

INTERNATIONAL TRADE COMMISSION

[No. TA-201-64 (Provisional Relief Phase)]

Report to the President on Investigation Fresh Winter Tomatoes¹

Determinations²

On the basis of the statute and available information developed to date in the subject investigation—

Chairman Watson and Commissioners Crawford and Bragg find two full-year, national industries producing tomatoes for (1) fresh-market use and (2) processing.

Chairman Watson and Commissioner Crawford further determine that fresh winter tomatoes are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing a like or directly competitive perishable product.

Commissioner Bragg finds that the available information in this investigation, while somewhat incomplete, suggests that fresh winter tomatoes are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing a like or directly competitive perishable product; however, she makes a negative determination in this investigation based on a negative finding with respect to whether—

(I) serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

(II) the serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.

Commissioners Rohr and Newquist make a negative determination in this investigation based on a negative finding with respect to whether—

(I) serious injury or threat of serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

(II) the serious injury or threat of serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.

¹ Specifically, fresh or chilled tomatoes, excluding cherry tomatoes, if entered during the period from January 1 through April 30 inclusive, provided for in subheadings 0702.00.20 and 0702.00.60 of the Harmonized Tariff Schedules of the United States.

² Vice Chairman Nuzum not participating.

Background

Following receipt of a petition filed on March 29, 1995, on behalf of the Florida Tomato Exchange, Orlando, FL, and the constituent members thereof, the Commission instituted investigation No. TA-201-64 under section 202(b) of the Trade Act of 1974 to determine whether fresh winter tomatoes are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. In addition, the petitioner sought provisional relief under section 202(d) of the Act.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection with the provisional relief phase of the investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 3, 1995 (60 FR 16883). The conference was held in Washington, DC, on April 10, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in this investigation to the President on April 19, 1995. The views of the Commission are contained in USITC Publication 2881 (April 1995), entitled "Fresh Winter Tomatoes: Investigation No. TA-201-64 (Provisional Relief Phase)."

Issued: April 21, 1995.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 95-10256 Filed 4-25-95; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 505X)]

CSX Transportation, Inc.— Abandonment Exemption—in Lee County, NC

CSX Transportation, Inc. (CSXT), has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 0.46 miles of rail line extending between milepost AE-245.06 and milepost AE-244.6 in Sanford, Lee County, NC.

CSXT has certified that: (1) no local traffic has moved over the line for at

least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), and 49 CFR 1152.50(d)(1) (service of verified notice on governmental agencies) have been met.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 26, 1995 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file offers of financial assistance under 49 CFR 1152.27(c)(2),² and trail use/rail banking statements under 49 CFR 1152.29 must be filed by May 8, 1995.³ Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 16, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

¹ A stay will be issued routinely where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

² See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

³ The Commission will accept late-filed trail use statements so long as it retains jurisdiction.