Pipe and Tube from Turkey (61 FR 35188, 35192) (July 5, 1996). The benchmark rate is defined as the rolling average of the rates for the past 40 business days.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the weighted-average dumping margin for Ferbasa is zero percent for the period March 1, 1996, through February 28, 1997.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties are invited to comment on the preliminary results. Parties who submit arguments in this proceeding are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument. All case briefs must be submitted within 30 days of the date of publication of this notice. Rebuttal briefs, which are limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments within 120 days from the publication of these preliminary results.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. For duty assessment purposes, because this review covers only one importer, we will divide the total dumping margin (calculated as the difference between NV and EP) by the total number of metric tons imported. We will direct Customs to assess the resulting per-metric ton dollar amount against each metric ton of subject merchandise entered by the importer during the POR. Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of ferrosilicon from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Ferbasa will be the rate established in the final results of this administrative review, except if the rate is less than 0.5 percent, *ad valorem* and, therefore, *de minimis* within the meaning of 19 CFR 353.6, the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation or a previous review, the cash deposit rate will continue to be the company-specific rate published in the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 35.95 percent, the ''All Others'' rate made effective by the antidumping duty order (59 FR 11769, March 14, 1994) and; (5) consistent with our practice in previous reviews of this order, for those companies that did not have shipments of the subject merchandise during the POR but which had previously been reviewed or investigated, their cash deposit rate will continue to be the company-specific rate published for the most recently reviewed period. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 12, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1157 Filed 1–15–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–803]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Fresh Atlantic Salmon From Chile

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

EFFECTIVE DATE: January 16, 1998.

FOR FURTHER INFORMATION CONTACT: Gabriel Adler or Kris Campbell, Office of AD/CVD Enforcement 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1442 or (202) 482–3813, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations last codified at 19 CFR part 353 (April 1, 1997).

Preliminary Determination

We preliminarily determine that fresh Atlantic salmon from Chile is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the *Suspension of Liquidation* section of this notice.

Case History

This investigation was initiated on July 2, 1997. *See Initiation of Antidumping Duty Investigation: Fresh Atlantic Salmon From Chile,* 62 FR 37027 (July 10, 1997) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

On July 12, 1997, the United States International Trade Commission (the ITC) preliminarily determined that there is a reasonable indication that imports of the product under investigation are materially injuring the United States industry.

On July 21, 1997, the Department invited interested parties to submit comments regarding selection of respondents and model matching. After considering those comments, on August

26, 1997, the Department selected the following companies as respondents in this investigation: Pesquera Mares Australes Ltda. (Mares Australes); Marine Harvest Chile (Marine Harvest); Aguas Claras S.A. (Aguas Claras); Pesquera Eicosal Ltda. (Eicosal); and Cia. Pesquera Camanchaca S.A. (Camanchaca) (collectively ''respondents''). *See Selection of Respondents,* below. On the same date, the Department issued an antidumping questionnaire to the selected respondents.[1]

The respondents submitted their initial responses to that questionnaire in September and October of 1997. After analyzing these responses, we issued supplemental questionnaires to the respondents to clarify or correct the initial questionnaire responses.

On October 6, 1997, the Coalition for Fair Atlantic Salmon Trade (the petitioners) requested that the Department initiate a sales-below-cost investigation with respect to sales in Canada by Aguas Claras.[2] The petitioners' allegation was timely, and provided reasonable grounds to believe that Aguas Claras had made sales below cost in Canada. Therefore, in accordance with section 773(b) of the Act, on October 21, 1997, we initiated a sales-below-cost investigation with respect to Aguas Claras' sales to Canada. *See Cost of Production,* below.

On October 17, 1997, in accordance with section 773(a)(1) of the Act, the Department determined that a particular market situation existed in the home market that rendered sales in that market an inappropriate basis for comparison to U.S. sales. The Department requested that Eicosal and Mares Australes, the two respondents that had provided a response to Section B of our questionnaire based on home market sales, provide a revised response based on sales to Japan, the only viable third-country market for those two companies. Eicosal and Mares Australes complied with this request, but argued that to the extent that the Department considered that the home market presents a particular market situation, it should find that Japan also presents a particular market situation. *See Selection of Comparison Markets,* below.

On October 17, 1997, the petitioners filed a timely request for a 50-day postponement of the preliminary determination. Absent compelling reasons to deny this request, and in accordance with section 733(c)(1)(A) of the Act and section 353.15(c) of the Department's regulations, on October 23, 1997, the Department postponed the preliminary determination until not later than January 8, 1998. *See Notice of Postponement of Preliminary Antidumping Determination: Fresh Atlantic Salmon from Chile,* 62 FR 56151 (October 29, 1997).

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination, if in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise.

On December 18, 1997, the respondents in this investigation, who account for a significant proportion of exports of subject merchandise, made such a request. In their request for an extension of the deadline for the final determination, the respondents consented to the extension of provisional measures to no longer than six months. Since this preliminary determination is affirmative, and there is no compelling reason to deny the respondents' request, we have extended the deadline for issuance of the final determination until the 135th day after the date of publication of this preliminary determination in the **Federal Register**.

Period of Investigation

The period of investigation (POI) is April 1, 1996, through March 31, 1997. This period corresponds to each respondent's four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* June 1996).

Scope of Investigation

The scope of this investigation covers fresh, farmed Atlantic salmon, whether imported ''dressed'' or cut. Atlantic salmon is the species Salmo salar, in the genus Salmo of the family salmoninae. ''Dressed'' Atlantic salmon refers to salmon that has been bled, gutted, and cleaned. Dressed Atlantic salmon may be imported with the head on or off; with the tail on or off; and with the gills in or out. All cuts of fresh Atlantic salmon are included in the scope of the investigation. Examples of cuts include, but are not limited to: crosswise cuts (steaks), lengthwise cuts (fillets), lengthwise cuts attached by skin (butterfly cuts), combinations of crosswise and lengthwise cuts (combination packages), and Atlantic salmon that is minced, shredded, or ground. Cuts may be subjected to various degrees of trimming, and imported with the skin on or off and with the ''pin bones'' in or out.

Excluded from the scope are (1) fresh Atlantic salmon that is ''not farmed'' (*i.e.,* wild Atlantic salmon); (2) live Atlantic salmon; and (3) Atlantic salmon that has been subject to further processing, such as frozen, canned, dried, and smoked Atlantic salmon, or processed into forms such as sausages, hot dogs, and burgers.

The merchandise subject to this investigation is classifiable as item numbers 0302.12.0003 and 0304.10.4093 of the Harmonized Tariff Schedule (HTS) of the United States. Although the HTS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Class or Kind

We have preliminarily determined that the products subject to this investigation comprise a single class or kind of merchandise. Our determination is based on an evaluation of the criteria set forth in *Diversified Products* v. *United States,* 572 F. Supp. 883, 889 (CIT 1983) (*Diversified Products*), which look to differences in: (1) The general physical characteristics of the merchandise, (2) the expectations of the ultimate purchaser, (3) the ultimate use of the merchandise, (4) the channels of trade in which the merchandise moves, and (5) cost. In making this determination, we have rejected a request by two of the respondents in this investigation, Mares Australes and Eicosal, that the Department determine that there are two separate classes or kinds of merchandise subject to investigation: (1) Fresh whole dressed Atlantic salmon, and (2) fresh Atlantic salmon meat. *See* letter from Arnold & Porter to Department of Commerce (November 3, 1997). In our analysis of the *Diversified Products* criteria, we found first, with respect to physical differences, that although certain differences between the two forms of the

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market. Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation.

[2] The petition had demonstrated reasonable grounds to believe that Chilean producers/exporters of the foreign like product had made sales below cost in Japan and Brazil, and the Department had initiated country-wide cost investigations with respect to these markets. However, the petition did not make an allegation of sales below cost with respect to Canada. *See Initiation Notice* at 37029.

merchandise exist, these differences have not been shown to outweigh the similarities among the products. With respect to the expectations of the ultimate purchaser and the ultimate use of the merchandise, we found that both whole dressed salmon and salmon cuts are ultimately destined for human consumption. Moreover, even if we were to consider restaurants/supermarkets as the ''ultimate purchaser,'' there is insufficient evidence to support the respondents' claim that whole salmon is sold to gourmet restaurants and fillets of salmon are sold to supermarkets and warehouse retailers. Finally, with respect to cost, we found while there is a cost difference involved in the additional cutting procedure required to make a fillet from a dressed fish, that difference alone is not significant enough to warrant a finding that there are two classes or kinds of merchandise. For a more detailed discussion of our preliminary determination with respect to the class or kind issue, *see* Memorandum from Gary Taverman to Richard W. Moreland, Fresh Atlantic Salmon from Chile: Issues Concerning the Preliminary Determination of Sales at Less Than Fair Value (January 8, 1998) (Preliminary Determination Memorandum).

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

After consideration of the complexities expected to arise in this proceeding (including issues of model matching, market viability, and cost of production), and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we found that given our resources we would be able to investigate the five producers/exporters with the greatest export volume, as identified above. These companies accounted for slightly less than 50 percent of all known exports of the subject merchandise during the POI. For a more detailed discussion of respondent selection in this investigation, *see* Memorandum from the Team to Richard W. Moreland, (August 26, 1997) (Respondent Selection Memorandum).

Product Comparisons

Pursuant to section 771(16) of the Act, all products produced by the respondents that fit the definition of the scope of the investigation and were sold in the comparison third-country markets during the POI fall within the definition of the foreign like product. We have relied on three criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: form, grade, and weight band. We have determined that it is generally not possible to match across forms, grades, or weight bands, because there are significant differences among products that cannot be accounted for by means of a difference-in-merchandise adjustment. (The exception to this general rule is that dressed salmon with gills in can be compared to dressed salmon with gills out, after making a difference-in-merchandise adjustment.) Therefore, we have compared U.S. sales to comparison market sales of identical merchandise, and have not compared U.S. sales to comparison market sales of similar merchandise. A detailed description of the matching criteria, as well as our matching methodology, is contained in the Preliminary Determination Memorandum.[3]

Fair Value Comparisons

To determine whether sales of fresh Atlantic salmon from Chile were made in the United States at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the *Export Price and Constructed Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs for comparison to weighted-average NVs.

Export Price and Constructed Export Price

In accordance with section 772 of the Act, we calculated either an EP or a CEP, depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772 (c) and (d) of the Act.

Consistent with these definitions, we have found that Aguas Claras, Mares Australes, and Camanchaca made EP sales during the POI. These sales are properly classified as EP sales because they were made by the exporter or producer outside the United States to unaffiliated customers in the United States prior to the date of importation. We note that the Aguas Claras EP sales were indirect (*i.e.*, these sales were made through an affiliated U.S. reseller that facilitated the processing of sales documentation).

We also found that all the respondents made CEP sales during the POI. Marine Harvest and Aguas Claras made sales through an affiliated reseller in the United States after the date of importation. Mares Australes, Eicosal, and Camanchaca made sales classifiable as CEP sales because the sales were made for the account of the producer/exporter by an unaffiliated consignment agent in the United States after the date of importation.[4]

[3] Certain respondents contend that, in the Japanese market, there is a distinction between premium and super-premium salmon. While we have accepted this claim for the preliminary determination, we intend to examine this issue thoroughly at verification.

[4] On October 31, 1997, the petitioners alleged that respondents Mares Australes, Camanchaca, and Eicosal are affiliated with their U.S. consignment sellers because the nature of a consignment relationship is such that the consignment seller controls the exporter. We have not adopted that position for this preliminary determination. In recent cases involving consignment sales of agricultural products, we explicitly recognized that a consignment relationship does not per se establish affiliation between the producer and the consignment seller. *See, e.g., Certain Fresh Cut Flowers from Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53287, 53295 (October 14, 1997) (rejecting petitioners' contention that ''any consignment sale implies affiliation between the exporter and the consignment importer''). Beyond the consignment nature of the relationship between the parties, the evidence on the record does not warrant a finding of affiliation. For a further

In their original questionnaire responses, Mares Australes, Eicosal, and Camanchaca reported prices based on the aggregated revenues reported periodically by unaffiliated consignment sellers. Because it is the Department's preference to examine transaction-specific data wherever possible, we requested that these three respondents prepare a listing of all sales made by unaffiliated consignment sellers to their U.S. customers. *See* letters from Department of Commerce to Arnold & Porter (October 31, 1997) (regarding sales by Eicosal and Camanchaca), and (November 20, 1997) (regarding sales by Mares Australes). The respondents complied with this request, but argued that since this data is not normally in their possession, the Department should instead rely on prices calculated on the basis of the aggregated revenues reported by the unaffiliated consignment sellers. *See* letters from Arnold & Porter to Department of Commerce (November 18, 1997) (submitting sales data for Eicosal and Camanchaca), and (December 8, 1997) (submitting sales data for Mares Australes). Given the Department's preference for transaction-specific data, we have relied on that data for this preliminary determination.

