

customer)-specific *ad valorem* rate is greater than *de minimis* and we do not have reliable entered values, we calculate a per-unit assessment rate by aggregating the amount of dumping for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

The Department clarified its “automatic assessment” regulation on May 6, 2003.<sup>18</sup> This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see the *Automatic Assessment Clarification*.

### Cash Deposit Requirements

The following cash deposit rates will be effective upon publication of the final results of this administrative review for all shipments of pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for companies subject to this review will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, no cash deposit will be required; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate will be 15.45 percent, the all-others rate established in the Section 129 determination.<sup>19</sup> These cash deposit

requirements shall remain in effect until further notice.

### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

### Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(5). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 1, 2013.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

### Appendix I

#### List of Comments in the Issues and Decision Memorandum

Comment 1: Whether the Department Should Collapse the Reported Control Numbers for Granoro

Comment 2: Whether the Department Should Offset Transport Recovery Against U.S. Freight for Granoro

Comment 3: Whether the Department Erred in Applying Quarterly Cost to Granoro

Comment 4: Whether the Department Should Continue To Rely on Protein Content Based on the Nutritional Label

Comment 5: Whether the Department Should Review All of Rummo’s EP Entries During the POR

Comment 6: Analysis of Targeted Dumping Allegation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–201–820]

### Fresh Tomatoes From Mexico: Intent To Terminate Suspension Agreement and Resume Antidumping Investigation and Intent To Terminate Sunset Review

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

**SUMMARY:** On February 2, 2013, the Department of Commerce (the Department) and Mexican tomato growers/exporters accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico initialed a draft agreement that would suspend a resumed antidumping investigation on fresh tomatoes from Mexico. Based on this draft agreement, and if an acceptable agreement is reached, we anticipate that the Mexican tomato growers/exporters will withdraw from the 2008 Agreement in order to enter into a new agreement. If the Mexican tomato growers/exporters withdraw from the 2008 Agreement, the Agreement will no longer cover substantially all imports of fresh tomatoes from Mexico. Accordingly, the Department of Commerce would terminate the suspension agreement and resume the antidumping investigation. In addition, in the event the Department terminates the suspension agreement and resumes the investigation, the Department intends to terminate the ongoing sunset review. Conclusion of a new agreement would result in suspension of the resumed investigation.

**DATES:** *Effective Date:* February 8, 2013.

**FOR FURTHER INFORMATION CONTACT:** Judith Wey Rudman or Julie Santoboni at (202) 482–0192 or (202) 482–3063, respectively; Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

#### Background

On April 18, 1996, the Department initiated an antidumping investigation to determine whether imports of fresh tomatoes from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV) (61 FR 18377, April 25, 1996). On May 16, 1996, the United States International Trade Commission (ITC) notified the

<sup>18</sup> See *Automatic Assessment Clarification*.

<sup>19</sup> See *Implementation of the Findings of the WTO Panel in US—Zeroing (EC): Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders*, 72 FR 25261 (May 4, 2007).

Department of its affirmative preliminary injury determination.

On October 10, 1996, the Department and Mexican tomato growers/exporters initialed a proposed agreement to suspend the antidumping investigation. On October 28, 1996, the Department preliminarily determined that imports of fresh tomatoes from Mexico are being sold at LTFV in the United States. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Fresh Tomatoes from Mexico*, 61 FR 56608 (November 1, 1996) (*Preliminary Determination*). On the same day on which the Department issued the *Preliminary Determination*, the Department and certain growers/exporters of fresh tomatoes from Mexico signed an agreement to suspend the investigation (1996 Suspension Agreement). See *Suspension of Antidumping Investigation: Fresh Tomatoes from Mexico*, 61 FR 56618 (November 1, 1996).

On May 31, 2002, Mexican tomato growers/exporters accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico provided written notice to the Department of their withdrawal from the 1996 Suspension Agreement, effective July 30, 2002. Because the 1996 Suspension Agreement would no longer cover substantially all imports of fresh tomatoes from Mexico, effective July 30, 2002, the Department terminated the 1996 Suspension Agreement, terminated the sunset review of the suspended investigation, and resumed the antidumping investigation. See *Notice of Termination of Suspension Agreement, Termination of Sunset Review, and Resumption of Antidumping Investigation: Fresh Tomatoes from Mexico*, 67 FR 50858 (August 6, 2002).

