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February 4, 2013

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

FROM: Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results and Partial  
Rescission of Antidumping Duty Administrative Review: Ball  
Bearings and Parts Thereof from Germany

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## SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on ball bearings and parts thereof (ball bearings) from Germany. The review covers nine exporters/producers of the subject merchandise. The period of review (POR) is May 1, 2011, through September 14, 2011. We have preliminarily found that companies subject to this review have not made sales of the subject merchandise at prices below normal value.

## BACKGROUND

On May 15, 1989, the Department published the antidumping duty order on ball bearings from Germany in the *Federal Register*.<sup>1</sup> On May 1, 2012, the Department published in the *Federal Register* a notice of opportunity to request an administrative review of the antidumping duty order on ball bearings from Germany covering the period May 1, 2011, through September 14, 2011.<sup>2</sup> Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), we received timely filed requests for review of nine exporters/producers from various interested parties. On July 10, 2012, in accordance with 19 CFR 351.221(b)(c)(1)(i), we initiated an administrative review of these nine exporters/producers.<sup>3</sup>

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<sup>1</sup> See *Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof From the Federal Republic of Germany*, 54 FR 20900 (May 15, 1989).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 25679 (May 1, 2012).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 40565 (July 10, 2012).



As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012.<sup>4</sup> Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the preliminary results of this review is now February 2, 2013. As that date falls on a Saturday, the preliminary results are due no later than February 4, 2013.<sup>5</sup>

We are conducting the administrative review of the order in accordance with section 751(a) of the Act.

## SCOPE OF THE ORDER

The products covered by the order are ball bearings and parts thereof. These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 3926.90.45, 4016.93.10, 4016.93.50, 6909.19.50.10, 8414.90.41.75, 8431.20.00, 8431.39.00.10, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.35, 8482.99.25.80, 8482.99.65.95, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.93.30, 8708.93.60.00, 8708.99.06, 8708.99.31.00, 8708.99.40.00, 8708.99.49.60, 8708.99.58, 8708.99.80.15, 8708.99.80.80, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, 8803.90.90, 8708.30.50.90, 8708.40.75.70, 8708.40.75.80, 8708.50.79.00, 8708.50.89.00, 8708.50.91.50, 8708.50.99.00, 8708.70.60.60, 8708.80.65.90, 8708.93.75.00, 8708.94.75, 8708.95.20.00, 8708.99.55.00, 8708.99.68, and 8708.99.81.80.

Although the HTSUS item numbers above are provided for convenience and customs purposes, the written descriptions of the scope of the order remain dispositive.

The size or precision grade of a bearing does not influence whether the bearing is covered by one of the order. The order covers all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, *etc.*) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of the order. For unfinished parts, such parts are included if they have been heat-treated or if heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by the order are those that will be subject to heat treatment after importation. The ultimate application of a bearing also does not influence whether the bearing is covered by the order. Bearings designed for highly specialized applications are not excluded. Any of the subject bearings, regardless of whether

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<sup>4</sup> See Memorandum to the record from Paul Piquado, Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Hurricane Sandy," dated October 31, 2012.

<sup>5</sup> See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005).

they may ultimately be utilized in aircraft, automobiles, or other equipment, are within the scope of the order.

For a list of scope determinations which pertain to the order, *see* the Memorandum from the Bearing Team to the file through Minoo Hatten regarding scope determinations for the 2011/2011 reviews, dated concurrently with this notice, which is on file in the Central Records Unit (CRU) of the main Commerce building, room 7046.

## **DISCUSSION OF THE METHODOLOGY**

### Selection of Respondents for Individual Examination

Due to the large number of companies in this review and the resulting administrative burden of examining each company for which a review was initiated, the Department exercised its authority to limit the number of respondents selected for individual examination in this review. Where it is not practicable to examine all nine exporters/producers of subject merchandise because of the large number of such respondents, section 777A(c)(2) of the Act allows the Department to limit its examination to either a sample of exporters, producers, or types of products that is statistically valid, based on the information available at the time of selection, or exporters and producers accounting for the largest volume of subject merchandise from the exporting country that can be reasonably examined.

Accordingly, on July 10, 2012, we requested information concerning the quantity and value of sales to the United States from the nine exporters/producers for which we had initiated a review. We received responses from six of the exporters/producers subject to the review, and the remaining three respondents withdrew their requests for review.<sup>6</sup> Based on our analysis of the responses and our available resources, we chose to examine the sales of one company. *See* Memoranda to Susan Kuhbach, dated August 14, 2012, for a detailed analysis of the selection process. We selected myonic GmbH (myonic) for individual examination.