For all respondents, we calculated EP and CEP, as appropriate, based on packed prices charged to the first unaffiliated customer in the United States. (Where sales were made through consignment sellers, we did not consider the consignment seller to be the customer; rather, the relevant customer was the consignment seller's customer.) We based the date of sale on the date of the invoice issued to the U.S. customer.

In accordance with section 772(c)(2) of the Act, we reduced the EP and CEP by movement expenses and export taxes and duties, where appropriate.

Section 772(d)(1) of the Act provides for additional adjustments to the CEP. Generally, where sales were made through an unaffiliated consignment seller for the account of the exporter, we deducted commissions from the CEP.[5] Where sales were made through an affiliated reseller, we deducted direct and indirect selling expenses that related to commercial activity in the United States.

Section 772(d)(3) of the Act requires that the CEP be adjusted for the profit allocated to the selling expenses of a producer/exporter's affiliated reseller. For Marine Harvest and Aguas Claras, which made sales through affiliated resellers, we calculated a CEP profit ratio following the methodology set forth in section 772(f) of the Act.

We made company-specific adjustments as follows:

Aguas Claras. We based EP and CEP on delivered or C&F prices to unaffiliated customers in the United States. For both EP and CEP sales, we made deductions from the starting price, where appropriate, for movement expenses including foreign inland freight from the plant to Santiago airport, international air freight/insurance, and U.S. brokerage and handling fees and port charges. We also made deductions for post sale price adjustments corresponding to quality claims.

In addition, for CEP sales, we made deductions for U.S. inland freight to the customer, imputed credit, direct advertising, export documentation fees, quality control/inspection fees, and U.S. repacking costs.

Camanchaca. We based EP on either delivered, CIF Miami airport, or delivered, C&F Los Angeles airport, prices to unaffiliated customers in the United States. We based CEP on either delivered to customer or delivered FOB warehouse prices to unaffiliated customers of the consignment seller. For both EP and CEP sales, we made deductions from the starting price, where appropriate, for movement expenses including foreign inland freight from plant to Santiago airport, international air freight, transportation insurance from plant to final destination, and customs export documentation fees.

In addition, for CEP sales, we made deductions for U.S. customs duties, handling and warehousing fees, U.S. inland freight from the consignee to customer, as well as imputed credit, direct advertising, and wire transfer fees.

Eicosal. We based CEP on either FOB Miami, or delivered prices to the unaffiliated consignment seller's customers in the United States. We made deductions from the starting price, where appropriate, for movement expenses including foreign inland freight from plant to Chilean port of exit, international air freight, Chilean brokerage and handling fees, and U.S. inland freight from warehouse to customer. We also deducted post-sale price adjustments, including quality claims and invoicing errors; imputed credit; direct advertising; quality control/inspection fees; expenses for maintaining bank accounts in the United States for sales of the subject merchandise; and expenses associated with gill tags. We made an upward adjustment to the starting price for duty drawback.

Mares Australes. We based EP and CEP on either ex-factory, C&F U.S. port, or FOB Santiago prices to unaffiliated customers in the United States. For both EP and CEP sales, we made deductions from the starting price, where appropriate, for movement expenses including foreign inland freight from plant to Santiago airport, international air freight, U.S. customs duty, U.S. brokerage and handling, and post sale price adjustments including quality claims and a consignment broker's surcharge.

In addition, for CEP sales, we made deductions for U.S. inland freight from the consignee to customer, as well as for imputed credit, direct advertising, Chilean customs export documentation fees, and quality control/inspection fees.

