

- (I) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number.
- (II) An enterprise or industry is a predominant user of the subsidy.
- (III) An enterprise or industry receives a disproportionately large amount of the subsidy.
- (IV) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others.

Pursuant to section 771(5A)(D)(iii)(I) of the Act, the Department preliminarily finds that under DLI program, the actual recipients of the subsidy are not limited in number, as there are many users of the program that fall into 31 industries. *See GOK's July 15, 2005, submission at Exhibit G-4-M.*

Sections 771(5A)(D)(iii)(II) and (III) of the Act direct the Department to examine whether an enterprise or an industry is a predominant user of the subsidy or receives a disproportionately large amount of the subsidy. Although the steel industry received a greater monetary benefit from the program than did other participants, that is not determinative of whether the steel industry was a dominant user or received disproportionate benefits. For example, in *CTL Plate Investigation*, the Department found that respondent steel companies were not dominant or disproportionate users of a similar electricity program. *See CTL Plate Investigation*, 64 FR at 73186. The Department also stated that "the fact that certain companies are necessarily large consumers of electricity does not make an electricity program providing tariff reductions to those companies countervailable." *Id.* Furthermore, the U.S. Court of International Trade (CIT) upheld the Department's decision in *Bethlehem Steel Corp. v. United States*, 140 F.Supp 2d 1354 (CIT 2001). The CIT found that the Department's methodology was reasonable and reflected the commercial realities of the industry in question. *Id.* at 1369.

Consistent with our finding in *CTL Plate Investigation*, we preliminarily determine that although the steel industry is a large consumer of electricity and, therefore, a large recipient of the tariff reduction, this does not support a conclusion that the percentage of the benefits DSM or the steel industry received were disproportionately high or that the company or the industry was a dominant user. Accordingly, we preliminarily find that the DLI program

is not *de facto* specific and is, therefore, not countervailable.

#### Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated a subsidy rate for DSM for 2004. We preliminarily determine the total estimated net countervailable subsidy rate for DSM is 0.05 percent *ad valorem* for 2004, which is *de minimis*. *See* 19 CFR 351.106(c)(1).

If the final results of this review remain the same as these preliminary results, the Department intends to instruct U.S. Customs and Border Protection (CBP), within 15 days of publication of the final results, to liquidate shipments of certain cut-to-length carbon-quality steel from DSM, entered, or withdrawn from warehouse, for consumption from January 1, 2004, through December 31, 2004, at 0.00 percent. Also, the Department intends to instruct CBP to require a new cash deposit rate for estimated countervailing duties of 0.00 percent for all shipments of certain cut-to-length carbon-quality steel plate from DSM, entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review. The Department will issue appropriate instructions directly to CBP within 15 days of the final results of this review.

We will instruct CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding. *See CTL Plate Order*, 65 FR 6589. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

#### Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309(b)(1), interested parties may submit written arguments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. *See* 19 CFR

351.309(c)(1)(ii). Parties who submit written arguments in this proceeding are requested to submit with the written argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, 37 days after the date of publication of these preliminary results.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(1)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 28, 2006.

**David M. Spooner,**  
Assistant Secretary for Import Administration.

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**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Export Trade Certificate of Review

**ACTION:** Notice of Issuance of an Export Trade Certificate of Review, Application No. 05-00002.

**SUMMARY:** On February 21, 2006, The U.S. Department of Commerce issued an Export Trade Certificate of Review to California Tomato Export Group ("CTEG"). This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:**  
Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at

(202) 482-5131 (this is not a toll-free number), or by E-mail at [oetca@ita.doc.gov](mailto:oetca@ita.doc.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. sections 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2005).

Export Trading Company Affairs ("ETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

### Description of Certified Conduct

#### Export Trade

##### 1. Products

Processed tomato products: Processed tomato products limited to tomato paste, diced tomatoes, canned food service tomatoes, canned retail tomatoes and formulated glass retail tomato products.

