

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-337-806]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Individually Quick Frozen Red Raspberries from Chile

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

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on individually quick frozen red raspberries from Chile. The period of review is July 1, 2003, through June 30, 2004. This order covers sales of individually quick frozen red raspberries with respect to Fruticola Olmue, S.A.; Santiago Comercio Exterior Exportaciones Limitada; and Vital Berry Marketing, S.A.

We preliminarily find that, during the period of review, sales of individually quick frozen red raspberries were not made below normal value. Interested parties are invited to comment on these preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: August 4, 2005.

FOR FURTHER INFORMATION CONTACT: Cole Kyle, Yasmin Bordas, or Scott Holland, 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) 482-1503, (202) 482-3813, or (202) 482-1279, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On July 9, 2002, the Department of Commerce ("Department") published an antidumping duty order on individually quick frozen ("IQF") red raspberries from Chile. (See 67 FR 45460). On July 1, 2004, the Department published a notice of "Opportunity to Request Administrative Review" of this order. (See 69 FR 39903). On July 30, 2004, we received a timely filed request for review of 52 companies from the Pacific Northwest Berry Association, Lynden, Washington, and each of its individual members, Curt Maberry Farm, Enfield Farms, Inc., Maberry Packing, and Rader Farms, Inc. (collectively, "the petitioners"). We received similar requests for review from Fruticola Olmue, S.A. ("Olmue"); Santiago Comercio Exterior Exportaciones, Ltda. ("SANCO"); Vital Berry Marketing, S.A. ("VBM"); Valles Andinos, S.A. ("Valles

Andinos"); and Alimentos y Frutos and affiliate Vita Food, S.A. ("Alifrut").¹ On August 30, 2004, we initiated an administrative review of the 52 companies. (See 69 FR 52857). The period of review ("POR") is July 1, 2003, through June 30, 2004.

On November 17, 2004, Alifrut withdrew its request for review. On November 18, 2004, the Department determined that it was not practicable to make individual antidumping duty findings for each of the 52 companies involved in this administrative review. Therefore, we selected the following four companies as respondents in this review: Olmue, SANCO, VBM, and Valles Andinos. See Memorandum to Susan Kuhbach, "Individually Quick Frozen Red Raspberries from Chile: Respondent Selection," dated November 18, 2004, which is on file in the Central Records Unit ("CRU") in room B-099 in the main Department building.

On November 18, 2004, the Department issued antidumping duty questionnaires to Olmue, SANCO, VBM, and Valles Andinos. As a result of certain below cost sales being disregarded in the previous applicable segment of the proceeding, we instructed Olmue to respond to the cost questionnaire. (For further details, see the "Cost of Production" section, below.) On November 29, 2004, the petitioners withdrew their request for review for all companies for which they had requested an administrative review. On December 1, 2004, the petitioners submitted a revision to correct a typographical error made in the November 29, 2004, submission. On December 7, 2004, Valles Andinos withdrew its request for review. On December 17, 2004, we rescinded the administrative review with respect to the requested companies, except Olmue, SANCO, and VBM (collectively, "the respondents"), in accordance with 19 CFR 351.213(d)(1). (See 69 FR 75511.)

We received questionnaire responses from the respondents in December 2004 and January 2005. We issued supplemental questionnaires to the respondents in January and March 2005. We issued additional supplemental questionnaires to Olmue in June 2005 and July 2005. We received timely filed responses.

On February 14, 2005, the Department published in the **Federal Register** an extension of the time limit for the completion of the preliminary results of this review until no later than July 29, 2005, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as

¹ These five companies were also included in the petitioners' request for review of 52 companies.

amended ("the Act"), and 19 CFR 351.213(h)(2). (See 70 FR 7472.)

We conducted verification of VBM's sales from April 18 through April 22, 2005. (For further details, see the "Verification" section, below.)

Scope of the Order

The products covered by this order are imports of individually quick frozen ("IQF") whole or broken red raspberries from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (e.g., organic or not), the size of the container in which packed, or the method of packing. The scope of the order excludes fresh red raspberries and block frozen red raspberries (i.e., puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this order is currently classifiable under subheading 0811.20.2020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Verification

As provided in section 782(i) of the Act, during April 2005, we verified the information provided by VBM in Chile using standard verification procedures, including examination of relevant sales and financial records, and selection of original documentation containing relevant information. The Department reported its findings on June 29, 2005. See *Memorandum to the File*, "Verification Report - VBM" dated June 29, 2005. This report is on file in the Department's CRU.