Marine Harvest. We based CEP on FOB U.S. port and delivered prices to unaffiliated customers in the United States. We made deductions from the starting price, where appropriate, for movement expenses including foreign inland freight from plant to Santiago airport, international air freight, U.S. customs duty, U.S. brokerage and handling, and post sale price adjustments including quality claims and rebates. In addition, we deducted U.S. inland freight from the port to the affiliated reseller and from the affiliated reseller to customer, as well as indirect selling expenses incurred by the affiliated reseller, repacking costs, imputed credit, inventory carrying costs, advertising, Chilean customs fees, quality control/inspection fees, and Association membership fees.

Normal Value

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market (or third country market), provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate

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discussion of this issue, *see* Preliminary Determination Memorandum.

[5] Consistent with our practice, we did not deduct from the CEP the expenses of the unaffiliated consignment seller, since such expenses are effectively covered by the commission charged by the consignment seller to the producer/exporter. *See, e.g., Certain Fresh Cut Flowers from Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 62 FR 53287, 53295 (October 14, 1997).

quantity (or value) of sales of the subject merchandise to the United States.

In their responses to our antidumping questionnaires, Mares Australes and Eicosal claimed that NV should be based on home market sales because the home market was viable. Marine Harvest and Aguas Claras indicated that their respective home markets were not viable, and claimed that NV should instead be based on sales to Japan and Canada, respectively, the only viable third-country market for each of these companies. Camanchaca stated that it had no viable comparison market at all, and claimed that NV should be based on the constructed value.

In determining the appropriate comparison market for each respondent, we examined several issues, as discussed in detail in the Preliminary Determination Memorandum. First, we determined that Chile was not an appropriate comparison market for Mares Australes and Eicosal because a particular market situation existed in Chile. Our determination was based on record evidence indicating that this market involves almost exclusively ''industrial'' or ''off-quality'' grades sold directly from the factory depending on availability. Since the Chilean market is incidental to the respondents, it is not appropriate for comparison with the U.S. market, which is one of the respondents' primary marketing targets and which involves sales of primarily high-grade ''premium'' salmon made through distributors.

After rejecting the use of the home market for Mares Australes and Eicosal, we determined that Japan is the appropriate comparison market for Mares Australes, Eicosal, and Marine Harvest. In making this determination, we rejected a contention by Mares Australes and Eicosal that, by the logic of the Department's decision to reject the home market, the Department should also find that Japan presents a particular market situation. We determined that the Japanese market, unlike the home market, is not incidental to the respondents. Sales to that market involve export-quality merchandise which, while often different in grade from merchandise sold in the United States, is not so different as to render the Japanese market as a whole an unsuitable basis for NV. By contrast, as explained above, the merchandise sold in the home market involved a relatively small volume of merchandise that was not of export-quality. Further, we note that the Department's decision to reject the use of the home market was predicated in part on the manner in which the foreign like product is sold in that market. Sales in Chile are made directly from the respondents' processing facilities, with no guarantee of quality, on an ''as available'' basis. By contrast, sales to both the United States and Japan involve much more elaborate distribution systems, which are designed to ensure customer satisfaction. In view of these considerations, we determined that Japan could serve as a proper market on which to base NV.

We note that for Eicosal and Marine Harvest, we were unable to find any appropriate price-to-price comparisons based on sales to Japan for this preliminary determination. Accordingly, for these companies we compared all U.S. sales to constructed value (CV), *i.e.*, the cost of the merchandise sold in the United States as if it were sold in Japan. However, for Mares Australes we were able to make price-to-price comparisons for some U.S. sales.

For Aguas Claras, we determined that the appropriate comparison market is Canada. For this company, we were able to find appropriate price-based NV matches for some U.S. sales; for the others, we resorted to CV. Finally, we based NV for Camanchaca entirely on CV, as that company did not have a viable comparison market.

Adjustments made in deriving the NVs for each company are described in detail in *Calculation of Normal Value Based on Third-Country Prices and Calculation of Normal Value Based on Constructed Value,* below.

B. Cost of Production Analysis

We tested whether comparison market sales were made below cost for all respondents except Camanchaca, which did not have a viable comparison market. Although Eicosal and Marine Harvest did not have comparison market sales of comparable merchandise during the POI, we performed a cost analysis based upon the petitioners' timely cost allegation for purposes of determining the proper basis for calculation of profit for CV.