### Rescission of Review in Part

In accordance with 19 CFR 351.213(d), the Department will rescind an administrative review in part “if a party that requested a review withdraws the request within 90 days of the date of the publication of notice of initiation of the requested review.” Subsequent to the initiation of this review, we received timely withdrawals of the requests for review we had received for Kongskilde Limited, Schaeffler Technologies GmbH & Co. KG (formerly known as Schaeffler KG), and SKF GmbH. As such, we are rescinding the review with respect to these companies.

### Rates for Respondents Not Selected for Individual Examination

Generally we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents not selected for individual examination. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using zero or *de minimis* rates, or rates based on

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<sup>6</sup> *See* “Rescission of Review in Part” section below.

total facts available. Accordingly, the Department's usual practice has been to average the rates for the selected companies excluding zero, *de minimis*, and rates based entirely on facts available.<sup>7</sup> Section 735(c)(5)(B) of the Act also provides that, where all rates are zero, *de minimis*, or based on total facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents. One method that section 735(c)(5)(B) of the Act contemplates as a possible method is "averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated."

In this review, we have calculated a zero weighted-average dumping margin for the sole respondent selected for individual examination. In previous cases, the Department has determined that a "reasonable method" to use when, as here, the rate of the respondent selected for individual examination is zero or *de minimis* is to apply to the respondents not selected for individual examination the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available (which may be from a prior review or new shipper review).<sup>8</sup> If any such non-selected company had its own calculated rate that is contemporaneous with or more recent than such prior determined rates, however, the Department has applied such individual rate to the non-selected company in the review in question, including when that rate is zero or *de minimis*.<sup>9</sup> However, all prior rates for this proceeding were calculated using the methodology the Department abandoned in its *Final Modification for Reviews* pursuant to section 123 of the Uruguay Round Agreements Act.<sup>10</sup> Therein, the Department stated that it will not use this methodology in administrative reviews with preliminary determinations issued after April 16, 2012.<sup>11</sup> Therefore, we will not apply rates calculated in prior reviews to the non-selected companies in this review. Based on this, and in accordance with the statute, we determine that a reasonable method for determining the weighted-average dumping margins for the non-selected respondents in this review (*i.e.*, Audi AG, Bayerische Motoren Werke AG, Volkswagen AG, Volkswagen Zubehor GmbH, and Volkswagen Zubehor GmbH) is to assign to them the rate calculated for myonic, which is the sole respondent selected for individual examination in this administrative review.

### Constructed Export Price

For the price to the United States, we used constructed export price (CEP) as defined in sections 772(a) and (b) of the Act, as appropriate.

We calculated CEP based on the packed F.O.B. price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. Myonic received freight revenues from the customer for certain U.S. sales. In *Certain Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty*

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<sup>7</sup> See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum (I&D Memo) at Comment 16 (*AFBs 2008*).

<sup>8</sup> See *AFBs 2008* and accompanying I&D Memo at Comment 16.

<sup>9</sup> *Id.*

<sup>10</sup> See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

<sup>11</sup> *Id.*

*Administrative Review*, 73 FR 46584 (August 11, 2008), and accompanying I&D Memo at Comment 7, and in *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009), and accompanying I&D Memo at Comment 6, the Department determined to treat such revenues as an offset to the specific expenses for which they were intended to compensate. Accordingly, we have used myonic's freight revenues as an offset to its respective expenses.

Consistent with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States which includes commissions, direct selling expenses, and U.S. repacking expenses. In accordance with sections 772(d)(1) and (2) of the Act, we also deducted those indirect selling expenses associated with economic activities occurring in the United States and the profit allocated to expenses deducted under section 772(d)(1) of the Act in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and home markets. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

For further descriptions of our analysis, *see* the memorandum from Catherine Cartos to Minoo Hatten entitled *Ball Bearings from Germany – Preliminary Results Analysis Memorandum for myonic GmbH*, dated concurrently with this notice (Analysis Memorandum).

#### Home Market Sales

Based on a comparison of the aggregate quantity of home market and U.S. sales and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of foreign like product sold by myonic in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States pursuant to section 773(a)(1) of the Act. Myonic's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on the prices at which the foreign like product was first sold for consumption in Germany in usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the CEP sales.

