-half (0.5) inch. Subject tissue paper may be flat or folded, and may be packaged by banding or wrapping with paper or film, by placing in plastic or film bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of tissue paper subject to this order may consist solely of tissue paper of one color and/or style, or may contain multiple colors and/or styles.

Tissue paper products subject to this order do not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States (HTSUS) and appear to be imported under one or more of the several different "basket" categories, including but not necessarily limited to the following subheadings: HTSUS 4802.30, HTSUS 4802.54, HTSUS 4802.61, HTSUS 4802.62, HTSUS 4802.69, HTSUS 4804.39, HTSUS 4806.40, HTSUS 4808.30, HTSUS 4808.90, HTSUS 4811.90, HTSUS 4823.90, HTSUS 9505.90.40.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Excluded from the scope of the order are the following tissue paper products: (1) tissue paper products that are coated in wax, paraffin, or polymers, of a kind used in floral and food service applications; (2) tissue paper products that have been perforated, embossed, or die-cut to the shape of a toilet seat, i.e., disposable sanitary covers for toilet seats; and (3) toilet or facial tissue stock, towel or napkin stock, paper of a kind used for household or sanitary purposes, cellulose wadding, and webs of cellulose fibers (HTSUS 4803.00.20.00 and 4803.00.40.00).

##### **Initiation of Anti-circumvention Proceeding**

##### **Applicable Statute**

Section 781(b) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign

country other than the country to which the order applies. In conducting anti-circumvention inquiries under section 781(b) of the Act, the Department relies upon the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is subject to an antidumping duty order; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding. As discussed below, the petitioner presented evidence with respect to these criteria.

#### *A. Merchandise of the Same Class or Kind*

The petitioner claims that the tissue paper from Vietnam, which it alleges Max Fortune Vietnam completes or assembles (*i.e.*, by cutting to length if necessary, folding, and packaging) in Vietnam before exporting it to the United States, is produced from jumbo rolls and sheets of PRC-origin tissue paper obtained from Max Fortune Vietnam's affiliate in the PRC, Fuzhou Tian Jun Trading Co. Ltd., (Tian Jun), and other Chinese sources, and is physically identical to the subject merchandise cut-to-length tissue paper from the PRC. The petitioner states that its claim is supported by the fact that Max Fortune Industrial Limited (Max Fortune), which wholly owns Max Fortune Vietnam and exports the subject merchandise to the United States, has consistently stated in its questionnaire responses submitted to the Department in past and ongoing administrative reviews of the antidumping duty order on tissue paper from the PRC, that the tissue paper Max Fortune Vietnam exports to the United States is of the same class or kind of merchandise as that covered by the antidumping duty order. *See* February 18, 2010, anti-circumvention inquiry request at pages 11–12. Accordingly, pursuant to section 781(b)(1)(A)(i) of the Act, the petitioner claims that the tissue paper from Max Fortune Vietnam is of the same class or kind as the tissue paper produced in the

PRC, which is subject to the antidumping duty order.

#### *B. Completion of Merchandise in a Foreign Country*

The petitioner alleges that the tissue paper that is the subject of the anti-circumvention inquiry request is made from jumbo rolls and sheets of tissue paper produced in the PRC which are completed or assembled (*i.e.*, cut-to-length (if starting from jumbo rolls), folded, and packaged) into finished tissue paper products in Vietnam for export to the United States. Based largely on information obtained from a foreign market researcher, the petitioner asserts that: 1) Max Fortune Vietnam has been importing significant amounts of tissue paper jumbo rolls and sheets since the company was established in 2004 (shortly after the original less-than-fair-value (LTFV) investigation segment of this proceeding was initiated) from Tian Jun and other Chinese sources; 2) Max Fortune Vietnam has been exporting significant quantities of tissue paper products to the United States since 2005; and 3) Max Fortune's facility in Vietnam performs labor-intensive converting operations (*i.e.*, cutting, folding and packing activities), rather than capital-intensive papermaking operations. *See* February 18, 2010, anti-circumvention inquiry request at pages 12–21, and Exhibits 1, 13 and 14; and the March 1, 2010, supplemental submission. Based on this information, the petitioner concludes that, pursuant to section 781(b)(1)(B)(ii) of the Act, Max Fortune Vietnam's tissue paper products are completed or assembled in another foreign country (Vietnam) from merchandise (tissue paper sheets or jumbo rolls) which is produced in the foreign country (the PRC) that is subject to the antidumping duty order.