##### 2. Export Trade Facilitation Services (As They Relate to the Export of Products)

All export-related services, including, but not limited to, international market research, marketing, advertising, sales promotion, brokering, handling, transportation, common marking and identification, communication and processing of foreign orders to and for Members, financing, export licensing and other trade documentation, warehousing, shipping, legal assistance, foreign exchange and taking title to goods.

#### Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

#### Export Trade Activities and Methods of Operation

1. With respect to Export Trade Activities, CTEG and/or one or more of its Members may on behalf of and with the advice and assistance of its Members:

- a. Engage in export promotion of Products through:
  - i. Researching, developing and conducting promotion and public relations activities to develop demand for the exported Products of the Members;
  - ii. Seeking export promotional funds to jointly promote the Members' exports of Products in existing and new markets;
  - iii. Developing and disseminating industry news reports (based only on publicly available information) to foreign buyers and providing publicly available information collectively to prospective export buyers regarding items such as crop inventory and structure of the U.S. processed tomato industry; and
  - iv. Organizing and conducting joint representation to buyers for export sales at tomato industry conferences;
- b. Invest jointly in export infrastructure, activities, and operations, such as:
  - i. Bill and collect from foreign buyers and provide collective accounting, tax, legal and consulting assistance and services;
  - ii. Write contracts for export payments;
  - iii. Develop and maintain a Web site newsletter and marketing brochures with publicly available product and crop information for the benefit of foreign customers;
  - iv. Purchase/rent warehouse facilities to conduct export operations;
  - v. Engage in minor product or packaging modification activities necessary to insure compatibility of Products with the requirements of foreign markets and/or design, develop, and market generic corporate labels and packaging materials for export Products;
  - vi. Negotiate and enter into agreements with providers of transportation services for the export of Products;
  - vii. Consolidate CTEG shipments to Export Markets; and
  - viii. Administer phytosanitary protocols to qualify the Products for Export Markets;
  - c. Apply for and utilize export assistance and incentive programs, as well as arrange export financing through bank holding companies, governmental programs, and other arrangements;
  - d. Design and develop foreign marketing strategies for CTEG's Export Markets and design, develop and market generic corporate and/or CTEG labels for export;
  - e. Establish export sales prices, minimum export sales prices, target export sales prices and/or minimum target export sales prices, and other terms of export sale in connection with actual or potential bona fide export opportunities;
  - f. Engage in joint bidding or other joint selling arrangements for exported Products and allocate export sales resulting from such arrangements;
  - g. Participate in negotiations and enter into agreements with foreign buyers (including governments and private persons) regarding:
    - i. The quantities, time periods, prices and terms and conditions in connection with actual or potential bona fide export opportunities; and
    - ii. Non-tariff trade barriers in the Export Markets;
    - h. Refuse to quote prices for export Products, or to market or sell export Products, to or for any customer in the export Product market, or any countries or geographical areas in the Export Markets;
    - i. Allocate geographic areas or countries in the Export Markets and/or customers in the Export Markets among Members of the CTEG;
    - j. Enter into exclusive and nonexclusive agreements appointing one or more export intermediaries for the sale of export Products with price, quantity, territorial and/or customer restrictions;
    - k. Conduct meetings with Members of the Certificate and/or CTEG's manager and/or consultant present to engage in export trade activities and/or methods of operation herein described in paragraph 1, or exchange information described in paragraph 2 below;
    - l. Enter into agreements with non-members, whether or not exclusive, to provide Export Trade Facilitation Services. Purchase Products from non-members to fulfill specific export sales obligations, provided that CTEG and/or its Members shall make such purchases only on a transaction-by-transaction basis and when the Members are unable to supply, in a timely manner, the requisite products at a price competitive under the circumstances. In no event shall a non-member be included in any deliberations concerning any export activities and operations; and
    - m. Advise and cooperate with the United States and foreign governments in:
      - i. Establishing procedures regulating the export of Products, and
      - ii. Fulfilling the phytosanitary and/or funding requirements imposed by foreign governments for export of Products.
    - 2. CTEG may exchange the following information with and among its Members:
      - a. Information about export sales and marketing efforts, selling strategies, and

contract and spot pricing in the Export Markets;