Fair Value Comparisons

To determine whether sales of IQF red raspberries from Chile to the United States were made at less than normal value, we compared export price ("EP") to normal value ("NV"), as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with 19 CFR 351.414(c)(2), we compared individual EPs to weighted-average NVs, which were calculated in accordance with section 777A(d)(2) of the Act.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products sold by the respondents in the comparison market covered by the description in the "Scope of the Order" section, above, to be foreign-like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance

with section 773(a)(1)(C)(ii) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondents' volume of home market sales of the foreign-like product to the volume of their U.S. sales of the subject merchandise. (For further details, see the "Normal Value" section, below.)

We compared U.S. sales to monthly weighted-average prices of contemporaneous sales made in the comparison market. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we compared U.S. sales to constructed value ("CV"). In making product comparisons, consistent with our determination in the original investigation, we matched foreign like products based on the physical characteristics reported by the respondent in the following order: grade, variety, form, cultivation method, and additives (see *Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: IQF Red Raspberries from Chile*, 66 FR 67510, 67511 (December 31, 2001)).

Export Price

For sales to the United States, we calculated EP, in accordance with section 772(a) of the Act, because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because constructed export price methodology was not otherwise warranted. We based EP on the packed, Free on Board ("FOB") plus Duty Paid, Delivered Duty Paid ("DDP"), or Cost and Freight ("C&F") price to unaffiliated purchasers in the United States. We adjusted the reported gross unit price, where applicable, for rebates and billing adjustments. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These deductions included, where appropriate, domestic inland freight, brokerage and handling, pre-sale warehousing expenses, international freight, U.S. customs duties, and other U.S. transportation expenses. To calculate EP, we relied upon the data submitted by the respondents.

Normal Value

A. Home Market Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Olmue and SANCO reported that their home market sales of IQF red raspberries during the POR were less than five percent of their sales of IQF red raspberries in the United States. Therefore, Olmue and SANCO did not have viable home markets for purposes of calculating NV. Olmue reported that France was its largest third country market, and SANCO reported that the United Kingdom was its largest third country market. In both instances, sales to the third countries exceed five percent of sales to the United States. Accordingly, for purposes of calculating NV, Olmue reported its sales to France, and SANCO reported its sales to the United Kingdom.

VBM reported that its home market sales of IQF red raspberries during the POR were more than five percent of its sales of IQF red raspberries in the United States. Therefore, VBM's home market was viable for purposes of calculating NV. Accordingly, VBM reported its home market sales for purposes of calculating NV.

B. Sales to Affiliated Customers

VBM made sales in the home market to affiliated customers. To test whether these sales were made at arm's length, we compared the starting prices of sales to the affiliated customer to those of unaffiliated customers, net of all movement charges, selling expenses, discounts, and packing. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. See *Modification Concerning Affiliated Party Sales in the Comparison Market*, 67 FR 69186 (November 15, 2002). In accordance with the Department's practice, sales to affiliated parties were only included in our margin analysis if the sales were made at arm's length.

C. Cost of Production

As discussed in the "Background" section above, there were reasonable grounds to believe or suspect that Olmue made sales of the subject merchandise in its comparison market

at prices below the cost of production ("COP") within the meaning of section 773(b) of the Act. Therefore, for Olmue, we used the calculated COP to test for below cost sales.

In accordance with section 773(b)(2)(A)(i) of the Act, we did not conduct a sales below cost inquiry for the other respondents because the Department did not have reason to believe or suspect that either respondent made below cost sales. Moreover, the Department did not receive an allegation that either respondent made below cost sales.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the cost of production ("COP") based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative ("G&A") expenses, financial expenses, and comparison market packing costs, where appropriate. See *infra* "Test of Comparison Market Sales Prices" for a discussion of the treatment of comparison market selling expenses. We relied on the respondent's information as submitted, except for adjustments to Olmue's fixed and variable overhead expenses due to calculation errors by the respondent. See *Memorandum to Neal Harper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Fruicola Olmue S.A."* dated July 28, 2005.

2. Test of Comparison Market Prices

For Olmue, on a product-specific basis, we compared the adjusted weighted-average COP to the comparison market sales of the foreign like product during the POR, as required under section 773(b) of the Act, in order to determine whether sales had been made at prices below the COP. The prices were exclusive of any applicable billing adjustments, movement expenses, direct selling expenses, commissions, indirect selling expenses, and packing expenses. In determining whether to disregard comparison market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit the recovery of costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(1) of the Act, where less than 20 percent of a respondent's sales of a given product

during the POR were at prices less than the COP, we do not disregard any below cost sales of that product, because we determine that, in such instances, the below cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we determine that the below cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for Olmue, for certain specific products, more than 20 percent of the comparison market sales were at prices less than the COP, and the below cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For U.S. sales of subject merchandise for which there were no comparable comparison market sales in the ordinary course of trade (e.g., sales that passed the cost test), we compared those sales to CV, in accordance with section 773(a)(4) of the Act.

