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DEPARTMENT OF COMMERCE

International Trade Administration

(C- 469-818)

Ripe Olives from Spain: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce

DATES: Applicable July 12, 2017.

FOR FURTHER INFORMATION CONTACT: Jennifer Shore at (202) 482-2778, AD/CVD

Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On June 22, 2017,<sup>1</sup> the Department of Commerce (Department) received a countervailing duty (CVD) petition concerning imports of ripe olives from Spain, filed in proper form, on behalf of the Coalition for Fair Trade in Ripe Olives and its individual members, Bell-Carter Foods, Inc. and Musco Family Olive Co. (collectively, the petitioner). The CVD Petition was accompanied by an antidumping duty (AD) Petition. The petitioners are domestic producers of processed olives, usually referred to as “ripe olives.”

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<sup>1</sup> The petition was filed with the U.S. Department of Commerce (the Department) and the International Trade Commission (ITC) on June 21, 2017, after 12:00 noon, and pursuant to 19 CFR 207.10(a), are deemed to have been filed on the next business day, June 22, 2017. See Memorandum, “Decision Memorandum Concerning the Filing Date of the Petition,” dated June 23, 2017.

On June 23, 2017, June 27, 2017, and June 28, 2017, the Department requested additional information and clarification of certain aspects of the Petition.<sup>2</sup> The petitioner filed responses to these requests on June 27, 2017, June 30, 2017, and July 3, 2017.<sup>3</sup> On July 5, 2017, Asociación de Exportadores e Industriales de Aceitunas de Mesa (ASEMESA), an interested party, requested the Department poll the domestic industry of olive growers and the workers employed by them.<sup>4</sup> On July 7, 2017, the petitioner submitted rebuttal comments to ASEMESA's polling request<sup>5</sup> final proposed scope language. ASEMESA submitted an additional argument and request for the Department to poll the domestic industry of olive growers on July 10, 2017.<sup>6</sup> Also on July 10, 2017, the Department held consultations with respect to the CVD Petition, the Government of Spain (GOS) and the European Commission (EC) provided comments on the countervailability of the alleged programs and requested clarification on the procedural timelines. The GOS and the EC submitted their comments in written form that same day.<sup>7</sup> On July 12, 2017, Acorsa USA, Inc., Atalanta Corporation, Mario Camacho Foods, LLC, Mitsui Foods, Inc., and Schreiber Foods International, Inc. revised and resubmitted their July 11, 2017, submission, which was previously rejected. However, this new submission was filed too late for us to consider.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the GOS and the European Union are providing countervailable subsidies

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<sup>2</sup> See Department Letter re: General Issues Supplemental Questions, dated June 23, 2017 (General Issues Supplemental); Department Letter re: Second General Issues Supplemental Questions, dated June 28, 2017 (Second General Issues Supplemental); and Department Letter re: Countervailing Duty Petition Supplement Question, dated June 27, 2017.

<sup>3</sup> See The petitioner's July 3, 2017 Supplement to the CVD Petition (CVD Supplement).

<sup>4</sup> See ASEMESA's July 5, 2017 Industry Support Comments and Request to Poll Industry (July 5 ASEMESA Comments).

<sup>5</sup> See The petitioner's July 7, 2017 Final Scope Language and Response to Industry Support Comments (The petitioner's Rebuttal Comments).

<sup>6</sup> See ASEMESA's July 10, 2017 Industry Support Comments and Request to Poll Industry (July 10 ASEMESA Comments).

<sup>7</sup> See Ex-Parté Memorandum, "Ripe Olives from Spain Countervailing Duty Petition: Consultations with Officials from Spain and European Union," dated July 11, 2017. See, also European Commission and the Government of Spain Consultation Comments, dated July 10, 2017.

within the meaning of sections 701 and 771(5) of the Act, to manufacturers, producers, or exporters of ripe olives from Spain, and that imports of such ripe olives are materially injuring, or threatening material injury to, an industry in the United States. Additionally, consistent with section 702(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations of subsidy programs in Spain on which we are initiating a CVD investigation.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party, as defined by section 771(9)(F) of the Act. As discussed in the “Determination of Industry Support for the Petition” section, below, the Department also finds that the petitioner demonstrated sufficient industry support with respect to initiation of the requested CVD investigation.

#### Period of Investigation

Because the Petition was filed on June 22, 2017, the period of investigation (POI), the period for which we are measuring subsidies, is January 1, 2016, through December 31, 2016.

#### Scope of the Investigation

The products covered by this Petition are certain processed olives, usually referred to as “ripe olives,” from Spain. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in the Appendix to this notice.

#### Comments on the Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petition accurately reflected the products for which the domestic industry is seeking

relief.<sup>8</sup> As a result of those exchanges, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition.

As discussed in the preamble to the Department's regulations,<sup>9</sup> we are setting aside a period of time for interested parties to raise issues regarding product coverage (*i.e.*, scope). The Department will consider all comments received and, if necessary, will consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. The Department requests that all interested parties submit scope comments by 5:00 PM Eastern Standard Time (EST) on Tuesday, August 1, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information (and also should be limited to public information), must be filed by 5:00 PM EST on Friday, August 11, 2017, which is ten calendar days after the deadline for initial comments.<sup>10</sup>

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments and information must be filed on the records of each of the concurrent AD and CVD investigations.

#### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

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<sup>8</sup> *See* General Issues and AD Supplement, at 1-2; Second General Issues Supplement, at 1-3.

<sup>9</sup> *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>10</sup> *See* 19 CFR 351.302(c)(3)(iv) and 19 CFR 351.303(b).

(ACCESS).<sup>11</sup> An electronically-filed document must be successfully received, in its entirety, by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

### Consultations

Pursuant to section 702(b)(4)(A) of the Act, the Department notified representatives of the GOS and the EU of its receipt of the Petition and provided them with the opportunity for consultations regarding the CVD allegations.<sup>12</sup> On July 10, 2017, the Department held consultations with the GOS and the EU.<sup>13</sup> All letters and memoranda pertaining to these consultations are available via ACCESS.

### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the

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<sup>11</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>12</sup> See Department Letter, "Ripe Olives from Spain: Invitation for Consultations to Discuss the Countervailing Duty Petition," June 23, 2017.

<sup>13</sup> See Department Memorandum, "Countervailing Duty Petition on Ripe Olives from Spain: Consultations," July 11, 2017.

petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The ITC, which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>14</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>15</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the

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<sup>14</sup> See section 771(10) of the Act.

<sup>15</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

information submitted on the record, we have determined that ripe olives, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>16</sup>

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the Appendix to this notice. The petitioner provided the 2016 production of the domestic like product by its members.<sup>17</sup> In addition, we relied on data the petitioner provided estimating the 2016 production of the domestic like product by the only other U.S. processor.<sup>18</sup> We relied on data the petitioner provided for purposes of measuring industry support.<sup>19</sup>

On July 5, 2017, we received comments on industry support from ASEMESA.<sup>20</sup> The petitioner responded to the letter from ASEMESA on July 7, 2017.<sup>21</sup> On July 10, 2017, we received comments on industry support collectively from ASEMESA, Industria Aceiyunera Mercienne, S.A., DCOOOP, S. COOP. AND., Agro Sevilla Aceitunas, SOC. COOP. AND., Plasoliva, S.L., GOYA en Espana, S.A.U., Aceitunas Guadalquivir, S.L., Angel Camacho Alimentación, S.L., Internacional Olivarera S.A., F.J. Sanchez Sucesores, S.A.U., and Aceitunas

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<sup>16</sup> For a discussion of the domestic like product analysis in these cases, *see* Countervailing Duty Investigation Initiation Checklist: Ripe Olives from Spain (CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Ripe Olives from Spain (Attachment II); This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>17</sup> *See* Volume I of the Petition, at 5 and Exhibit I-3.

<sup>18</sup> *Id.*, at 5; *see also* General Issues and AD Supplement, at 2 and Exhibit I-17.

<sup>19</sup> *Id.* For further discussion, *see* AD Initiation Checklist, at Attachment II.

<sup>20</sup> *See* Letter from ASEMESA to the Department, re: “Industry Support Comments on the Petitions for Antidumping and Countervailing Duties and Request to Poll Industry,” dated July 5, 2017.

<sup>21</sup> *See* July 7, 2017, Response.

Sevillanas S.A. (collectively, ASEMESA *et al*).<sup>22</sup> For further discussion of these comments, *see* the AD Initiation Checklist, at Attachment II.

Our review of the data provided in the Petition, supplemental responses, and other information readily available to the Department indicates that the petitioner has established industry support for the Petition.<sup>23</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>24</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>25</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>26</sup> Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(G) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is

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<sup>22</sup> *See* Letter from ASEMESA *et al* to the Department, re: “Request to Poll Industry,” dated July 10, 2017.

<sup>23</sup> *See* CVD Initiation Checklist, at Attachment II.

<sup>24</sup> *See* section 702(c)(4)(D) of the Act; *see also* CVD Initiation Checklist, at Attachment II.

<sup>25</sup> *See* CVD Initiation Checklist, at Attachment II.

<sup>26</sup> *Id.*



requesting that the Department initiate.<sup>27</sup>

### Injury Test

Because Spain is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Spain materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. The petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>28</sup>

The petitioner contends that the industry’s injured condition is illustrated by reduced market share, underselling and price suppression or depression, lost sales and revenues, adverse impact on the domestic industry, including financial performance, production, and capacity utilization, and reduction in olive acreage under cultivation.<sup>29</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>30</sup>

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<sup>27</sup> *Id.*

<sup>28</sup> *See* Volume I of the Petition, at 12, and Exhibit I-6A.

<sup>29</sup> *Id.*, at 18-34 and Exhibits I-6 and I-8 – I-16.

<sup>30</sup> *See* CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Ripe Olives from Spain (Attachment III).

## Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that (1) alleges the elements necessary for the imposition of a duty under section 701(a) of the Act and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

The petitioner alleges that producers/exporters of ripe olives in Spain benefited from countervailable subsidies bestowed by the GOS and the EU. The Department examined the Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, and/or exporters of ripe olives from Spain receive countervailable subsidies from the GOS and/or the EU, as alleged by the petitioner.

The Trade Preferences Extension Act of 2015 (TPEA) made numerous amendments to the AD and CVD laws.<sup>31</sup> The TPEA does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>32</sup> The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.<sup>33</sup>

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on the six alleged programs. For a full discussion of the basis for our

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<sup>31</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>32</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

<sup>33</sup> *Id.*, at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

decision to initiate on each program, *see* CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination in this investigation no later than 65 days after the date of initiation.

### Respondent Selection

The petitioner named numerous companies as producers/exporters of ripe olives from Spain.<sup>34</sup> The Department intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event the Department determines that the number of companies is large and it cannot individually examine each company based upon the Department's resources, where appropriate, the Department intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of ripe olives from Spain during the period of investigation under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the "Scope of the Investigation," in the Appendix.

On July 6, 2017, the Department released CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data must do so within three business days of the announcement of the initiation of the CVD investigation.<sup>35</sup>

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's website at <http://enforcement.trade.gov/apo>.

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<sup>34</sup> *See* Petition, Volume I, at 28 and Exhibit 61.

<sup>35</sup> *See* Memorandum, "*Ripe Olives from Spain Countervailing Duty Petition*: Release of Customs Data from U.S. Customs and Border Protection Release of CBP Data," dated July 6, 2017.

Comments for this investigation must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. EST, by the dates noted above. We intend to finalize our decision regarding respondent selection within 20 days of publication of this notice.

#### Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOS and the European Commission via ACCESS. Because of the particularly large number of producers/exporters identified in the Petition,<sup>36</sup> the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by delivery of the public version to the GOS consistent with 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days of the date on which the Petition was filed, whether there is a reasonable indication that imports of ripe olives in Spain are materially injuring, or threatening material injury to, a U.S. industry.<sup>37</sup> A negative ITC determination will result in the investigation being terminated;<sup>38</sup> otherwise, the investigation will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly

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<sup>36</sup> See Petition, Volume I at Exhibit 61.

<sup>37</sup> See section 703(a)(2) of the Act.

<sup>38</sup> See section 703(a)(1) of the Act.

available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i) through (iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 AM ET on the due date. Under certain circumstances, we may elect to specify a different deadline after which extension requests will be considered untimely for submissions that are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review

*Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify the accuracy and completeness of that information.<sup>39</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>40</sup> The Department intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing letters of appearance, as discussed at 19 CFR 351.103(d)).

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<sup>39</sup> See section 782(b) of the Act.

<sup>40</sup> See also *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

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Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

July 12, 2017

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Date

## Appendix

### Scope of the Investigation

The products covered by this Petition are certain processed olives, usually referred to as “ripe olives.” The subject merchandise includes all colors of olives; all shapes and sizes of olives, whether pitted or not pitted, and whether whole, sliced, chopped, minced, wedged, broken, or otherwise reduced in size; all types of packaging, whether for consumer (retail) or institutional (food service) sale, and whether canned or packaged in glass, metal, plastic, multi-layered airtight containers (including pouches), or otherwise; and all manners of preparation and preservation, whether low acid or acidified, stuffed or not stuffed, with or without flavoring and/or saline solution, and including in ambient, refrigerated, or frozen conditions.

Included are all ripe olives grown, processed in whole or in part, or packaged in Spain. Subject merchandise includes ripe olives that have been further processed in Spain or a third country, including but not limited to curing, fermenting, rinsing, oxidizing, pitting, slicing, chopping, segmenting, wedging, stuffing, packaging, or heat treating, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in Spain.

Excluded from the scope are: (1) specialty olives<sup>41</sup> (including “Spanish-style,” “Sicilian-style,” and other similar olives) that have been processed by fermentation only, or by being cured in an alkaline solution for not longer than 12 hours and subsequently fermented; and (2) provisionally prepared olives unsuitable for immediate consumption (currently classifiable in subheading 0711.20 of the Harmonized Tariff Schedule of the United States (HTSUS)).

The merchandise subject to this petition is currently classifiable under subheadings 005.70.0230, 2005.70.0260, 2005.70.0430, 2005.70.0460, 2005.70.5030, 2005.70.5060, 2005.70.6020,

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<sup>41</sup> Some of the major types of specialty olives and their curing methods are:

“Spanish-style” green olives. Spanish-style green olives have a mildly salty, slightly bitter taste, and are usually pitted and stuffed. This style of olive is primarily produced in Spain and can be made from various olive varieties. Most are stuffed with pimento; other popular stuffings are jalapeno, garlic, and cheese. The raw olives that are used to produce Spanish-style green olives are picked while they are unripe, after which they are submerged in an alkaline solution for typically less than a day to partially remove their bitterness, rinsed, and fermented in a strong salt brine, giving them their characteristic flavor.

“Sicilian-style” green olives. Sicilian-style olives are large, firm green olives with a natural bitter and savory flavor. This style of olive is produced in small quantities in the United States using a Sevillano variety of olive and harvested green with a firm texture. Sicilian-style olives are processed using a brine-cured method, and undergo a full fermentation in a salt and lactic acid brine for 4 to 9 months. These olives may be sold whole unpitted, pitted, or stuffed.

“Kalamata” olives: Kalamata olives are slightly curved in shape, tender in texture, and purple in color, and have a rich natural tangy and savory flavor. This style of olive is produced in Greece using a Kalamata variety olive. The olives are harvested after they are fully ripened on the tree, and typically use a brine-cured fermentation method over 4 to 9 months in a salt brine.

Other specialty olives in a full range of colors, sizes, and origins, typically fermented in a salt brine for 3 months or more.



2005.70.6030, 2005.70.6050, 2005.70.6060, 2005.70.6070, 2005.70.7000, 2005.70.7510, 2005.70.7515, 2005.70.7520, and 2005.70.7525 HTSUS. Subject merchandise may also be imported under subheadings 2005.70.0600, 2005.70.0800, 2005.70.1200, 2005.70.1600, 2005.70.1800, 2005.70.2300, 2005.70.2510, 2005.70.2520, 2005.70.2530, 2005.70.2540, 2005.70.2550, 2005.70.2560, 2005.70.9100, 2005.70.9300, and 2005.70.9700. Although HTSUS subheadings are provided for convenience and US Customs purposes, they do not define the scope of the petition; rather, the written description of the subject merchandise is dispositive. [FR Doc. 2017-15143 Filed: 7/18/2017 8:45 am; Publication Date: 7/19/2017]