

exporter's independence over its own export activities and the potential influence, direct or indirect, of affiliated parties over the exporter's sales and production activities. Moreover, in the application, the Department could ask questions not addressed currently by its standard NME Section A questionnaire that are pertinent to separate rates eligibility, including questions about provincial or local government control over exporters. Such an application system could streamline the process of applying for a separate rate and provide a procedure which is less demanding of the Department's resources and time. To streamline the process further, the application would be available as a form on the Import Administration website. After a transition period, the Department would require that parties complete and submit this form electronically on the Import Administration website. The Department welcomes comments on the general advisability of introducing an application process for separate rates, as well as on the specific proposal outlined above.

(2) Under current NME practice, the Department assigns exporter-specific separate rates, and not exporter-producer combination rates, with three exceptions. The first exception concerns exclusions, in which case the exporter that is excluded receives an exporter-producer combination rate so that the exclusion from the antidumping order only applies when the exporter sources from the same supplier as in the original investigation. See Sections 733(b)(3) and 735(a)(4) of the Tariff Act of 1930, as amended, and 19 CFR 351.107(b)(1). The second exception involves the Department's enforcement of the law as it relates to middleman dumping. When a producer/exporter sells to an unaffiliated middleman with the knowledge of the ultimate destination of the merchandise, and that middleman subsequently sells merchandise to the United States at less than fair value, the Department will calculate a combination antidumping duty rate for the producer/exporter and middleman in many cases. The third exception concerns the Department's policy on new shipper reviews, where the rate is assigned to the exporter-producer combination. See *Import Administration Policy Bulletin 03.2: Combination Rates in New Shipper Reviews*, dated March 04, 2003. The Department is considering extending this practice of assigning exporter-producer combination rates to NME exporters receiving a separate rate so that only the specific exporter-producer combination that existed

during the period of investigation or review receives the calculated rate for establishing the cash deposit rate for estimated antidumping duties. That is, if an exporter qualifying for a separate rate during an investigation sourced its subject merchandise from three producers during the period of investigation, the separate rate it receives would only apply as a cash deposit to merchandise produced by any of the three suppliers that had supplied the exporter during the period of investigation. While the exporter would be free to adjust its sourcing from among the three suppliers that supplied it during the investigation, merchandise sourced from new suppliers would fall outside the combination rate. This combination rate would change as the result of subsequent administrative reviews establishing changes to the sourcing of the subject merchandise provided to the exporter. However, for cash deposit purposes, these combination rates would apply until the next administrative review.

The Department welcomes comments on the legal and administrative advisability of combination rates and, if instituted, how best to construct them. In particular, the Department is interested in comments as to what rate it should assign to exporters' merchandise from suppliers for which the Department has not established a combination rate.

(3) The Department is also considering changing its policy and practice concerning third-country resellers, *i.e.*, when NME producers sell subject merchandise through exporters located outside the NME country (for example, Hong Kong, Taiwan, or Malaysia). Under current practice, the Department applies a knowledge test to determine the entity to which the rate applies, only where there is evidence that the producer knows that the ultimate destination of the merchandise is the United States does the Department apply a rate to the NME producer. Otherwise, the Department considers the third-country reseller to be the exporter and assigns it an antidumping duty rate.

Recent antidumping investigations indicate that the relationship between Chinese producers, in particular, and resellers outside China can be complex and difficult to assess given the limited resources of the Department. Therefore, the Department is considering instituting a rebuttable presumption that NME producers shipping subject merchandise through third countries are aware that their goods are bound for the United States. In other words, the Department would assume that NME

producers shipping through third countries set the export price to the United States and assign to them, and not the reseller, antidumping duty rates, unless evidence were presented to the contrary. In accordance with standard practice, the NME producer/exporter would be required to demonstrate lack of *de facto* and *de jure* government control in order to receive a separate rate. The Department is interested in comments as to whether there are grounds for such a rebuttable presumption.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-357-405]

#### Continuation of Antidumping Duty Order: Barbed Wire and Barbless Fencing Wire From Argentina

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

**ACTION:** Notice of Continuation of Antidumping Duty Order: Barbed Wire and Barbless Fencing Wire From Argentina.

**SUMMARY:** As a result of the determinations by the Department of Commerce ("the Department") and the International Trade Commission ("Commission") that revocation of the antidumping duty order on Barbed Wire and Barbless Fencing Wire From Argentina would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing notice of the continuation of this antidumping duty order.

**EFFECTIVE DATE:** September 20, 2004.

**FOR CONTACT INFORMATION:** Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482-5050.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 1, 2004, the Department initiated and the Commission instituted a sunset review of the antidumping duty order on Barbed Wire and Barbless Fencing Wire from Argentina, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").<sup>1</sup> As a

<sup>1</sup> See *Initiation of Five-year ("Sunset") Reviews*, 69 FR 17129 (April 1, 2004).

result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the order to be revoked.<sup>2</sup>

On September 3, 2004, the Commission determined pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on Barbed Wire and Barbless Fencing Wire From Argentina would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>3</sup>

### Scope of the Order

The merchandise covered by this order is Barbed Wire and Barbless Fencing Wire From Argentina, which is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 7313.00.00. The HTS item numbers are provided for convenience and customs purposes. The written product description remains dispositive.

### Determination

As a result of the determinations by the Department and the Commission that revocation of this antidumping duty order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on Barbed Wire and Barbless Fencing Wire From Argentina. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than August 2009.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Notice of Solicitation of Requests for Modification of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics

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

**ACTION:** The Department of Commerce (Department) is soliciting requests for the modification of the limitations on the quantity of imports of certain worsted wool fabric under the 2004 tariff rate quotas established by the Trade and Development Act of 2000 (TDA 2000).

**SUMMARY:** The Department hereby solicits requests for the modification of the limitations on the quantity of imports of certain worsted wool fabric under the 2005 tariff rate quotas established by the TDA 2000, and amended by the Trade Act of 2002. To be considered, a request must be received or postmarked by 5 p.m. on October 5, 2004 and must comply with the requirements of 15 CFR 340. If a request is received, the Department will solicit comments on the request in the **Federal Register** and provide a twenty-day comment period. Thirty days after the end of the comment period, the Department will determine whether the limitations should be modified.

**ADDRESSES:** Requests must be submitted to: Industry Assessment Division, Office of Textiles and Apparel, Room 3100, United States Department of Commerce, Washington, DC 20230. Six copies of any such requests must be provided.

**FOR FURTHER INFORMATION CONTACT:** Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

#### SUPPLEMENTARY INFORMATION:

#### BACKGROUND

Title V of the TDA 2000 created two tariff rate quotas (TRQs), providing for temporary reductions for three years in the import duties on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11); and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12).

On August 6, 2002, President Bush signed into law the Trade Act of 2002, which includes several amendments to

Title V of the TDA 2000. These include the extension of the program through 2005; the reduction of the in-quota duty rate on HTS 9902.51.12 (average fiber diameter 18.5 microns or less) from 6 percent to zero, effective for goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002; and an increase in the 2003 through 2005 TRQ levels to 3,500,000 square meters for HTS 9902.51.12 and to 4,500,000 square meters for HTS 9902.51.11. Both of these limitations may be modified by the President, not to exceed 1,000,000 square meters per year for each tariff rate quota.

The TDA 2000 requires the annual consideration of requests by U.S. manufacturers of men's or boys' worsted wool suits, suit-type jackets and trousers for modification of the limitation on the quantity of fabric that may be imported under the tariff rate quotas, and grants the President the authority to proclaim modifications to the limitations. In determining whether to modify the limitations, specified U.S. market conditions with respect to worsted wool fabric and worsted wool apparel must be considered. On January 22, 2001, the Department published regulations establishing procedures for considering requests for modification of the limitations. Modification of Tariff Rate Quota Limitation on Worsted Wool Fabric Imports, 66 FR 6459 (Jan. 22, 2001) (15 CFR 340).

To be considered, requests must be submitted by a manufacturer of men's or boys' worsted wool suits, suit-type jackets, and trousers in the United States and must comply with the requirements of 15 CFR 340.

A request must include: (1) The name, address, telephone number, fax number, and Internal Revenue Service number of the requester; (2) The relevant worsted wool apparel product(s) manufactured by the person(s), that is, worsted wool suits, worsted wool suit-type jackets, or worsted wool trousers; (3) The modification requested, including the amount of the modification and the limitation that is the subject of the request (HTS heading 9902.51.11 and/or 9902.51.12); and (4) A statement of the basis for the request, including all relevant facts and circumstances. 15 CFR 340.3(b).

A request should include the following information for each limitation that is the subject of the request, to the extent available: (1) A list of suppliers from which the requester purchased domestically produced worsted wool fabric during the period July 1, 2003 to June 30, 2004, the dates of such purchases, the quantity purchased, the quantity of imported

<sup>2</sup> See *Barbed Wire and Barbless Fencing Wire From Argentina, Expedited Sunset Review of Antidumping Duty Order*; 69 FR 47404 (August 5, 2004) (Final Results).

<sup>3</sup> See *Barbed Wire and Barbless Wire Strand From Argentina*; 69 FR 53944 (September 3, 2004) and USITC Publication 3718 (August 2004), Investigation No. 731-TA-208 (Second Review).