#### *C. Minor or Insignificant Process*

The petitioner maintains that for the purpose of section 781(b)(1)(C) of the Act, conversion of jumbo rolls and/or sheets of tissue paper produced in the PRC into cut-to-length tissue paper in Vietnam is a "minor or insignificant process" as defined by the Act. According to the petitioner, the record evidence in the PRC tissue paper proceeding demonstrates that converting jumbo rolls and sheets of tissue paper is a minor or insignificant process. The petitioner states that cutting, folding and packaging tissue paper are operations that merely impart the final sheet size and form in which the product is delivered to the ultimate customer. The petitioner also states that the most fundamental aspects of the

merchandise, such as the basis weight, texture, quality, and other special characteristics that may be required if the paper is intended for printing, are established when the paper is produced. Furthermore, the petitioner claims that the types of minor assembly operations described above (and below) with respect to converting jumbo rolls and sheets of tissue paper is consistent with the information its foreign market researcher obtained with respect to the operations of Max Fortune Vietnam's facility in Vietnam. *See* February 18, 2010, anti-circumvention inquiry request at pages 22–26, and Exhibits 1 and 2.

The petitioner states that converting jumbo rolls and pre-cut sheets of tissue paper involves two to three minor processes typically performed by hand in Vietnam: cutting the tissue to a specific size (if starting from jumbo rolls), folding it (by hand typically) and packaging it for export (by hand). The petitioner contends that, based on the information obtained from its foreign market researcher, Max Fortune Vietnam only performs labor-intensive converting operations in Vietnam (*i.e.*, cutting, folding and packing activities), which are minor or insignificant processes in the overall production of tissue paper products, not capital-intensive papermaking operations. *See* February 18, 2010, anti-circumvention inquiry request at Exhibit 1.

The petitioner argues that an analysis of the relevant statutory factors of section 781(b)(2) of the Act further supports its conclusion that the processing in Vietnam is "minor or insignificant." These factors include: (1) the level of investment in the foreign country; (2) the level of research and development in the foreign country; (3) the nature of the production process in the foreign country; (4) the extent of production facilities in the foreign country; and (5) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

The petitioner argues that the processing in Vietnam is "minor and insignificant" as the term is defined in section 781(b)(2) of the Act when compared to the complex and capital-intensive processes involved in producing lightweight tissue paper from pulp, chemicals, and dyes. The petitioner's analysis of the statutory factors follows below.

#### (1) Level of Investment

The petitioner claims that available information concerning Max Fortune Vietnam's operations indicates that the

level of investment is minor or insignificant. According to the petitioner, Max Fortune Vietnam's production model (*i.e.*, importing jumbo rolls and cut-to-length sheets from Tian Jun and other companies in China, cutting to length if necessary and using manual labor to hand-fold and package the tissue paper before export to the United States) requires at most paper cutting machines, table chairs and lights, and the investment associated with this equipment is not significant. The petitioner states that its claim is supported by data obtained from its foreign market researcher. *See* February 18, 2010, anti-circumvention inquiry request at pages 27–28, and Exhibit 1. Accordingly, the petitioner concludes that the level of investment in Max Fortune Vietnam's processing facility is low.

#### (2) Level of Research and Development

The petitioner maintains that the evidence reasonably available indicates that no research and development (R&D) is taking place in Vietnam. The petitioner states that because Max Fortune Vietnam is wholly-owned by Max Fortune, it is reasonable to presume that any R&D efforts would originate with Max Fortune's affiliated tissue paper supplier in the PRC. Furthermore, the petitioner states that tissue paper production involves mature technologies and processes, and any technical developments are refinements rather than new technologies. Converting operations also reflect mature technologies, according to the petitioner, and the Vietnamese converting operations involve hand-folding and packaging, which are inherently mature processes. *See* February 18, 2010, anti-circumvention inquiry request at pages 29 and 30, and Exhibit 1.

#### (3) Nature of the Production Process in Vietnam

The petitioner states that its research indicates that Max Fortune Vietnam's operations in Vietnam are limited to PRC-origin jumbo rolls and sheets being cut to size (if necessary), and folded and packed by hand prior to export. As such, they involve unskilled manual labor in contrast to skilled labor required for papermaking. While cutting jumbo rolls into sheets of tissue paper may involve some skill and machinery, according to the petitioner, the nature of this activity is not complex. Therefore, the petitioner contends that Max Fortune Vietnam's "production process" is minor or insignificant. *See* February 18, 2010, anti-circumvention inquiry request at page 30–32.

#### (4) Extent of Production Facilities in Vietnam

The petitioner asserts, based on information obtained from its foreign market researcher, that Max Fortune Vietnam's facility is relying on significant amounts of PRC tissue paper in its operations. According to the petitioner, Max Fortune Vietnam has imported converting equipment from Tian Jun and employs unskilled labor to convert the tissue paper it imports from the PRC. Therefore, the petitioner concludes that Max Fortune Vietnam's production facility in Vietnam is minimal. *See* February 18, 2010, anti-circumvention inquiry request at pages 32–33, and Exhibit 1A; and the March 1, 2010 supplemental submission at pages 10–11, and Exhibit Supp-6.

#### (5) Value of Processing in Vietnam Compared to Value of Tissue Paper Imported Into United States

The petitioner states that it does not have access to information concerning the value of the jumbo rolls and sheets of tissue paper exported from the PRC to Max Fortune Vietnam, or the value associated with Max Fortune Vietnam's converting operations performed in Vietnam; however, it contends that data (*i.e.*, Max Fortune Vietnam's parent company's factors of production and usage rates) from the record of the 2007–2008 administrative review of the antidumping duty order on tissue paper from the PRC support a determination that the value of processing performed in Vietnam represents a small portion of the value of the merchandise imported into the United States. *See* February 18, 2010, anti-circumvention inquiry request at pages 34–35, and Exhibit 16.

In addition, the petitioner contends that data from the record of a prior anti-circumvention inquiry regarding tissue paper exports from Vietnam support a determination that the value of processing performed in Vietnam represents a small portion of the value of the merchandise imported into the United States. Specifically, in the prior anti-circumvention inquiry, the Department determined that the same type of conversion processes were minor or insignificant for purposes of the statute, and that inclusion of the resulting tissue paper in the order was appropriate to avoid circumvention of the order. *See Certain Tissue Paper Products From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination*, 73 FR 21580 (April 22, 2008) (which was upheld in *Certain Tissue Paper Products From the*

*People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 73 FR 57591 (October 3, 2008)). In fact, the petitioner notes that in the prior anti-circumvention inquiry, the activities performed by the Vietnamese entity at issue included more involved forms of processing (such as dip-dyeing), which would add greater amounts of value than merely converting jumbo rolls and sheets. In contrast, the petitioner contends that Max Fortune Vietnam is only converting the imported jumbo rolls and sheets without performing additional processing (such as dip-dyeing). *See* February 18, 2010, anti-circumvention inquiry request at page 35.

#### D. Value of Merchandise Produced in PRC

For the reasons stated in section C.5. above and for the purpose of section 781(b)(1)(D) of the Act, the petitioner contends that the value of the processing performed by Max Fortune Vietnam is a minor portion of the value of the completed merchandise. According to the petitioner, in this case, that analysis necessarily implies that the value of the PRC-origin jumbo rolls and cut-to-length sheets used by Max Fortune Vietnam is a significant portion of the total value of the merchandise exported to the United States, because there are no other operations or components to take into account. In addition, the petitioner states that the factors of production data reported in the 2007–2008 administrative review of tissue paper from the PRC by Max Fortune Vietnam's parent company demonstrates that the value of the converting portion of the tissue paper production process is only a small proportion of the value of the merchandise exported to the United States. *See* February 18, 2010, anti-circumvention inquiry request at page 36, and Exhibit 16.