Based on an allegation contained in the petition, we found reasonable grounds to believe or suspect that sales of fresh Atlantic salmon made in Japan and Brazil were made at prices below the cost of production (COP). *See Initiation Notice,* 62 FR at 37029, and Memorandum from the Team to Richard Moreland, (July 1, 1997) (Initiation Checklist), at 10. In addition, based on a timely allegation filed by the petitioners on October 6, 1997, the Department found reasonable grounds to believe or suspect that sales made by Aguas Claras in Canada were made at prices below the COP. *See* Memorandum from the Team to Richard Moreland, Regarding Petitioners' Allegation of Sales Below the Cost of Production for Aguas Claras (October 21, 1997). As a result, the Department has conducted investigations to determine whether the respondents made sales in their respective third-country markets at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act.

1. Calculation of COP. In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each form of fresh Atlantic salmon, based on the sum of the cost of materials, fabrication and general expenses, and packing costs. We relied on the COP data submitted by each respondent in its supplementary cost questionnaire response, except, as discussed below, in specific instances where the submitted costs were not appropriately quantified or valued.

Aguas Claras. We revised Aguas Claras' financial expenses to exclude an offset for accounts receivables and finished goods inventory.

Camanchaca. We revised Camanchaca's financial expenses to reflect the ratio of net financial expenses to cost of goods sold, consistent with our general practice in the calculation of financial expenses.

Eicosal. We recalculated Eicosal's net financial expense on the basis of the consolidated financial expenses of Eicosal's parent company, Sociedad Pesquera Eicosal S.A. We also recalculated Eicosal's general & administrative (G&A) expenses to exclude an affiliated company's G&A expenses.

Mares Australes. We revised Mares Australes' financial expenses to exclude an offset for accounts receivables and finished goods inventory. We also rejected Mares Australes' claim that the calculation of costs should not include the costs associated with a particular group of salmon that had reached sexual maturation prior to harvesting (*i.e.*, salmon that had reached a ''grilse'' stage), because we found that the respondent did not adequately support its claim that this is an unusual, isolated event. We relied on the average cost to produce *all* groups of salmon sold during the POI.

Marine Harvest. We increased the reported cost of eggs and feed purchased from affiliated parties to reflect the difference between transfer prices and market prices, since the transfer prices were below market prices.

2. Test of Third-Country Comparison Market Sales Prices. We compared the adjusted weighted-average COP for each

respondent to the third-country comparison market sales of the foreign like product as required under section 773(b) of the Act (except for Camanchaca, which had no viable comparison market), in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities,[6] and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a product-specific basis, we compared the revised COP to the third-country comparison market prices, less any applicable movement charges, taxes, rebates, commissions and other direct and indirect selling expenses.

3. Results of the COP Test. After performing the COP test, we determined that Aguas Claras, Eicosal, Marine Harvest, and Mares Australes made third-country comparison market sales of certain products at prices below the COP, within an extended period of time in substantial quantities. Further, we found that the sales prices did not permit for the recovery of costs within a reasonable period of time. We therefore excluded these sales from our analysis.

For Aguas Claras and Mares Australes, which had sales of comparable merchandise during the POI, we did not conduct price-to-price comparisons where all sales of a particular product were made at prices below the COP. Instead, we based NV on CV, and calculated profit for CV on the basis of third-country sales that did not fail the cost test. *See Calculation of Normal Value Based on Constructed Value,* below. For Marine Harvest and Eicosal, which had no sales of comparable merchandise in the third-country market that would permit price-to-price comparisons, the finding of sales below cost affected only the calculation of profit for CV, inasmuch as profit for these companies was based only on third-country sales that did not fail the cost test.

C. Calculation of Normal Value Based on Third-Country Prices

We performed price-to-price comparisons where there were sales of comparable merchandise in the third-country market that did not fail the cost test. Such comparisons were possible only for Aguas Claras and Mares Australes.