- b. Information regarding Product demand in the Export Markets;
- c. Information about the customary terms of sales in Export Markets;
- d. Information about export prices and availability of competitor's Products for sale in the Export Markets;

e. Specifications for Products by customers in the Export Markets;

f. Information about terms, conditions, and specifications of contracts relating to actual or potential bona fide export opportunities in the Export Markets to be considered and/or bid on by CTEG and its Members;

g. Information about the price, quality, source, and delivery dates of Products available for export by CTEG Members;

h. Information about joint bidding and/or selling arrangements for Export Markets;

i. Information about expenses specific to exporting to and within the Export Markets, sales, and distribution networks established by CTEG and/or its Members in the Export Markets;

j. Information about export customer credit terms and credit history;

k. Information about United States and foreign legislation and regulations, including federal marketing order programs, affecting sales to the Export Markets;

l. Information about joint bidding or selling arrangements for the Export Markets and allocations of sales resulting from such arrangements among the Members;

m. Information about the expenses specific to exporting to and within the Export Markets, including without limitation, transportation, trans- or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs duties and taxes;

n. Information about CTEG's and/or its Members' export operations, including without limitation, sales and distribution networks established by CTEG and/or its Members in the Export Markets, and prior export sales by Members (including export price information);

o. Publicly available information regarding the industry-wide forecasted quantity of Products secured through contracts for upcoming seasons; and

p. Relevant information about non-domestic tomato crop supply, including planting intentions, growing conditions, weather, disease, transportation, consumer trends, health news, regulatory impacts and information that

impacts on the availability, conditions and costs to foreign buyers.

#### *Definition*

"Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, broker, or who performs similar functions including providing or arranging for the provision of Export Trade Facilitation Services.

#### *Members (Within the Meaning of Section 325.2(1) of the Regulations)*

The Members are Ingomar Packing Company, Los Banos, California; Los Gatos Tomato Products, Huron, California; and SK Foods, Lemoore, California.

#### *Protection Provided by Certificate*

This Certificate protects CTEG, its Members, and directors, officers, and employees acting on behalf of CTEG and its Members from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

#### *Effective Period of Certificate*

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

#### *Other Conduct*

Nothing in this Certificate prohibits CTEG and Members from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of U.S. antitrust laws.

#### *Disclaimer*

The issuance of this Certificate of Review to CTEG by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary of Commerce or by the Attorney General concerning either (a) the viability or quality of the business plans of CTEG or Members or (b) the legality of such business plans of CTEG or its Members under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: March 1, 2006.

**Jeffrey Anspacher,**

*Director, Export Trading Company Affairs.*

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**[A-570-890]**

### **Wooden Bedroom Furniture From the People's Republic of China; Initiation of New Shipper Reviews**

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

**EFFECTIVE DATE:** March 7, 2006.

**SUMMARY:** The Department of Commerce (the "Department") has determined that three requests for a new shipper review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China ("PRC"), received by January 31, 2006, meet the statutory and regulatory requirements for initiation. The period of review ("POR") of these new shipper reviews is June 24, 2004, through December 31, 2005.

#### **FOR FURTHER INFORMATION CONTACT:**

Eugene Degnan or Robert Bolling at (202) 482-0414 or (202) 482-3434, respectively, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

The notice announcing the antidumping duty order on wooden bedroom furniture from the PRC was published on January 4, 2005 (70 FR 329). On January 31, 2006, we received new shipper review requests from Dongguan Huanghouse Furniture Co., Ltd. ("Huanghouse"), Senyuan Furniture Group ("Senyuan"), and Tianjin First Wood Co., Ltd. ("First Wood"). All of these companies certified that they are both the producers and exporters of the subject merchandise upon which the respective requests for a new shipper review are based.

Pursuant to section 751(a)(2)(B)(i)(I) of the Tariff Act of 1930, as amended (the "Act"), and 19 CFR 351.214(b)(2)(i), Huanghouse, Senyuan, and First Wood certified that they did not export wooden bedroom furniture to the