#### E. Factors To Consider in Determining Whether Action Is Necessary

The petitioner states that, pursuant to sections 781(b)(1)(E) and (b)(3), additional factors must be considered in the Department's decision to issue a finding of circumvention regarding imports of tissue paper from Vietnam. These factors are discussed below.

#### Pattern of Trade

The petitioner states that section 781(b)(3)(A) of the Act directs the Department to take into account patterns of trade when making a decision in an anti-circumvention case. According to the petitioner, at the time

the PRC tissue paper petition was filed in February 2004, the only source of imports of tissue paper products was the PRC. Based on publicly available ship manifest (PIERS) data and foreign market research, the petitioner contends that a few months after the petition was filed, Max Fortune established Max Fortune Vietnam with the intention of using it to fold and pack PRC-origin tissue paper to be exported to the United States; and in 2005, Max Fortune Vietnam began commercial shipments. Subsequently, the petitioner asserts, Vietnam rapidly emerged as a source of substantial U.S. imports of tissue paper. See February 18, 2010, anti-circumvention inquiry request at pages 37- 40, and Exhibits 3 and 13B.

#### Affiliation

The petitioner states that section 781(b)(3)(B) of the Act directs the Department to take into account whether the manufacturer or exporter of the merchandise is affiliated with the person who uses the merchandise to assemble or complete in the foreign country that is subsequently imported into the United States when making a decision in an anti-circumvention case. The petitioner points out that Max Fortune has stated on the records of past segments of the PRC tissue paper proceeding that it is affiliated with Max Fortune Vietnam. The petitioner also points out that information obtained from its foreign market researcher indicates that Tian Jun is affiliated with Max Fortune, that Tian Jun has exported tissue paper from the PRC to Max Fortune Vietnam, and that all of Max Fortune Vietnam's sourcing and sales decisions are made by Max Fortune. See February 18, 2010, anti-circumvention inquiry request at Exhibit 1. The petitioner argues that the affiliation between Max Fortune Vietnam, Tian Jun and Max Fortune, and the timing of Max Fortune Vietnam's establishment and export shipments, coupled with Max Fortune Vietnam's complete lack of independent decision-making, makes it clear that Max Fortune controls all aspects of Max Fortune Vietnam's operations. See February 18, 2010, anti-circumvention request at page 41.

#### Subsequent Import Volume

The petitioner states that section 781(b)(3)(C) of the Act directs the Department to take into account whether imports of the merchandise into the foreign country have increased after the initiation of the investigation, which resulted in the issuance of the order, when making a decision in an anti-circumvention case. According to the petitioner, given that Vietnam was

not a source of tissue paper products at the time the LTFV investigation of tissue paper from the PRC was initiated, it is reasonable to infer that jumbo rolls and cut-to-length sheets of tissue paper were not being shipped to Vietnam for completion or assembly into finished tissue paper products because Chinese producers and exporters had no restrictions on their imports into the United States. In addition, the petitioner notes that Max Fortune Vietnam did not exist at the time the original investigation was initiated. Therefore, before that time, Max Fortune Vietnam could not have imported tissue paper jumbo rolls and sheets from the PRC. However, since its creation in September 2004, Max Fortune Vietnam has directly imported significant quantities of jumbo rolls and cut-to-length sheets of tissue paper from the PRC. See February 18, 2010, anti-circumvention inquiry request at page 42 and Exhibit 13C.

Furthermore, the petitioner points out that while the data from foreign market research indicate that Max Fortune Vietnam's direct imports of tissue paper declined after 2007, this does not mean that Max Fortune Vietnam has ceased sourcing PRC jumbo rolls and sheets and converting them, because the data do not capture shipments of PRC tissue paper that were imported into Vietnam by third parties. Additionally, the petitioner points out that the reduction in trade volume in 2008 and 2009 must be viewed in the context of the overall reduction of global trade caused by recent economic events. The petitioner maintains that as the U.S. economy improves and in the event Max Fortune's ability to ship from the PRC is further impaired by increases to its dumping margin, Max Fortune will most certainly return to shipping large volumes of its tissue paper to Max Fortune Vietnam for completion or assembly into finished tissue paper products and subsequent export to the United States. See February 18, 2010, anti-circumvention inquiry request at pages 42 and 43.

