

allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of bicycles from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determination by September 12, 1995.

#### *Distribution of Copies of the Petition*

In accordance with section 732(b)(3)(A) of the Act, copies of the public version of the petition have been provided to the representatives of the PRC.

#### *ITC Notification*

We have notified the International Trade Commission (ITC) of our initiation, as required by section 732(d) of the Act.

#### *Preliminary Determination by the ITC*

The ITC will determine by May 22, 1995, whether there is a reasonable indication that imports of bicycles from the PRC are causing material injury, or threaten to cause material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: April 25, 1995.

**Susan G. Esserman,**  
*Assistant Secretary for Import Administration.*

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[A-429-601]

### **Solid Urea From the German Democratic Republic; Preliminary Results of Changed Circumstances Review and Initiation of Changed Circumstances Antidumping Duty Administrative Review**

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

**ACTION:** Notice of preliminary results of changed circumstances review and initiation of changed circumstances antidumping duty administrative review.

**SUMMARY:** On February 12, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 5130) a notice of initiation of a changed circumstances review to examine the effect, if any, that

the reunification of Germany (by combination of the former German Democratic Republic (GDR) and the Federal Republic of Germany (FRG)) had on the antidumping duty order covering solid urea from the former GDR (53 FR 2636). Specifically, we reviewed the order's applicability to post-unification shipments of the subject merchandise from producers located in the pre-unification territory of the FRG. The Department preliminarily determines to maintain the order on solid urea from the five German states (Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, and Thuringia (plus any other territory included in the former GDR)) that formerly constituted the GDR (hereinafter "the Five States") and to allow entry of shipments from the pre-unification territory of the FRG (the remaining German states) without regard to antidumping duties. We have also determined that there is good cause for conducting a second changed circumstances review to calculate a new cash deposit rate using a market economy analysis for any shipments of solid urea from the Five States occurring after October 2, 1990 and before the effective date of this notice.

**EFFECTIVE DATE:** May 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Wendy Frankel, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On July 14, 1987, the Department published in the **Federal Register** (53 FR 2636) an antidumping duty order on solid urea from the GDR that established a cash deposit rate of 44.80 percent. On October 3, 1990, the GDR and the pre-unification territory of the FRG were unified into the single jurisdiction of the Federal Republic of Germany. On October 1, 1990, the U.S. Customs Service issued instructions that it would be appropriate to treat goods that would have been considered products from the former GDR, and were entered or withdrawn from warehouse for consumption on or after October 3, 1990, as products of the unified FRG for customs purposes. In response, on October 10, 1990, the Department instructed the U.S. Customs Service to suspend liquidation of all entries of solid urea from the unified FRG but not to collect cash deposits on solid urea from any company located in what was the pre-unification territory of the FRG.

Thus, entries of solid urea from the pre-unification territory of the FRG were suspended at what was in effect a zero cash deposit rate. We further instructed U.S. Customs officials to continue collecting cash deposits from manufacturers located in what had been the GDR.

On February 12, 1992, the Department published in the **Federal Register** (57 FR 5130) the initiation of a changed circumstances review on solid urea from the former GDR (*Notice of Initiation*). At the time of initiation, companies producing solid urea in the pre-unification territory of the FRG were shipping to the United States. Accordingly, the Department initiated its review to determine whether the order on solid urea from the former GDR is applicable to shipments from producers located in the pre-unification territory of the FRG.

#### **Scope of the Review**

Imports covered by this review are those of solid urea. At the time of the publication of the antidumping duty order, such merchandise was classifiable under item 480.30 of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classified under the *Harmonized Tariff Schedule of the United States* (HTS) item number 3102.10.00. These TSUSA and HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

#### **Analysis**

Although the Department normally administers antidumping proceedings on a country-by-country basis, neither the statute, the regulations, nor the GATT expressly require such an approach. Indeed, as the Department stated in connection with the special circumstances surrounding the breakup of the Soviet Union and its potential effect on the then-pending antidumping duty investigation concerning uranium, the focus of the law is on merchandise, not countries. See *Postponement of Preliminary Antidumping Duty Determination; Uranium from the Former Union of Soviet Socialist Republics (USSR)*, 57 FR 11064 (1992) (incorporating by reference, memorandum from F. Sailer to A. Dunn dated March 24, 1992); see also *Techsnabexport, Ltd. v. United States*, 802 F. Supp. 469, 471-72 (Ct. Int'l Trade 1992).