D. Calculation of Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, when sales of comparison products could not be found, either because there were no sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on CV.

In accordance with sections 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the subject merchandise, plus amounts for selling expenses, G&A expenses, financial expenses, profit, and U.S. packing costs. We made the same adjustments to the CV costs as described in the "Calculation of COP" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A expenses, and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

E. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; see also *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). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the "chain of distribution"),² including selling functions,³ class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (i.e., NV based on either comparison market or third country prices⁴), we consider the starting prices before any adjustments. When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

Olmue

Olmue reported a single channel of distribution and a single LOT in each market and claimed that its sales in both markets were at the same LOT.

²The marketing process in the United States and comparison market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered each respondent's narrative response to properly determine where in the chain of distribution the sale occurs.

³Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

⁴Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

Therefore, Olmue did not request an LOT adjustment.

We examined the information reported by Olmue regarding its marketing processes for its comparison market and U.S. sales, including customer categories and the type and level of selling activities performed. Olmue reported that it sold to end-users in the third country and to traders, distributors, retailers and end users in the United States. In both markets, Olmue reported similar selling activities regardless of the customer category. Thus, we preliminarily find that Olmue sold at a single LOT in the comparison and U.S. markets.

Moreover, sales in both markets were direct shipments to customers from the plant. Therefore, there were no differences in the channels of distribution between the two markets. Olmue also did not grant rebates or discounts, provide technical services or post-sale warehousing, or incur advertising expenses in either the third country or U.S. market. Therefore, we preliminarily find that Olmue's sales in the comparison and U.S. markets were made at the same LOT.

SANCO

SANCO reported a single LOT in the comparison and U.S. markets, and claimed that the LOT in each of these markets was the same. Therefore, SANCO did not request an LOT adjustment.

We examined the information reported by SANCO regarding its marketing processes for its comparison market and U.S. sales, including customer categories and the type and level of selling activities performed. SANCO reported two channels of distribution in the U.S. market. In the U.S. market, channel one, the customer pays for the international freight. In the U.S. market, channel two, SANCO pays for the international freight. In both channels of distribution, SANCO is always responsible for the inland freight expenses to the port in Chile. Also, SANCO is always the importer of record and, therefore, pays all applicable customs duties. SANCO sells to the same customer types in both channels of distribution. Except for the differences regarding the payment of international freight, there are no differences in the selling activities for these two channels of distribution. Therefore, we preliminarily find that there is a single LOT in the U.S. market.

SANCO has reported one channel of distribution for sales to its third country market. In this channel, SANCO's customer is the importer of record, and is responsible for all customs duties.

SANCO is responsible for the inland freight expenses to the port in Chile. The international freight is also paid by SANCO. Because SANCO has reported no variation in the selling activities for these sales, we preliminarily find that there is a single LOT in SANCO's third country market.

Comparing sales in SANCO's two markets, there is no indication that there were significantly different selling activities or sales process activities. SANCO also did not grant rebates or discounts, provide technical services or post-sale warehousing, or incur advertising expenses on either U.S. or third country sales.

Therefore, we preliminarily find that a single LOT exists in both the U.S. and third country markets, and that SANCO's sales in the U.S. and third country markets were made at the same LOT.

VBM

VBM reported two channels of distribution in the U.S. market, and three channels of distribution in the home market. However, because the selling functions do not differ significantly between these channels, VBM is not claiming an LOT adjustment.

We examined the information reported by VBM regarding its marketing processes for its home market and U.S. sales, including customer categories and the types and levels of selling activities performed. VBM reported two channels of distribution in the U.S. market. In the U.S. market, channel one, VBM's product is transported from the processing plant to the cold storage warehouse before being transported to the port of shipment. In the U.S. market, channel two, VBM's sales are transported directly from the processing plant to the port for shipment. VBM reports that there are no pricing differences between these two channels of distribution. In both channels of distribution, VBM is always responsible for the inland freight to the port in Chile. VBM is also always the importer of record and, therefore, pays all applicable customs duties. VBM sells to the same types of customer in both channels of distribution. Except for small differences regarding transportation of the product from the processing plant to the cold storage warehouse, there are no differences in the selling activities for these two channels of distribution. Therefore, we preliminarily find that there is a single LOT in the U.S. market.

