

Court remanded the case and, on February 26, 1990, the Department issued an amendment to the final determination (*Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand: Tapered Roller Bearings From the People's Republic of China* (55 FR 6669, Feb. 26, 1990)). In its amendment, the Department issued a new "all others" rate of 2.96 percent.

On July 26, 1990, the Department initiated the third administrative review of tapered roller bearings from the People's Republic of China, covering the period June 1, 1989 through May 31, 1990 (*Initiation of Antidumping Duty Administrative Reviews* (55 FR 30490, July 26, 1990)). The Department initiated on CMEC (a state trading company) and Premier.

In 1991, the Department established a new policy concerning non-market economies. Under this policy, all non-market economy exporters are presumed to be a single enterprise controlled by the central government, which receives a single rate (the "PRC rate") (see the *Final Determination of Sales at Less Than Fair Value: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China* (56 FR 241, Jan. 3, 1991); and *Final Results of Antidumping Duty Administrative Review: Iron Construction Castings from the People's Republic of China* (56 FR 2742, Jan. 24, 1991)). A company is entitled to a separate rate only if it establishes that it is not subject to de jure or de facto control by the central government (see the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994)).

The Department issued its preliminary results for the third administrative review of TRB's from the PRC on October 4, 1991 (*Preliminary Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof From the People's Republic of China* (56 FR 50309, Oct. 4, 1991)). The Department preliminarily issued separate rates to all reviewed companies. *Id.* at 50310.

On December 31, 1991, the Department issued its final results (*Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof From the People's Republic of China* (56 FR 67590, Dec. 31, 1991)). The Department issued separate rates for all companies participating in the review. For non-reviewed companies, the Department issued "an 'all others' rate equal to the

highest rate for any company in this administrative review." *Id.* at 67597.

Interested parties challenged the results of the third administrative review. On December 5, 1994, the CIT issued its opinion in *UCF America v. United States*, 870 F. Supp. 1120 (CIT 1994), remanding the results to the Department. The CIT instructed the Department to: 1) reinstate the "all others" cash deposit rate to unreviewed companies which was applicable prior to the final results for entries which have not become subject to assessment pursuant to a subsequent administrative review; and 2) eliminate the arithmetic error with regard to Jilin's foreign inland freight costs.

The Department filed its remand results on March 6, 1995. In the remand results, the Department: 1) reinstated the PRC rate for the third review at 2.96 percent and 2) corrected the error in the foreign inland freight calculation for Jilin. However, the Department stated that while it agreed that it incorrectly established an "all others" rate of 8.83 percent in the final results of the review, its reasoning differed from that of the Court.

On February 27, 1996, the Court sustained the Department's remand results (see *UCF America Inc. and Universal Automotive Co., Ltd. v. United States and the Timken Company*, Cons. Ct. No. 92-01-00049, Slip Op. 96-42. The Court stated that it "sees no basis for a 'PRC rate' but finds that Commerce properly 1) reinstated the 'all others' cash deposit rate of 2.96% to unreviewed companies for entries which have not become subject to assessment pursuant to a subsequent administrative review; and 2) corrected the arithmetic error related to foreign inland freight costs for Jilin Machinery Import and Export Corporation." Thus, the Court sustained the rate applied by the Department but rejected the "PRC rate" terminology.

Continuation of Suspension of Liquidation

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish notice of a decision of the Court or Federal Circuit which is "not in harmony" with the Department's determination. Publication of this notice fulfills this obligation. The Federal Circuit also held that in such a case, the Department must suspend liquidation until there is a "conclusive" decision in the action. A "conclusive" decision cannot be reached until the opportunity to appeal expires or any appeal is decided by the Federal Circuit. Therefore, the Department will continue

to suspend liquidation at the current rates pending the expiration of the period to appeal or pending a final decision of the Federal Circuit if *UCF* is appealed.

Dated: March 21, 1996.
Susan G. Esserman,
Assistant Secretary for Import
Administration.
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[C-201-001]

Leather Wearing Apparel From Mexico; Notice of Intent To Terminate the Countervailing Duty Administrative Review and Notice of Intent To Amend the Revocation of the Countervailing Duty Order

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

ACTION: Notice of Intent to Terminate the Countervailing Duty Administrative Review and Notice of Intent to Amend the Revocation of the Countervailing Duty Order.

SUMMARY: On September 6, 1995, the Court of Appeals for the Federal Circuit (CAFC) ruled that, absent an injury determination by the International Trade Commission, the Department of Commerce (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 U.S. *Ceramica Regiomontana v. U.S.*, Court No. 95-1026 (Fed. Cir., Sept. 6, 1995) (*Ceramica*). As a result, we intend to terminate this administrative review, which covers the period January 1, 1994 through December 31, 1994, and amend the effective date of the revocation of the countervailing duty order on Mexican leather wearing apparel. The amended revocation would apply to all unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 23, 1985. We invite interested parties to comment on our intent to terminate this administrative review and to amend the revocation of the order.

EFFECTIVE DATE: March 29, 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 WTO 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 International Trade Commission 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). Administrative reviews of periods prior to January 1, 1995 could still be conducted, and on April 28, 1995 an administrative review of this order was requested for the period January 1, 1994 through December 31, 1994. 60 FR 25885 (May 15, 1995).

On September 6, 1995, in a case involving the countervailing duty order on ceramic tile from Mexico, the CAFC ruled that, absent an injury determination by the International Trade Commission (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 effective date of Mexico's Bilateral Agreement with the U.S. (*Ceramica* at 8). On February 21, 1996, the Department implemented the CAFC's ruling in the case of Mexican ceramic tile. 61 FR 6630. Because the order on leather wearing apparel is a Mexican order and involves the same set of pertinent facts (i.e., the ITC did not make an injury determination), the CAFC's decision

applies to the order on leather wearing apparel from Mexico.

As a result, we intend to terminate the instant review of this countervailing duty order. Also, we intend to amend the previous revocation of this order to make the revocation for all unliquidated entries effective April 23, 1985, rather than January 1, 1995, in recognition of the *Ceramica* decision.

Scope of the Review

Imports covered by this review are shipments of Mexican leather wearing apparel. These products include leather coats and jackets for men, boys, women, girls, and infants, and other leather apparel products including leather vests, pants, and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. This merchandise is currently classifiable under *Harmonized Tariff Schedule* (HTS) item numbers 4203.10.4030, 4203.10.4060, 4203.10.4085 and 4203.10.4095. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Notice of Intent To Terminate the Countervailing Duty Administrative Review and Notice of Intent To Amend the Revocation of the Countervailing Duty Order

This notice serves as notification to the public of our intent to terminate the instant administrative review and amend the revocation of the countervailing duty order on Mexican leather wearing apparel to be effective April 23, 1985. If our final determination remains unchanged from this notice of intent, the revocation will apply to all unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 23, 1985.

Therefore, we intend to instruct the U.S. Customs Service to terminate the suspension of liquidation and 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 intend to 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 section 753 determination.

Interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on this notice

of intent within 21 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted five days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under section 355.38(c), are due. The Department will publish its final determination with respect to this intended termination and revocation, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This notice is published in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: March 21, 1996.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

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Export Trade Certificate of Review

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal