

Dated: May 17, 1996.

Paul L. Joffe.

Acting Assistant Secretary for Import Administration.

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[C-201-017]

Bricks From Mexico; Amended Revocation of the Countervailing Duty Order and Amended Final Results of Countervailing Duty Administrative Review

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

ACTION: Amended Revocation of the Countervailing Duty Order and Amended Final Results of Countervailing Duty Administrative Review.

SUMMARY: On September 6, 1995, the Court of Appeals for the Federal Circuit (the CAFC) held in *Ceramica Regiomontana v. United States*, Court No. 95-1026 (Fed. Cir., Sept. 6, 1995) (*Ceramica*) that the Department of Commerce (the Department) lacks statutory authority to impose countervailing duties on dutiable goods imported by Mexico after April 23, 1985, absent an injury determination. On April 18, 1996, pursuant to the *Ceramica* decision, the Court of International Trade (CIT) remanded to the Department the case *Productos De Barro Industrializados, S.A. de C.V.* (Court No. 88-10-00808), which was stayed pending the *Ceramica* decision. In the remand, the court ordered the Department to (1) revoke the countervailing duty order on bricks from Mexico effective April 23, 1985, the date Mexico was designated as a "country under the Agreement"; and (2) instruct the U.S. Customs Service to refund any estimated countervailing duties at issue in this case that were deposited during the period April 23, 1985 through December 31, 1986. In accordance with the CIT's order, we are hereby amending the revocation of the countervailing duty order on bricks from Mexico to be effective April 23, 1985, instead of August 24, 1986 (54 FR 53163; December 27, 1989).

In addition, pursuant to *Ceramica S.A. v. United States*, Slip Op. 96-74, Court No. 59-06-00323 (May 5, 1994), the CIT ordered the Department to recalculate the country-wide rate for entries of bricks from Mexico exported by Productos de Barro Industrializados, S.A. de C.V. (Productos de Barro) that were entered between July 1, 1984 and April 22, 1985, by weight-averaging the

benefits received by all companies by their proportion of exports to the United States, inclusive of zero rate firms and *de minimis* firms as well as all other firms with significantly different rates. In accordance with the CIT's remand, we are hereby amending the final results of the countervailing duty administrative review. The recalculated rate applicable to unliquidated entries exported by Productos de Barro is 2.92 percent *ad valorem* for the period July 1, 1984 through December 31, 1984 and 3.10 percent *ad valorem* for the period January 1, 1985 through April 22, 1985. **EFFECTIVE DATE:** May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill at the Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1989 (53 FR 38314), the Department published the final results of administrative review of the countervailing duty order on bricks from Mexico, covering the review period July 1, 1984, through December 31, 1985. For purposes of the final results, the Department calculated the "all others" countervailing duty rate by weight averaging the benefits received by companies, excluding zero rate and *de minimis* firms. The resultant countervailing duty rate applicable to non-*de minimis* firms was 3.32 percent *ad valorem* during July 1, 1984 through December 31, 1984, and 4.21 percent *ad valorem* during January 1, 1985 through December 31, 1985.

On December 27, 1989, the Department published the final results of changed circumstances countervailing duty administrative review and revocation of the countervailing duty order on bricks from Mexico revoking the countervailing duty order as of August 24, 1986.

The respondents challenged the Department's final results of the administrative review in the CIT with respect to (1) the calculation of the country-wide countervailing duty rate, and (2) the effective date of the revocation of the countervailing duty order on bricks from Mexico. The CIT stayed these cases pending the resolution of the identical issues raised in *Ceramica*, a case involving the countervailing duty order on ceramic tile from Mexico.

On September 6, 1995, the CAFC ruled in *Ceramica* that, absent an injury determination by the ITC, the Department may not assess countervailing duties under section 1303(a)(1) on entries from Mexico of dutiable merchandise which occurred on or after April 23, 1985, the date Mexico was designated as a "country under the Agreement" for purposes of 19 U.S.C. § 1671. On February 21, 1996, the Department implemented the CAFC's ruling in the case of Mexican ceramic tile. (61 FR 6630) On April 18, 1996, the CIT ordered the Department to apply the CAFC's decision in *Ceramica* to bricks from Mexico. Accordingly, the CIT ordered that the Department (1) Amend the effective date of the revocation of the order on bricks from Mexico to April 23, 1985, and (2) recalculate "the countervailing duty rate for plaintiff's entries of bricks from Mexico that were entered between July 1, 1984 and April 22, 1985, by weight-averaging the benefits received by all companies by their proportion of exports to the United States, inclusive of zero rate firms and *de minimis* firms as well as all other firms with significantly different rates" pursuant to the methodology set forth in *Ipsco v. United States*, 899 F.2d 1192 (Fed. Cir. 1990)."

Amended Revocation and Final Remand Results

Pursuant to the CIT's order of April 18, 1996, the Department is hereby amending the revocation of the countervailing duty order on bricks from Mexico to be effective for all entries made on or after April 23, 1985. We will instruct the U.S. Customs Service to liquidate all unliquidated entries of the subject merchandise entered or withdrawn from warehouse, for consumption on or after April 23, 1985, without regard to countervailing duties. We will instruct the U.S. Customs Service to refund with interest any estimated countervailing duties collected with respect to those entries. We note that the requirements for a cash deposit of estimated countervailing duties were previously terminated in conjunction with the revocation under section 751 (b) and (c) of the Act.