VBM has reported three channels of distribution for its home market sales. In the home market, channel one, VBM's

product is transported from the processing plant to the cold storage warehouse, and is picked up directly from the warehouse by the customer. In the home market, channel two, VBM's product is transported from the warehouse to the cold storage warehouse, and is then delivered by VBM to the customer. In the home market, channel three, VBM's product is picked up by the customer at the processing plant. Because VBM has not reported substantial differences in the selling activities for these three channels, we preliminarily find that there is a single LOT in VBM's home market.

Comparing sales in VBM's two markets, there is no indication that there were significantly different selling activities or sales process activities. Although VBM did grant rebates for a few U.S. sales, it did not provide technical services or post-sale warehousing, or incur advertising expenses on either U.S. or home market sales.

Therefore, we preliminarily find that a single LOT exists in both the U.S. and home markets, and that VBM's sales in the U.S. and home markets were made at the same LOT.

F. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on FOB and C&F prices to unaffiliated customers in the comparison markets. We made adjustments for billing adjustments, where appropriate and, in accordance with section 773(a)(6)(B)(ii) of the Act, we made deductions for movement expenses. These included domestic inland freight, pre-sale warehousing expenses, international freight, marine insurance, third country brokerage and handling, third country duties, and third country inland freight, where applicable. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses, and other direct selling expenses, where appropriate. For Olmue, we also made adjustments, where appropriate, for indirect selling expenses incurred in the comparison market or the United States where commissions were granted on sales in one market but not in the other (the commission offset), in accordance with 19 CFR 351.410(e).

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise (the "DIFMER" adjustment), where applicable, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR

351.411. We also deducted comparison market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. To calculate NV, we relied upon the data submitted by the respondents.

G. Calculation of Normal Value Based on Constructed Value

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We made adjustments to CV for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. In addition, we added U.S. packing costs.

Currency Conversion

We made currency conversions in accordance with section 773A(a) of the Act based on the exchange rates in effect on the date of the U.S. sale as reported by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily find the following weighted-average dumping margins:

Exporter/manufacturer	Weighted-average margin percentage
Fruticola Olmue, S.A. ... Santiago Comercio Exterior Exportaciones, Ltda.	0.09 (<i>de minimis</i>)
Vital Berry, S.A.	0.00

Assessment Rates and Cash Deposit Requirements

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (i.e., at or above 0.5 percent), the Department will issue appraisal instructions directly to U.S. Customs and Border Protection ("CBP") to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculate importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the total value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, and the respondent has reported reliable entered values, we apply the assessment rate to

the entered value of the importer's/customer's entries during the review period. Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis* and we do not have entered values, we calculate a per-unit assessment rate by aggregating the dumping duties due 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 will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of IQF red raspberries from Chile entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rate established in the final results of this review, except if a rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original LTFV investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers and/or exporters of this merchandise, shall be 6.33 percent, the "all others" rate established in *Notice of Amended final Determination of Sales at Less than Fair Value: IQF Red Raspberries from Chile*, 67 FR 40270 (June 12, 2002).

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held 37 days after the publication of this notice, or the first business day thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed

not later than 35 days after the date of publication of this notice. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of the preliminary results.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping 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 duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 28, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-046]

Polychloroprene Rubber from Japan; Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce ("the Department") and the International Trade Commission ("ITC") that revocation of the antidumping duty order on polychloroprene rubber from Japan would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing this notice of continuation of this antidumping duty order.

EFFECTIVE DATE: August 4, 2005.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-5050 or (202) 482-1391, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

Merchandise covered by this antidumping duty order is shipments of polychloroprene rubber, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.42.00, 4002.49.00, 4003.00.00, 4462.15.21 and 4462.00.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Background

On July 1, 2004, the Department initiated and the ITC instituted sunset reviews of the antidumping duty order on polychloroprene rubber from Japan, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").¹ As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked.² On July 21, 2005, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on polychloroprene rubber from Japan would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.³

Determination

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on polychloroprene rubber from Japan. U.S. Customs and Border Protection ("CBP") will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of this order will be the date of publication

¹ See *Initiation of Five-Year ("Sunset") Reviews*, 69 FR 39905 (July 1, 2004), and *Polychloroprene Rubber from Japan*, Investigation No. AA 1921-129 (Second Review), 69 FR 39961 (July 1, 2004).

² See *Polychloroprene Rubber from Japan; Final Results of Expedited Sunset Review of Antidumping Duty Finding*, 69 FR 64276 (November 11, 2004).

³ See *USITC Publication 3786* (June 2005) and *Polychloroprene Rubber from Japan*, Investigation No. AA1921-129 (Second Review) 70 FR 42101 (July 21, 2005).