In the present case, there are special circumstances that justify maintaining the subject order on the Five States, but not on the remaining German states. The geopolitical entity that was known as

the GDR no longer exists. On October 3, 1990, the former GDR and the pre-unification territory of the FRG were unified into the single jurisdiction of the FRG. However, no less-than-fair-value (LTFV) investigation or injury test covering solid urea has been conducted for producers located in the pre-unification territory of the FRG. Thus, expansion of the order to the territory of the unified FRG would raise serious legal questions under the GATT and U.S. law—both regimes contemplate the assessment of antidumping duties only after injury and LTFV determinations that provide affected parties with certain procedural safeguards, including adequate notice and the opportunity to comment.

By maintaining the order on solid urea from the Five States, we believe we are reaching a result that is consistent with U.S. law and our international obligations. First, this result comports with the holding in the *Technabexport* case. Specifically, it preserves, notwithstanding the change in political borders, the original geographic scope of the order. 802 F. Supp. at 472-74. Second, as noted above, nothing in the GATT or U.S. law expressly precludes the maintenance of a region- or province-specific order where, as here, the country originally subject to the order has combined with another country. Expansion of the order to cover all shipments from the unified FRG, on the other hand, would subject producers to antidumping duties on merchandise which was never covered by injury and LTFV determinations at the International Trade Commission and the Department. Finally, revocation of the order, while avoiding the concerns raised by a country-wide order, would, as a result of a change in government or political borders, deprive the petitioners of relief they sought and obtained. As in the *Technabexport* case, 802 F. Supp. at 472, where the breakup of the Soviet Union did not justify the termination of the then-pending antidumping duty investigation of uranium, the change in government and political borders in this case does not provide a basis for revocation of the order.

#### Preliminary Results

According, due to the unique circumstances of this case, the Department preliminarily determines that the appropriate action is to maintain the order and the existing 44.80 percent cash deposit rate on solid urea from the five German states that formerly constituted the GDR (Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, and Thuringia (plus any other territory

included in the former GDR)) and to allow entry of shipments from the pre-unification territory of the FRG without regard to antidumping duties.

#### Initiation of Changed Circumstances Antidumping Duty Administrative Review

Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Tariff Act) and 19 CFR 353.22(f), the Department may review a determination whenever changed circumstances are sufficient to warrant such a review. In the instant case, the current cash deposit rate is based upon the non-market economy analysis provided for in section 773(c) of the Act. However, the Department has determined that as of October 3, 1990, producers located in the five German states that formerly constituted the GDR have been operating in a market-oriented economy. See *Final Affirmative Countervailing Duty Determinations; Certain Steel Products from Germany*, 58 FR 37315, 37324 (July 9, 1993).

Therefore, the Department is initiating a second changed circumstances review pursuant to section 751(b) of the Tariff Act and 19 CFR 353.22(f). In the next review, the Department will calculate a new cash deposit rate using a market economy analysis for any shipments of solid urea from the Five States occurring after October 2, 1990 and before the effective date of this notice. See *Antidumping Duty Order and Initiation of a Changed Circumstances Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plates from Poland*, 58 FR 44166 (1993) (change from a non-market to market economy justified a changed circumstances review to calculate a new cash deposit rate).

#### Suspension of Liquidation

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after publication date of the final results of this changed circumstances review, as provided for by section 751(a)(1) of the Tariff Act. A cash deposit of estimated antidumping duties shall be required on shipments of the subject merchandise as follows:

(1) No cash deposit will be required for shipments of solid urea produced by firms located in the pre-unification territory of the FRG.

(2) The existing 44.80 percent cash deposit rate will remain in effect, pending the results of the second changed circumstances review, for shipments of solid urea produced by firms located in the five German states

that formerly constituted the GDR (Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, and Thuringia (plus any other territory included in the former GDR)).

#### Public Comment

Case briefs and/or written comments from interested parties on the preliminary results of this changed circumstances review (initiated Feb. 12, 1992) may be submitted no later than 25 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed no later than 32 days after the date of publication. All written comments shall be submitted in accordance with 19 CFR 353.31(e) and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g). Interested parties may also request a hearing within ten days of the date of publication of this notice. Any hearing, if requested, will be held no later than 39 days after the date of publication of this notice. The Department will publish the final results of this changed circumstances review, including the results of its analysis of any written comments.

This administrative review and notice are in accordance with section 751(b) of the Tariff Act and 19 CFR 353.22(f).

Dated: April 21, 1995.

**Paul L. Joffe,**

*Deputy Assistant Secretary for Import Administration.*

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[C-333-402]

#### Certain Apparel from Peru; Notice of Scope Amendment

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

**ACTION:** Notice of amendment to the existing conversion of the scope of the order from the Tariff Schedules of the United States annotated to the harmonized tariff schedule.

**SUMMARY:** On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the *Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings* (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty