

with certain limitations. With regard to finished parts (inner race, outer race, cage, rollers, balls, seals, shields, etc.), all such parts are included in the scope of this review. For unfinished parts (inner race, outer race, rollers, balls, etc.), such parts are included if (1) they have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by this review are those which will be subject to heat treatment after importation.

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[C-201-003]

Ceramic Tile From Mexico; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On May 18, 1995, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on ceramic tile from Mexico (60 FR 267177) for the period January 1, 1993 through December 31, 1993. We have now completed this review and determine the total bounty or grant to be 0.48 percent *ad valorem* for all companies. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*. We will instruct the U.S. Customs Service to assess countervailing duties as indicated above.

EFFECTIVE DATE: August 4, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, 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

On May 18, 1995, the Department published in the **Federal Register** (60 FR 26717) the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico (47 FR 20012; May 10, 1982). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On

June 19, 1995, a case brief was submitted by Ceramica Regiomontana, S.A., a producer of the subject merchandise which exported ceramic tile to the United States during the review period (respondent).

The review period is January 1, 1993, through December 31, 1993. This review involves 40 companies and the following programs:

- (1) BANCOMEXT Financing for Exporters;
- (2) The Program for Temporary Importation of Products used in the Production of Exports (PITEX);
- (3) NAFINSA Long-Term Loans
- (4) Other BANCOMEXT preferential financing;
- (5) Other Dollar-Denominated Financing Programs;
- (6) Fiscal Promotion Certificates (CEPROFI);
- (7) Import duty reductions and exemptions;
- (8) State tax incentives;
- (9) Article 15 Loans;
- (10) NAFINSA FONEI-type financing; and
- (11) NAFINSA FOGAIN-type financing.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of Review

Imports covered by this review are shipments of Mexican ceramic tile, including non-mosaic, glazed, and unglazed ceramic floor and wall tile. During the review period, such merchandise was classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 6907.10.0000, 6907.90.0000, 6908.10.0000, and 6908.90.0000. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

We calculated the total bounty or grant on a country-wide basis by first calculating the bounty or grant for each company subject to the administrative review. We then weight-averaged the rate received by each company, even those with *de minimis* and zero rates, using as the weight its share of total Mexican exports to the United States of subject merchandise. We then summed the individual companies' weighted-

average rates to determine the bounty or grant from all programs benefitting exports of subject merchandise to the United States. Since the country-wide rate calculated using this methodology was *de minimis*, as defined by 19 CFR § 355.7, no further calculations were necessary.

Analysis of Comments

Comment 1: As in past reviews, Ceramica Regiomontana contends that the Department does not have the legal authority to assess countervailing duties on ceramic tile from Mexico and must terminate the review. Effective April 23, 1985, the date of the "Understanding Between the United States and Mexico regarding Subsidies and Countervailing Duties" (the Understanding), Mexico became a "country under the Agreement." Therefore, Ceramica Regiomontana argues that 19 U.S.C. 1671 requires an affirmative injury determination as a prerequisite to the imposition of countervailing duties on any Mexican merchandise imported on or after April 23, 1985. Furthermore, Ceramica Regiomontana argues that the only applicable statutory authority for this review would be 19 U.S.C. 1303; however, because Mexico became a country under the Agreement, the provisions of section 1303 could no longer apply. Therefore, Ceramica Regiomontana maintains the Department has no authority to conduct this review and the review should be terminated.

Department's Position: We fully addressed this issue in a previous administrative review of this countervailing duty order. See *Ceramic Tile from Mexico; Final Results of Countervailing Duty Administrative Review* (55 FR 50744; December 10, 1990). The CIT and the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) have sustained the Department's legal position that Mexican imports subject to an outstanding countervailing duty order already in effect when Mexico entered into the Understanding are not entitled to an injury test pursuant to section 701 of the Act and paragraph 5 of the Understanding (*Ceramica Regiomontana, S.A., et. al v. United States*, Slip Op. 96-78, Court No. 89-06-00323 (May 5, 1994) (*Ceramica Regiomontana*); *Cementos Anajuac del Golfo, S.A. v. U.S.*, 879 F.2d 847 (Fed. Cir. 1989), cert. denied, 110 S.Ct. 1318 (1989)). The countervailing duty order on ceramic tile from Mexico was published prior to Mexico's entering into the Understanding and, therefore, imports of ceramic tile are not entitled