Because all of myonic's sales during the POR in the home market were made to unaffiliated customers, it was not necessary to test whether sales to affiliated parties were made at arm's-length prices.

#### Cost of Production

In accordance with section 773(b) of the Act, in the last completed segment of this proceeding we disregarded myonic's below-cost sales. Therefore, for the instant review, we have reasonable grounds to believe or suspect that myonic's sales of the foreign like product under consideration

for the determination of normal value in this review may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Pursuant to section 773(b)(1) of the Act, we conducted a COP investigation of sales by myonic in its home market.

We examined the cost data for myonic and determined that our quarterly cost methodology is not warranted. Therefore, we have applied our standard methodology of using period costs based on the reported data, adjusted as described below.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, the general and administrative expenses, and financial expenses. In our COP investigation, we used the home market sales and COP information provided by myonic in its questionnaire response.

After calculating the COP and in accordance with section 773(b)(1) of the Act, we tested whether home market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts and rebates, selling and packing expenses.

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard the below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the POR, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this COP investigation, we disregarded certain below-cost sales made by myonic. *See Analysis Memorandum.*

#### Model Match Methodology

Where possible, we compared myonic's monthly, weighted-average U.S. sale prices to normal values based on a contemporaneous, monthly, weighted-average sale prices of the foreign like product in the home market in accordance with 19 CFR 351.414(c)(1).<sup>12</sup> Specifically, in making our comparisons, if sales of an identical home market model were reported, then we made comparisons to monthly weighted-average home market prices that were based on all sales of the identical product during the relevant month, which, where appropriate, passed the COP test. We calculated the monthly, weighted-average home market prices on a level of trade-specific basis. If there were no contemporaneous home market sales of an identical model, then we identified the sales of the most similar home market model.

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<sup>12</sup> *See generally Final Modification for Reviews.*

To determine the most similar model, we limited our examination to models sold in the home market that had the same bearing design, load direction, number of rows, and precision grade. Next, we calculated the sum of the deviations (expressed as a percentage of the value of the U.S. model's characteristics) of the inner diameter, outer diameter, width, and load rating for each potential home market match and selected the bearing with the smallest sum of the deviations which was less than 40 percent. If two or more bearings had the same sum of the deviations, then we selected the model that was sold at the same level of trade as the U.S. sale and sold in the first month within the Department's 90/60 window.<sup>13</sup> If two or more models were sold at the same level of trade and were sold in the same month, then we selected the model with the smallest difference-in-merchandise adjustment.

Finally, if no model sold in the home market had a sum of the deviations that was less than 40 percent, we concluded that no appropriate comparison existed in the home market.<sup>14</sup>

### Normal Value

Normal value was based on home market prices which were packed, ex-factory, or delivered prices to unaffiliated purchasers in accordance with section 773(a)(1)(B) of the Act.

We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act.

We made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411 and for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to CEP, we made circumstance-of-sale adjustments by deducting home market direct selling expenses from normal value.

In accordance with section 773(a)(1)(B)(i) of the Act, we based normal value, to the extent practicable, on sales at the same level of trade as the CEP. If normal value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with section 773(a)(7)(A) of the Act. See "Level of Trade" section below.

### Constructed Value

In accordance with section 773(a)(4) of the Act, we used constructed value as the basis for normal value when there were no usable sales of the foreign like product in the comparison market. We calculated constructed value in accordance with section 773(e) of the Act. We

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<sup>13</sup> When making monthly comparisons in an administrative review, the Department will normally look for a normal value based on home market, or third-country market, sales made (1) in the same month as the U.S. sale, then (2) the first, second, or third months preceding the month of the U.S. sale, and then (3) the first or second month after the month of the U.S. sale.

<sup>14</sup> For a full discussion of the model match methodology we have used in this review, see *Antifriction Bearings and Parts Thereof from France, et al.: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 25538, 25542 (May 13, 2005), and *Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews*, 70 FR 54711 (September 16, 2005), and accompanying I&D Memo at Comments 2, 3, and 5.

included the cost of materials and fabrication, selling, general and administrative (SG&A) expenses, U.S. packing expenses, and profit in the calculation of constructed value. In accordance with section 773(e)(2)(A) of the Act, we based selling SG&A expenses and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market.

We made adjustments to constructed value in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412 for circumstance-of-sale differences and level of trade differences. We made circumstance-of-sale adjustments by deducting home market direct selling expenses from constructed value.

When possible, we calculated constructed value at the same level of trade as the CEP. If constructed value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with sections 773(a)(7) and (8) of the Act.

### Level of Trade

To the extent practicable, we determine normal value based on home market sales made at the same level of trade as the U.S. CEP sale to the first unaffiliated U.S. customer. When there are no sales at the same level of trade, we compare the U.S. sale to home market sales made at a different level of trade. The normal value level of trade is that of the starting-price sales in the home market. When normal value is based on constructed value, the level of trade is that of the home market sales from which we derived the adjustments for SG&A and profit.

To determine whether home market sales are at a different level of trade than U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the normal value is based on a level of trade different from that of U.S. sales and the difference affected price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and home market sales at the level of trade of the U.S. sale, then we make a level of trade adjustment under section 773(a)(7)(A) of the Act.<sup>15</sup>

Because myonic reported no home market levels of trade that were equivalent to the CEP level of trade and because the CEP level of trade was at a less advanced stage than any of the home market levels of trade, we have made a CEP offset. Furthermore, we have no other information that provides an appropriate basis for determining a level of trade adjustment. To the extent possible, we determined normal value at the same level of trade as the U.S. sale to the first unaffiliated customer and made a CEP-offset adjustment in accordance with section 773(a)(7)(B) of the Act. The CEP-offset adjustment to normal value was subject to the so-called "offset cap," calculated as the sum of the U.S. indirect selling expenses deducted from CEP. *See* Analysis Memorandum.

Specifically myonic reported two categories of customers in the home market: original equipment manufacturers (OEMs) and distributors. We examined the differences in selling

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<sup>15</sup> *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997).

functions reported in myonic's responses. We found variances in the selling activities performed for each type of customer. For example, we found that myonic performed sales forecasting, strategic and economic planning, engineering services, inventory maintenance, direct sales personnel, market research, and technical assistance at a higher intensity for OEMs than for distributors. Based on these differences, we found that the two categories of home market customers constituted two levels of trade.

Myonic reported two categories of customers in the U.S. market: OEMs and distributors. We examined the differences in selling functions reported in myonic's responses. We found variances in the selling activities performed for each type of customer. For example, we found that myonic performed sales forecasting, strategic and economic planning, engineering services, inventory maintenance, direct sales personnel, market research, and technical assistance at a higher intensity for OEMs than for distributors. Based on these differences, we found that the two categories of U.S.-market customers constituted two levels of trade.

For model matching purposes we compared U.S. sales to OEMs to home market sales to OEMs and U.S. sales to distributors to home-market sales to distributors.

Myonic made only CEP sales to the United States during the POR. We identified the level of trade based on the price after the deduction of expenses and profit under section 772(d) of the Act. Most of the selling activities are performed by the U.S. affiliate, and we deduct the expenses associated with the selling activities performed by the U.S. affiliate under section 772(d) of the Act. After eliminating expenses associated with those selling activities from our analysis of the levels of trade, we found that myonic performed engineering services, inventory maintenance, order input and processing, and technical assistance at a low intensity. Therefore, we have concluded that CEP sales constitute a different level of trade from both levels of trade in the home market and that the two home market levels of trade were at a more advanced stage of distribution than the CEP level of trade.

We were unable to match CEP sales at the same level of trade in the home market or to make a level of trade adjustment because the differences in price between the CEP level of trade and the home market level of trade cannot be quantified due to the lack of an equivalent CEP level of trade in the home market. Also, there are no other data on the record which would allow us to make a level of trade adjustment. Because the data available do not provide an appropriate basis to determine a level of trade adjustment and the home market levels of trade are at a more advanced stage of distribution than the CEP, we made a CEP offset adjustment to normal value for all such sales. The CEP offset was the sum of indirect selling expenses incurred on home market sales up to the amount of indirect selling expenses incurred on the U.S. sales. We determined normal value, to the extent possible, at the same level of trade as U.S. sales to the unaffiliated customer, which are OEMs and distributors.

#### Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Import Administration website at <http://ia.ita.doc.gov/exchange/index.html>.

Recommendation

We recommend applying the above methodology for these preliminary results.

✓  
Agree

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Disagree

  
Paul Piquado  
Assistant Secretary  
for Import Administration

4 FEBRUARY 2013  
(Date)