#### Analysis

Based on our analysis of the petitioner's February 18, 2010, anti-circumvention inquiry request, the Department determines that a formal anti-circumvention inquiry is warranted. In accordance with 19 CFR 351.225(e), if the Department finds that the issue of whether a product is included within the scope of an order cannot be determined based solely upon the request and the descriptions of the merchandise, the Department will notify by mail all parties on the Department's

scope service list of the initiation of a scope inquiry, including an anti-circumvention inquiry. In addition, in accordance with 19 CFR 351.225(f)(1), a notice of the initiation of an anti-circumvention inquiry issued under 19 CFR 351.225(e) will include a description of the product that is the subject of the anti-circumvention inquiry -- in this case, cut-to-length tissue paper that has the characteristics identified in the scope of the order, as provided above -- and an explanation of the reasons for the Department's decision to initiate an anti-circumvention inquiry, as provided below.

With regard to whether the merchandise from Vietnam is of the same class or kind as the merchandise produced in the PRC, the petitioner has presented information indicating that the merchandise being imported from Vietnam is of the same class or kind as the tissue paper produced in the PRC, which is subject to the antidumping duty order. The merchandise from Vietnam shares physical characteristics with the merchandise covered by the antidumping duty order.

With regard to completion of merchandise in a foreign country, the petitioner has also presented information that the tissue paper exported from Vietnam is tissue paper of PRC origin which is further processed in Vietnam.

With regard to whether the conversion of PRC jumbo rolls and/or sheets of tissue paper into cut-to-length tissue paper from Vietnam is a "minor or insignificant process," the petitioner addressed the relevant statutory factors used to determine whether the processing of jumbo rolls and sheets of tissue paper is minor or insignificant with the best information available to it at the time of its anti-circumvention inquiry request. The petitioner relied on information obtained primarily from its foreign market researcher for this purpose. See February 18, 2010, anti-circumvention inquiry request at Exhibit 1.

Having established through direct contact the reliability of the data presented by the foreign market researcher in Exhibit 1, we find that the information presented by the petitioner supports its request to initiate an anti-circumvention inquiry. In particular, the petitioner provided evidence for each of the criteria enumerated in the statute, including the following: (1) the nature of Max Fortune Vietnam's operations (*i.e.*, limited to converting operations) suggest little investment has been made in Max Fortune Vietnam; (2) because Max Fortune has a fully integrated

production facility in the PRC and is affiliated with Max Fortune Vietnam, it is reasonable to infer that R&D takes place in the PRC; (3) the cutting, folding and packaging activities (*i.e.*, the converting process) performed by Max Fortune Vietnam do not alter the fundamental characteristics of the tissue paper, and therefore, reflect a production process which is minor or insignificant; (4) Max Fortune Vietnam's labor-intensive converting operations suggest a significantly lower level of investment in production assets than that required by the capital-intensive nature of the papermaking process; and 5) Max Fortune Vietnam's limited operations suggest that converting tissue paper adds little value to the merchandise imported into the United States.

With respect to the value of the merchandise produced in the PRC, the petitioner relied on the information and arguments in the "minor or insignificant process" portion of its anti-circumvention request to indicate that the value of the PRC jumbo rolls and sheets of tissue paper is significant relative to the total value of finished merchandise exported to the United States. We find that this information adequately meets the requirements of this factor, as discussed above.

Finally, the petitioner argued that the Department should also consider the pattern of trade, affiliation, and subsequent import volume as factors in determining whether to initiate the anti-circumvention inquiry. The import information submitted by the petitioner indicates that Vietnamese imports of tissue paper from the PRC and U.S. imports of tissue paper from Vietnam rose significantly after the initiation of the investigation and the establishment of Max Fortune Vietnam. In addition, the petitioner provides information suggesting that Max Fortune Vietnam's affiliation with a known producer of the subject merchandise in the PRC, the timing of Max Fortune Vietnam's establishment, and the nature of Max Fortune Vietnam's operations reflect an intention to shift completion of merchandise subject to the PRC tissue paper order from the PRC to Vietnam.

