



[Billing Code 3290-F9]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2019-0016]

[Dispute Number WT/DS577]

WTO Dispute Settlement Proceeding Regarding United States – Anti-Dumping and Countervailing Duties on Ripe Olives From Spain

AGENCY: Office of the United States Trade Representative.

ACTION: Notice with request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that the European Union (EU) has requested the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement). You can find the request at www.wto.org in a document designated as WT/DS577/3. USTR invites written comments concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments during the course of the dispute settlement proceedings, you should submit your comment on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], to be assured of timely consideration by USTR.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments in Section III below. The docket number USTR-2019-0016. For alternatives to on-line submissions, please contact Sandy McKinzy at (202) 395-9483 before transmitting a comment and in advance of the relevant deadline.

FOR FURTHER INFORMATION CONTACT: Assistant General Counsel Nicholas Paster at (202) 395-3580 or Assistant General Counsel David Lyons at (202) 395-9446.

SUPPLEMENTARY INFORMATION:

I. Background

Section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires notice and opportunity for comment after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Pursuant to this provision, USTR is providing notice that the EU has requested a dispute settlement panel pursuant to the WTO *Understanding on Rules Procedures Governing the Settlement of Disputes* (DSU). The panel established by the WTO will hold its meetings in Geneva, Switzerland.

II. Major Issues Raised by the European Union

On January 29, 2019, the EU requested WTO consultations with the United States concerning the imposition of antidumping and countervailing duties on ripe olives from Spain, following final determinations by the U.S. Department of Commerce (DOC) and U.S. International Trade Commission in *Ripe Olives from Spain: Final Affirmative Countervailing Duty Determination* (DOC investigation number C-469-818), *Ripe Olives from Spain: Final Affirmative Determination of Sales at Less Than Fair Value* (DOC investigation number A-469-817), and *Ripe Olives from Spain* (ITC investigation numbers 701-TA-582 and 731-TA-1377), and section 771B of the Tariff Act of 1930 (19 U.S.C. 1677-2). You can find the consultation request at www.wto.org in a document designated as WT/DS577/1. On June 24, 2019, at the request of the EU, the WTO established a panel to examine the EU complaint.

The EU's request for establishment of a panel (WT/DS577/3) appears to be concerned with an alleged countervailing of subsidies that are not specific; the DOC's alleged failure to conduct a pass-through analysis with respect to subsidies received by olive growers, and its reliance on Section 771B of the Tariff Act of 1930; the basis for the DOC's calculation of the final subsidy rate of one respondent; and the ITC's injury determination with respect to the volume and effect of subsidized imports. The EU claims that the imposition of duties is inconsistent with Articles VI:1, VI:2, and VI:3 of the *WTO General Agreement on Tariffs and Trade 1994* (GATT 1994); Articles 1.1(a), 1.1(b), 1.2, 2.1, 2.1(a), (b), and (c), 2.2, 2.4, 10, 12.1, 12.5, 12.8, 14, 15.1, 15.2, 15.5, 19.1, 19.3, 19.4, and 32.1 of the *WTO Agreement on Subsidies and Countervailing Measures* (SCM Agreement); and Articles 3.1, 3.2, 3.5, and 12.2.2 of the *WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (Antidumping Agreement). The EU further alleges that Section 771B of the Tariff Act of 1930 is inconsistent with Articles 1.1(b), 10, 14, 19.1, 19.3, 19.4, and 32.1 of the SCM Agreement and Article VI:3 of the GATT 1994.

III. Public Comments: Requirements for Submissions

USTR invites written comments concerning the issues raised in this dispute. All submissions must be in English and sent electronically via www.regulations.gov. To submit comments via www.regulations.gov, enter docket number USTR-2019-0016 on the home page and click "search." The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "notice" under "document type" on the left side of the search-results page, and click on the link entitled "comment now!" For further information on using the

www.regulations.gov website, please consult the resources provided on the website by clicking on “How to Use Regulations.gov” on the bottom of the home page.

The www.regulations.gov website allows users to provide comments by filling in a “type comment” field, or by attaching a document using an “upload file” field. USTR prefers that you provide comments in an attached document. If a document is attached, it is sufficient to type “see attached” in the “type comment” field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the “type comment” field.

For any comments submitted electronically that contain business confidential information (BCI), the file name of the business confidential version should begin with the characters “BC”. Any page containing BCI must clearly be marked “BUSINESS CONFIDENTIAL” on the top and bottom of that page, and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that you would not customarily release the information to the public. Filers of submissions containing BCI also must submit a public version of their comments. The file name of the public version should begin with the character “P”. Follow the “BC” and “P” with the name of the person or entity submitting the comments or rebuttal comments. For alternatives to online submissions, please contact Sandy McKinzy at (202) 395-9483 before transmitting a comment and in advance of the relevant deadline.

USTR may determine that information or advice contained in a comment, other than BCI, is confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If a submitter believes that information or advice is confidential, s/he must clearly designate the information or advice as confidential and mark it as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page, and provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a public docket on this dispute settlement proceeding, docket number USTR-2019-0016, which is accessible at www.regulations.gov. The public file will include non-confidential public comments USTR receives regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from a panel, USTR will make the following documents publicly available at www.ustr.gov: the U.S. submissions and any non-confidential summaries of submissions received from other participants in the dispute. If a dispute settlement panel is convened, or in the event of an appeal from a panel, the report of the panel, and, if applicable, the report of the Appellate Body, also will be available on the website of the World Trade Organization, at www.wto.org.

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