Furthermore, the Department has complied with the CIT's order and recalculated the "all others" countervailing duty rates applicable to entries exported by Productos de Barro by weight-averaging the benefits received by all of the companies, including the *de minimis* or zero rate firms as well as companies with significantly different rates, that were subject to the review covering the period July 1, 1984 through December

31, 1985. The resultant rate for Productos de Barro for the period July 1, 1984 through December 31, 1984 is 2.92 percent *ad valorem*, and for the period January 1, 1985 through December 31, 1985 is 3.10 percent *ad valorem*. Accordingly, we are hereby amending the final results of the administrative review for the period July 1, 1984 through December 31, 1985. However, as discussed above, we will order assessment only on entries through April 22, 1985, the date prior to the effective date of the revocation.

The Department shall determine, and the Customs Service shall assess, countervailing duties on all appropriate entries. The Department will issue appraisal instructions directly to the Customs Service.

This notice is in accordance with section 516(a)(e) of the Act.

Dated: May 17, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

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[C-535-001]

Cotton Shop Towels From Pakistan; Termination of Countervailing Duty Administrative Review

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

ACTION: Notice of termination of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is terminating the administrative review of the countervailing duty order on shop towels from Pakistan initiated on April 25, 1996.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1996, Milliken & Company (Milliken), a domestic producer of shop towels, requested an administrative review of the countervailing duty order on cotton shop towels from Pakistan for the period January 1, 1995 through December 31,

1995, for the producer/resellers Anwar Corporation, Bita Textile Corporation, Eastern Textiles (Pvt) Ltd., Fine Fabrico, Hilal Corporation (Pvt) Ltd., Jawad Brothers, Mehtabi Towel Mills (Pvt) Ltd., Mohain Brothers, Pakistan Textile Corporation (Pvt) Ltd., Quality Linen Supply Corporation, Salimah International, Shaheen Textiles, Shahi Textiles, Sultex Industries, The Khans, and United Towel Exporters. No other interested party requested a review.

On April 25, 1996, the Department published a notice initiating the administrative review for that period with respect to those producers/resellers (61 FR 18378). On May 7, 1996, Milliken withdrew its request for review of the same producer/exporters.

Section 355.22(a)(3) of the Department's regulations provides that the Department may permit a party that requests a review to withdraw its request not later than 90 days after the date of publication of the notice of initiation of the review. Since the withdrawal of Milliken's request was timely submitted, we are accepting Milliken's withdrawal and terminating this review.

This notice is published in accordance with 19 CFR 355.22(a)(3).

Dated: May 16, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

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[C-201-001]

Leather Wearing Apparel From Mexico; Notice of Termination of the Countervailing Duty Administrative Review and Amendment to the Revocation of the Countervailing Duty Order

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

ACTION: Notice of termination of the countervailing duty administrative review and amendment to the revocation of the countervailing duty order.

SUMMARY: On March 29, 1996, the Department of Commerce (the Department) published in the Federal Register its notice of intent to terminate the countervailing duty administrative review and notice of intent to amend the revocation of the countervailing duty order on leather wearing apparel from Mexico, 61 FR 14076, as a result of the decision by the Court of Appeals for the Federal Circuit (CAFC) in *Ceramica Regiomontana v. United States*, Court

No. 95-1026 (Fed. Cir., Sept. 6, 1995) (*Ceramica*). In *Ceramica*, the CAFC ruled that absent an injury determination by the International Trade Administration (ITC), the Department may not assess countervailing duties under section 1303(a)(1) on entries of dutiable merchandise which occurred on or after April 23, 1985, the effective date of Mexico's Bilateral Agreement with the United States. Since we received no comments on our notice of intent, we are hereby terminating this administrative review, which covers the period January 1, 1994 through December 31, 1994, and amending the date of the revocation of the countervailing duty order to be effective April 23, 1985.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

The countervailing duty order on leather wearing apparel from Mexico was issued on April 10, 1981 pursuant to section 303 of the Tariff Act of 1930, as amended (the Act). No injury determination was required for cases conducted pursuant to section 303. In the Uruguay Round Agreements Act of 1994 (URAA), which amended the Act, section 303 was repealed because the new Agreement on Subsidies and Countervailing Measures (SCM Agreement) prohibits the assessment of countervailing duties on imports from a member of the World Trade Organization without an affirmative injury determination. The URAA added section 753 to the Act, which provided domestic interested parties an opportunity to request an injury investigation for orders that had been issued pursuant to section 303.

Because no domestic interested parties exercised their right under section 753(a) of the Act to request an injury investigation on Mexican leather wearing apparel, the ITC made a negative injury determination with respect to this order, pursuant to section 753(b)(4) of the Act. As a result, the Department revoked this countervailing duty order, effective January 1, 1995, pursuant to section 753(b)(3)(B) of the Act. *Revocation of Countervailing Duty Orders*, 60 FR 40,568 (August 9, 1995).