Accordingly, we are initiating a formal anti-circumvention inquiry concerning the antidumping duty order on certain tissue paper products from the PRC, pursuant to section 781(b) of the Act. In accordance with 19 CFR 351.225(l)(2), if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties, at the applicable rate,

for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiry.

The Department is focusing its analysis of the significance of the production process in Vietnam on the single company identified by the petitioner, namely Max Fortune Vietnam, in its February 18, 2010, anti-circumvention inquiry request and about which sufficient information to initiate an anti-circumvention inquiry has been provided. If the Department receives a formal request from an interested party regarding potential circumvention by other Vietnamese companies involved in processing PRC jumbo rolls and/or sheets for export to the United States within sufficient time, we will consider conducting the inquiries concurrently.

The Department will, following consultation with interested parties, establish a schedule for questionnaires and comments on the issues. The Department intends to issue its final determination within 300 days of the date of publication of this initiation consistent with the language of section 781(f) of the Act.

This notice is published in accordance with 19 CFR 351.225(f).

Dated: March 29, 2010.

**Ronald K. Lorentzen,**  
*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-7662 Filed 4-2-10; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XV14**

#### **Pacific Halibut Fishery; Guideline Harvest Levels for the Charter Vessel Fishery for Pacific Halibut in International Pacific Halibut Commission Areas 2C and 3A**

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

**ACTION:** Notice of guideline harvest level.

**SUMMARY:** NMFS provides notice of the 2010 Pacific halibut guideline harvest levels (GHLs) for the charter vessel fishery in International Pacific Halibut Commission (IPHC) regulatory areas (Area) 2C and 3A. This notice is necessary to meet the regulatory requirement to publish notice

announcing the GHLs and to inform the public about the 2010 GHLs for the charter vessel fishery for halibut. The GHLs are benchmark harvest levels for participants in the charter vessel fishery. The 2010 GHLs remain the same as the 2009 GHLs; the Area 2C GHL is 788,000 lb (357.4 mt), and the Area 3A GHL is 3,650,000 lb (1,655.6 mt).

**DATES:** The GHLs are effective beginning February 1, 2010, through December 31, 2010. This period is specified by IPHC as the sport fishing season in all waters in and off Alaska.

**FOR FURTHER INFORMATION CONTACT:** Peggy Murphy, (907) 586-7228.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In 2003, NMFS implemented a final rule (68 FR 47256, August 8, 2003) to establish GHLs for Pacific halibut (*Hippoglossus stenolepis*) harvested by the charter vessel fishery in IPHC regulatory area (Area) 2C and Area 3A. Regulations implementing the GHLs have been amended twice. In 2008, the GHL table was corrected at 50 CFR 300.65(c)(1) (73 FR 30504, May 28, 2008). In 2009, regulatory provisions were amended for NMFS' annual publication of the GHL notice and to clarify NMFS' authority to take action at any time to limit the charter vessel angler catch to the GHL (74 FR 21194, May 6, 2009).

This notice is consistent with § 300.65(c) and announces the 2010 GHLs for the charter vessel fishery for halibut in IPHC Areas 2C and 3A. Regulations at § 300.65(c)(1) specify the GHLs based on the total constant exploitation yield (CEY) that is established annually by the IPHC. The total CEY for 2010 is 5,020,000 lb (2,277 mt) in Area 2C, and 26,192,000 lb (11,880 mt) in Area 3A. The corresponding GHLs are 788,000 lb (357.4 mt) in Area 2C, and 3,650,000 lb (1,655.6 mt) in Area 3A. The GHLs in Areas 2C and 3A did not change from the 2009 level. NMFS may take action at any time to limit the charter halibut harvest to as close to the GHL as practicable (50 CFR 300.65 (c)(3)).

NMFS is in the process of implementing a new limited entry system for charter vessels in the guided sport fishery for halibut in Areas 2C and 3A. Beginning in 2011, the limited access system limits the number of charter vessels that may participate in the fishery to qualified business owners (75 FR 554, January 5, 2010). The North Pacific Fishery Management Council also has proposed alternative management measures to allocate an annual halibut catch limit established