BILLING CODE: 3510 DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-469-818]

Ripe Olives from Spain: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (the ITC), Commerce is issuing a countervailing duty (CVD) order on ripe olives from Spain. In addition, Commerce is amending its final CVD determination with respect to ripe olives from Spain to correct ministerial errors.

DATES: Applicable **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg or Lana Nigro, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1785 or (202) 482-1779, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(a), 705(d), and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on June 18, 2018, Commerce published in the *Federal Register* an affirmative final determination in the CVD investigation of ripe olives from

Spain.[1] Interested parties submitted timely filed allegations that Commerce made certain ministerial errors in the final CVD determination of ripe olives from Spain. Section 705(e) of the Act and 19 CFR 351.224(f) define ministerial errors as errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Commerce considers ministerial. We reviewed the allegations and determined that we made certain ministerial errors. *See* "Amendment to the Final Determination" section below for further discussion.

On July 25, 2018, the ITC notified Commerce of its affirmative determination pursuant to sections 705(b)(1)(A)(i) and 705(d) of the Act, that an industry in the United States is materially injured by reason of subsidized imports of ripe olives from Spain.[2]

Scope of the Order

The merchandise covered by this order is ripe olives from Spain. For a complete description of the scope of this order, *see* the Appendix to this notice.

Amendment to the Final Determination

On June 19, 2018, the petitioner,[3] Aceitunas Guadalquivir S.L.U. (Aceitunas Guadalquivir), and Angel Camacho Alimentación, S.L. (Angel Camacho) timely alleged that the *Final Determination* contained certain ministerial errors and requested that Commerce correct such errors. On June 25, 2018, the petitioner filed rebuttal comments.

Commerce reviewed the record and, on July 12, 2018, agreed that certain errors referenced in the petitioner's and Angel Camacho's allegations constitute ministerial errors

[1] *See Ripe Olives from Spain: Final Affirmative Countervailing Duty Determination*, 83 FR 28186 (June 18, 2018) (*Final Determination*) and accompanying Issues and Decision Memorandum.
[2] *See* Letter from the ITC to Commerce, dated July 25, 2018; *see also Ripe Olives from Spain* (Investigation Nos. 701-TA-582 and 731-TA-1377 (Final), USITC Publication 4805, July 2018).
[3] The petitioner to this investigation is the Coalition for Fair Trade in Ripe Olives, whose individual member are BellCarter Foods, Inc. and Musco Family Olive Co.

within the meaning of section 705(e) of the Act and 19 CFR 351.224(f).[4] Commerce did not agree that the error alleged in Aceitunas Guadalquivir's submission constituted a ministerial error. Commerce found that it made errors in calculating Angel Camacho's benefit under the European Union Common Agricultural Policy Pillar I: Basic Payment Scheme – Greening program, and in attributing to Angel Camacho subsidies received by its cross-owned input suppliers.[5] Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Determination* to reflect the correction of the ministerial errors described above. Based on our correction of the ministerial errors in Angel Camacho's calculation, the subsidy rate for Angel Camacho increased from 13.22 percent *ad valorem* to 13.76 percent *ad valorem*.[6] Because in the *Final Determination* we based the "all-others" rate, in part, on Angel Camacho's *ad valorem* subsidy rate,[7] the correction described above also required that we recalculate the "all-others" rate. This recalculation increases the "all-others" rate determined in the *Final Determination* from 14.75 percent *ad valorem* to 14.97 percent *ad valorem*.[8]

Countervailing Duty Order

On July 25, 2018, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured by reason of subsidized imports of ripe olives from Spain. Therefore, in accordance with section 705(c)(2) of the Act, we are issuing this CVD order. Because the ITC determined that imports of ripe olives from Spain are materially injuring

---

[4] *See* Memorandum, "Ripe Olives from Spain: Amended Final Determination of Countervailing Duty Investigation Pursuant to Ministerial Error Allegation," dated July 12, 2018 (Ministerial Error Memorandum).
[5] *Id*.
[6] *Id*.
[7] *Final Determination*, 83 FR at 28187.
[8] *See* Ministerial Error Memorandum.

a U.S. industry, unliquidated entries of such merchandise from Spain, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct United States Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties equal to the net countervailable subsidy rates, for all relevant entries of ripe olives from Spain. Upon further instruction by Commerce, countervailing duties will be assessed on unliquidated entries of ripe olives from Spain entered, or withdrawn from warehouse, for consumption on or after November 28, 2017, the date of publication of the *Preliminary Determination*.[9]

Cash Deposits and Suspension of Liquidation

In accordance with section 706 of the Act, we will instruct CBP to suspend liquidation on all relevant entries of ripe olives from Spain, as further described below. These instructions suspending liquidation will remain in effect until further notice. Commerce will also instruct CBP to require cash deposits equal to the amounts as indicated below. Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the subsidy rates listed below.[10] The all-others rate applies to all producers or exporters not specifically listed, as appropriate.

[9] *See Ripe Olives from Spain: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 82 FR 56218 (November 28, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum). However, as described further below, entries that occurred after the final day on which provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the *Federal Register*, are not subject to countervailing duties.

[10] *See* section 706(a)(3) of the Act.

Company	**Subsidy Rate**
Aceitunas Guadalquivir S.L.U.[11]	27.02 percent
Agro Sevilla Aceitunas S.Coop.And.	7.52 percent
Angel Camacho Alimentación, S.L.[12]	13.76 percent
All-Others	14.97 percent

Provisional Measures

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary CVD determination may not remain in effect for more than four months. In the underlying investigation, Commerce published the *Preliminary Determination* on November 28, 2017. Therefore, the four-month period beginning on the date of the publication of the *Preliminary Determination* ended on March 27, 2018, the final day on which provisional measures were in effect. Furthermore, section 707(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 703(d) of the Act and our practice, we instructed CBP to terminate the suspension of liquidation of and to liquidate, without regard to duties, unliquidated entries of ripe olives from Spain made on or after March 28, 2018. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the *Federal Register*.

Notification to Interested Parties

[11] Commerce found the following companies to be cross-owned with Aceitunas Guadalquivir S.L.U.: Coromar Inv., S.L., AG Explotaciones Agricolas, S.L.U., and Grupo Aceitunas Guadalquivir, S.L. *See* Preliminary Decision Memorandum at 9, unchanged in *Final Determination*.

[12] Commerce found the following companies to be cross-owned with Angel Camacho Alimentación, S.L.: Grupo Angel Camacho Alimentacíon, Cuarterola S.L., and Cucanoche S.L. *See* Preliminary Decision Memorandum at 11, unchanged in *Final Determination.*

This notice constitutes the CVD order with respect to ripe olives from Spain pursuant to section 706(a) of the Act. Interested parties can find a list of CVD orders currently in effect at http://enforcement.trade.gov/stats/iastats1.html.

This order and amended final determination are published in accordance with section 705(d)-(e), 706(a), and 777(i)(1) of the Act and 19 CFR 351.211(b).

Dated: July 25, 2018.
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.

Appendix

Scope of the Order

The products covered by this order 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, multilayered 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 order if performed in Spain.

Subject merchandise includes ripe olives that otherwise meet the definition above that are packaged together with non-subject products, where the smallest individual packaging unit (*e.g.*, can, pouch, jar, etc.) of any such product – regardless of whether the smallest unit of packaging is included in a larger packaging unit (*e.g.*, display case, etc.) – contains a majority (*i.e.*, more than 50 percent) of ripe olives by net drained weight. The scope does not include the non-subject components of such product.

Excluded from the scope are: (1) Specialty olives[13] (including "Spanish-style," "Sicilian-style," and other similar olives) that have been processed by fermentation only, or by being cured in an

---

Some of the major types of specialty olives and their curing methods are:

- "Spanish-style" green olives: Spanish-style green olives have a[13] 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.

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 order is currently classifiable under subheadings 2005.70.0230, 2005.70.0260, 2005.70.0430, 2005.70.0460, 2005.70.5030, 2005.70.5060, 2005.70.6020, 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 U.S. Customs purposes, they do not define the scope of the order; rather, the written description of the subject merchandise is dispositive.

[FR Doc. 2018-16449 Filed: 7/31/2018 8:45 am; Publication Date: 8/1/2018]