On November 8, 2002, the Department and Mexican tomato growers/exporters initialed a proposed agreement suspending the resumed antidumping investigation on imports of fresh tomatoes from Mexico. On December 4, 2002, the Department and certain growers/exporters of fresh tomatoes from Mexico signed a new suspension agreement (2002 Suspension Agreement). See *Suspension of Antidumping Investigation: Fresh Tomatoes From Mexico*, 67 FR 77044 (December 16, 2002). On November 3, 2003, the Department published the *Final Results of Analysis of Reference Prices and Clarifications and Corrections; Agreement Suspending the Antidumping Duty Investigation on*

*Fresh Tomatoes From Mexico*, 68 FR 62281 (November 3, 2003).

On November 26, 2007, Mexican tomato growers/exporters accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico provided written notice to the Department of their withdrawal from the 2002 Suspension Agreement, effective 90 days from the date of their withdrawal letter (*i.e.*, February 24, 2008), or earlier, at the Department's discretion.

On November 28, 2007, the Department and Mexican tomato growers/exporters initialed a new proposed agreement to suspend the antidumping investigation on imports of fresh tomatoes from Mexico. On December 3, 2007, the Department released the initialed agreement to interested parties and afforded them an opportunity to comment on the initialed agreement. On December 17 and 18, 2007, several interested parties filed comments in support of the initialed agreement.

Because the 2002 Suspension Agreement would no longer cover substantially all imports of fresh tomatoes from Mexico, the Department published a notice of intent to terminate the 2002 Suspension Agreement, intent to terminate the five-year sunset review of the suspended investigation, and intent to resume the antidumping investigation. See *Fresh Tomatoes from Mexico: Notice of Intent to Terminate Suspension Agreement, Intent to Terminate the Five-Year Sunset Review, and Intent to Resume Antidumping Investigation*, 72 FR 70820 (December 13, 2007). On January 16, 2008, the Department published a notice of termination of the 2002 Suspension Agreement, termination the five-year sunset review of the suspended investigation, and resumption of the antidumping investigation, effective January 18, 2008. See *Fresh Tomatoes from Mexico: Notice of Termination of Suspension Agreement, Termination of Five-Year Sunset Review, and Resumption of Antidumping Investigation*, 73 FR 2887 (January 16, 2008).

On January 22, 2008, the Department signed a new suspension agreement (2008 Suspension Agreement) with certain growers/exporters of fresh tomatoes from Mexico. See *Suspension of Antidumping Investigation: Fresh Tomatoes from Mexico*, 73 FR 4831 (January 28, 2008).

On August 15, 2012, certain Mexican growers/exporters filed a letter with the Department requesting consultations under section IV.G. of the 2008 Suspension Agreement and the

Department agreed to consult. As a result of these consultations, on February 2, 2013, the Department and Mexican tomato growers/exporters accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico initialed a draft agreement that would suspend a resumed antidumping investigation on fresh tomatoes from Mexico.

#### Scope of the Investigation

The merchandise subject to the suspended investigation is all fresh or chilled tomatoes (fresh tomatoes) which have Mexico as their origin, except for those tomatoes which are for processing. For purposes of this suspended investigation, processing is defined to include preserving by any commercial process, such as canning, dehydrating, drying, or the addition of chemical substances, or converting the tomato product into juices, sauces, or purees. Fresh tomatoes that are imported for cutting up, not further processing (*e.g.*, tomatoes used in the preparation of fresh salsa or salad bars), are covered by this Agreement.

Commercially grown tomatoes, both for the fresh market and for processing, are classified as *Lycopersicon esculentum*. Important commercial varieties of fresh tomatoes include common round, cherry, grape, plum, greenhouse, and pear tomatoes, all of which are covered by this investigation.

Tomatoes imported from Mexico covered by this suspended investigation are classified under the following subheadings of the Harmonized Tariff Schedules of the United States (HTSUS), according to the season of importation: 0702 and 9906.07.01 through 9906.07.09. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of this suspended investigation is dispositive.

#### Intent To Terminate Suspension Agreement and Resume the Antidumping Investigation

Based on the initialed draft agreement, and if an acceptable agreement is reached, we anticipate that the Mexican tomato growers will withdraw from the 2008 Suspension Agreement. If the growers/exporters accounting for a significant percentage of exports of tomatoes to the United States withdraw from the 2008 Suspension Agreement, the 2008 Suspension Agreement will no longer cover substantially all imports of fresh tomatoes from Mexico. Accordingly, the Department would terminate the 2008 Suspension Agreement and resume the antidumping investigation in

accordance with section 734(i)(1)(B) of the Tariff Act of 1930, as amended (the Act). Pursuant to section 734(i)(1)(B) of the Act, the Department would resume the investigation as if it had published the affirmative preliminary determination under section 733(b) of the Act on the effective date of the termination. As explained in the *Preliminary Determination* (61 FR at 56609), the Department postponed the final determination until the 135th day after the date of the preliminary determination. The Department therefore would make its final determination in a resumed investigation within 135 days of termination of the 2008 Suspension Agreement, unless a new suspension agreement becomes effective. However, if the Department and substantially all of the growers/exporters of fresh tomatoes from Mexico sign a new suspension agreement, following the notice and comment period provided in accordance with section 734(c) of the Act, the resumed investigation would be suspended.

