

**DEPARTMENT OF COMMERCE****International Trade Administration**

[C-469-818]

**Ripe Olives From Spain: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination**

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

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of ripe olives from Spain. The period of investigation is January 1, 2016, through December 31, 2016.

**DATES:** Application November 28, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mary Kolberg, Lana Nigro, or Jennifer Shore, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1785, (202) 482-1779, (202) 482-2778, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on July 19, 2017.<sup>1</sup> On August 30, 2017, the Department postponed the preliminary determination of this investigation to November 20, 2017.<sup>2</sup> For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.<sup>3</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

<sup>1</sup> See *Ripe Olives from Spain: Initiation of Countervailing Duty Investigation*, 82 FR 33050 (July 19, 2017) (*Initiation Notice*).

<sup>2</sup> See *Ripe Olives from Spain: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 82 FR 41210 (August 30, 2017).

<sup>3</sup> See Memorandum, "Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Ripe Olives from Spain," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

(ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

**Scope of the Investigation**

The products covered by this investigation are ripe olives from Spain. For a complete description of the scope of this investigation, see Appendix I.

**Scope Comments**

In accordance with the preamble to the Department's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).<sup>5</sup> No interested party commented on the scope of the investigation as it appeared in the *Initiation*.

**Methodology**

The Department is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, the Department preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>6</sup>

The Department notes that, in making these findings, it relied, in part, on facts available pursuant to section 776(a) of the Act because information necessary for our analysis was not available on the record. For further information, see "Partial Use of Facts Available" in the Preliminary Decision Memorandum.

**Alignment**

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), the Department is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of Ripe Olives from Spain, based on a request made by the petitioner.<sup>7</sup>

<sup>4</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> See *Initiation Notice*.

<sup>6</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

<sup>7</sup> See Letter from the petitioner, "Request for Alignment of Final Determination," dated November 16, 2017.

Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than April 3, 2018, unless postponed.

**All-Others Rate**

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, the Department shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. In this investigation, the Department calculated individual estimated countervailable subsidy rates for Aceitunas Guadalquivir S.L.U. (Aceitunas Guadalquivir), Agro Sevilla Aceitunas S.Coop.And. (Agro Sevilla), Angel Camacho Alimentación, S.L. (Camacho), that are not zero, *de minimis*, or based entirely on facts available. The Department calculated the all-others rate using a weighted-average of the estimated subsidy rates calculated for the individually examined respondents using each company's business proprietary data for the merchandise under consideration.<sup>8</sup>

**Preliminary Determination**

The Department preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Aceitunas Guadalquivir S.L.U. <sup>9</sup> .....	2.31
Agro Sevilla Aceitunas S.Coop.And .....	2.47
Angel Camacho Alimentación, S.L. <sup>10</sup> .....	7.24
All-Others .....	4.47

**Suspension of Liquidation**

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, the

<sup>8</sup> For a complete analysis of the data, please see the All-Others Calculation Memorandum dated concurrently with this notice.

<sup>9</sup> As discussed in the Preliminary Decision Memorandum, the Department has found the following companies to be cross-owned with Aceitunas Guadalquivir S.L.U.: Coromar Inv., S.L., AG Explotaciones Agrícolas, S.L.U., and Grupo Aceitunas Guadalquivir, S.L.

<sup>10</sup> As discussed in the Preliminary Decision Memorandum, the Department has found the following companies to be cross-owned with Angel Camacho Alimentación, S.L.: Grupo Angel Camacho Alimentación, Cuarterola S.L., and Cucancho S.L.

Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the rates indicated above.

### Disclosure

The Department intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

### Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information relied upon in making its final determination.

### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>11</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and

date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

### International Trade Commission Notification

In accordance with section 703(f) of the Act, the Department will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will make its determination before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

### Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: November 20, 2017.

### 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 I

#### Scope of the Investigation

The products covered by this investigation 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>12</sup> (including "Spanish-style,"

<sup>12</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

"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 investigation 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 US Customs purposes, they do not define the scope of the investigation; rather, the written description of the subject merchandise is dispositive.

### Appendix II

#### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Subsidies Valuation
- VI. Partial Use of Facts Available
- VII. Analysis of Programs
- VIII. Calculation of the All-Others Rate
- IX. ITC Notification
- X. Disclosure and Public Comment
- XI. Verification
- XII. Conclusion

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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.

<sup>11</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).