#### **Intent To Terminate the Five-Year Sunset Review**

On December 3, 2012, the Department initiated a five-year sunset review of the suspended antidumping investigation on fresh tomatoes from Mexico pursuant to section 751(c) of the Act. See *Initiation of Five-Year ("Sunset") Review*, 77 FR 71684 (December 3, 2012).

If the Department terminates the 2008 Suspension Agreement, there will no longer be a suspended investigation of which to conduct a sunset review. Therefore, the Department would terminate the sunset review of the suspended antidumping investigation on fresh tomatoes from Mexico, effective on the date of termination of the 2008 Suspension Agreement.

#### **International Trade Commission**

The Department has notified the International Trade Commission (ITC) of its intent to terminate the 2008 Suspension Agreement and resume the antidumping investigation. If the Department resumes the antidumping investigation, and if the Department makes a final affirmative determination in the investigation, the ITC is scheduled to make its final determination concerning injury within 45 days of publication of the Department's final determination. If both the Department's and the ITC's final determinations are affirmative, the Department will issue an antidumping duty order. However, as indicated above, if the Department and

substantially all of the growers/exporters of fresh tomatoes from Mexico sign a new suspension agreement, following the notice and comment period provided in accordance with section 734(c) of the Act, the resumed investigation would be suspended.

#### **Suspension of Liquidation**

If the Department terminates the 2008 Suspension Agreement and resumes the antidumping investigation as described above, the Department will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of fresh tomatoes from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the termination of the 2008 Suspension Agreement. CBP shall require antidumping duty cash deposits or bonds for entries of the subject merchandise based on the preliminary dumping margins, which range from 4.16 to 188.45 percent. See *Preliminary Determination*, 61 FR at 56615.

#### **Administrative Protective Order Access and Applicable Regulations**

The following requirements will apply if and during such time as the investigation is resumed. Because of the significant changes made to the administrative protective order (APO) process since the investigation, the Department will issue a new APO for any resumed investigation that will supersede the previously issued firm-specific APOs. Those authorized applicants that were granted APOs during the original investigation, as indicated in the most recent APO service list on the Department's Web site, will continue to have access to business proprietary information under APO. Any new APO applications or necessary amendments for changes in staff under the pre-existing APOs should be submitted promptly, and in accordance with the Department's regulations currently in effect. See section 777(c)(1) of the Act; 19 CFR 351.103, 351.304, 351.305 and 351.306.

In addition, because of the significant changes made to the Department's filing and certification requirements since the investigation, including electronic filing, the Department intends to apply its current regulations and practices with regard to filing and certification, should the antidumping investigation be resumed. See 19 CFR 351.303(b) and (g). However, with respect to the procedures for the conduct of any resumed investigation generally, including any possible suspension thereof, the Department's regulations in effect in 1996 shall govern. See 19 CFR 351.701; *San Vicente Camalu SPR de Ri v.*

*United States*, 491 F.Supp.2d 1186 (CIT 2007).

This determination is issued and published in accordance with section 733(f) and 734(i) of the Act.

Dated: February 4, 2013.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**[C-570-944]**

#### **Certain Oil Country Tubular Goods From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2011**

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

**SUMMARY:** The Department of Commerce ("the Department") is conducting an administrative review of the countervailing duty order on certain oil country tubular goods ("OCTG") from the People's Republic of China ("PRC"). The period of review ("POR") is January 1, 2011, through December 31, 2011. We preliminarily determine that Wuxi Seamless Oil Pipe Co., Ltd. ("Wuxi") and Jiangsu Chengde Steel Tube Share Co., Ltd. ("Jiangsu Chengde") received countervailable subsidies during the POR.

**DATES:** *Effective Date:* February 8, 2013.

**FOR FURTHER INFORMATION CONTACT:** Joshua Morris or Christopher Siepmann, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1779 or (202) 482-7958, respectively.

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

The scope of the order consists of OCTG. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10,