Aguas Claras. We calculated NV based on delivered or C&F prices, and made deductions from the starting price, where appropriate, for movement expenses including inland freight and insurance from the plant to the Chilean airport, international air freight and insurance, customs export documentation fee, and U.S. brokerage and handling fees. We also adjusted the starting price for quality claims. In addition, we made circumstance of sale (COS) adjustments for direct expenses, where appropriate, in accordance with section 773(a)(6)(C)(iii) of the Act. These included imputed credit expenses and quality control/inspection fees. In accordance with section 773(a)(6)(A) and (B) of the Act, we deducted third country market packing costs and added U.S. packing costs.

As discussed in the *Level of Trade/ CEP Offset* section of this notice below, we preliminarily determined that it was appropriate to make a CEP offset to NV.

Mares Australes. We calculated NV based on C&F Japanese port or FOB Santiago prices to unaffiliated customers and made deductions, where appropriate, from the starting price for inland freight from the plant to Santiago airport and international air freight. We adjusted for COS differences in imputed credit expenses, quality control/ inspection fees, Chilean customs export document fees, repacking costs, and direct advertising expenses.

D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for those fresh Atlantic salmon products for which we could not determine the NV based on comparison market sales, either because (1) there were no sales of a comparable product (as was the case for Eicosal, Marine Harvest, and Camanchaca) or (2) all sales of the comparison product failed the COP test (as was the case for Aguas Claras and Mares Australes, with respect to certain products), we based NV on CV.

Section 773(e)(1) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A), profit, and U.S. packing costs. For each respondent, we calculated the cost of materials and fabrication based on the methodology described in the *Calculation of COP* section of this notice, above. Except for Camanchaca, for every respondent we based SG&A and profit on the actual amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act. Because there is no viable comparison market for Camanchaca, and hence no actual company-specific profit and SG&A data available for Camanchaca, we calculated profit and indirect selling expenses in accordance with section 773(e)(2)(B)(iii) of the Act and the SAA at 841. Specifically, the SAA at 841 provides that where, due to the absence of data, the Department cannot determine amounts for profit under alternatives (i) or (ii) of section 773(e)(2)(B) of the Act or a ''profit cap'' under alternative (iii) of section 773(e)(2)(B) of the Act, the Department may apply alternative (iii) on the basis of the facts available. In this case, we are unable to determine an amount for profit under alternatives (i) or (ii) or a profit cap under alternative (iii) because none of the respondents have viable home markets. *See* 19 CFR 405(b)(2) of the Department's revised regulations (clarifying that under section 773(e)(2)(B) of the Act, ''foreign country'' means the country in which the merchandise is produced), (62 FR 27296, 27412–13 (May 19, 1997)). As a result, we are applying alternative (iii) on the basis of the facts available consistent with the SAA. As facts available, we calculated Camanchaca's profit and indirect selling expenses based on the weighted-average actual profit and indirect selling expenses of the other respondents in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in their respective comparison markets.

In addition, for each respondent we used U.S. packing costs as described in the *Export Price and Constructed Export Price* section of this notice, above.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 353.56. For comparisons to EP, we made

[6] In accordance with section 773(b)(2)(C)(i) of the Act, we determined that sales made at below the COP were made in substantial quantities if the volume of such sales represented 20 percent or more of the volume of sales under consideration for the determination of normal value. We note that on December 18, 1997, the respondents submitted a letter arguing that fresh Atlantic salmon is a highly perishable product and that the Department should not use the 20-percent ''substantial quantities'' test, but instead apply the test set forth by section 773(b)(2)(C)(ii) of the Act (which compares the average sales price to the average unit cost for the period). Because the respondents did not raise their argument until shortly before the issuance of this preliminary determination, we have not had an adequate opportunity to consider it. We have therefore relied on the standard 20 percent test, which has been used in past investigations involving salmon. *See Final Determination of Sales at Less Than Fair Value: Fresh and Chilled Atlantic Salmon from Norway* 56 FR 7661 (February 25, 1991). However, we intend to examine this issue further for the final determination of this investigation.

COS adjustments by deducting direct selling expenses incurred on third-country market sales and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments by deducting direct selling expenses incurred on third-country market sales and adding U.S. direct selling expenses except those deducted from the starting price in calculating CEP pursuant to section 772(d) of the Act. We also made adjustments, where applicable, for indirect selling expenses incurred on third-country market sales to offset U.S. commissions in EP and CEP comparisons; specifically, we deducted from NV the lesser of (1) the amount of commission paid on a U.S. sale for a particular product, or (2) the amount of indirect selling expenses incurred on the third-country market sales for a particular product.

Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

In implementing these principles in this investigation, we obtained information from each respondent about the marketing stage involved in the reported U.S. and third-country market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying levels of trade for EP and third-country market sales we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.

For Mares Australes and Eicosal, we found one level of trade in Japan and one level of trade in the United States, between which there were no significant differences. Other than expenses related to movement, these companies performed few or no selling functions. Therefore, we preliminarily determine that these companies' Japanese levels of trade constitute neither more or less advanced stages of distribution than the levels of trade found in the United States at the levels of trade of the CEP. Accordingly, no adjustment for differences in levels of trade is warranted for either company.

For both Aguas Claras and Marine Harvest, we found that there is one level of trade for sales to Canada and Japan, respectively, and one level of trade for sales to the United States. As explained below, we also preliminarily determine that these companies' comparison market sales are made at a more advance level of trade than that of the CEP.

Aguas Claras makes all sales to Canada and all CEP sales to the United States through its affiliated consignee, Bowrain Corp. Information on the record indicates that Bowrain performs the same services with respect to both groups of sales, including identifying customers, arranging for handling and storage, and sales support to the final customer. As noted above, for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. Thus, the level of trade of Aguas Claras' Canadian sales involves substantially more selling functions (those performed by Bowrain) than the level of trade of the CEP. We also note that the level of trade of Canadian sales differs from that of the CEP with respect to customer class: Canadian sales by Bowrain Corp. are to Canadian distributors, retailers, restaurants, and further processors; the customer at the CEP level of trade is Aguas Claras' reseller, Bowrain Corp. In light of these facts, we have determined that Aguas Claras' Canadian sales are made at a different, and more advanced, stage of marketing than the level of trade of the CEP. Aguas Claras also made indirect EP sales to the United States that are at a level of trade in the United States that is not substantially different from that of the level of trade of the CEP.

Similarly, Marine Harvest's comparison market sales are made at a more advanced stage of marketing than its CEP sales. Marine Harvest sells in Japan to a trading company that subsequently sells to processors and fishmongers through layers of wholesalers. The respondent maintains a sales office in Japan (Marine Harvest Japan) that coordinates with the trading company. Marine Harvest Japan sets prices and establishes order quantities with the trading company's primary wholesaler, coordinating the terms and conditions of the sale with the trading company. Marine Harvest Japan also assists in marketing salmon by accompanying the primary wholesaler on sales trips to secondary wholesalers and by working directly with the secondary wholesaler's customers. Further, Marine Harvest Japan provides after-sales service and quality claims. For CEP sales to its affiliated consignee in the United States, Marine Harvest performs few or no selling functions other than services related to movement of merchandise. Thus, Marine Harvest performs fewer selling functions for sales to the United States, at a different stage of marketing. We therefore preliminarily determine that Marine Harvest's sales to Japan are at a more advanced level of trade than the level of trade of the CEP.

Accordingly, for Aguas Claras and Marine Harvest, a level-of-trade adjustment is appropriate. However, neither company sells salmon or any other product at any other level of trade in their comparison markets than that of their fresh Atlantic salmon sales. Therefore, because the data available do not permit a determination that there is a pattern of consistent price differences between sales at different levels of trade in the comparison markets, section 773(a)(7)(B) of the Act permits a CEP offset to be made to NV. We granted such an offset equal to the amount of indirect expenses incurred in the comparison markets, but not exceeding the amount of the deductions made from the U.S. price in accordance with 772(d)(1)(D) of the Act. For Aguas

Claras, we made no LOT adjustment for comparisons to EP.

Finally, with respect to Camanchaca, we did not perform a level-of-trade analysis because this company does not have a viable comparison market.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act. The Department's preferred source for daily exchange rates is the Federal Reserve Bank. The Federal Reserve Bank publishes daily exchange rates for Japanese yen, but not for Chilean pesos. For purposes of the preliminary results, we made conversions of figures denominated in Japanese yen based on the official exchange rates published by the Federal Reserve. For conversions of figures involving Chilean pesos, we relied instead on daily exchange rates published by Dow Jones News/Retrieval on-line system.

Verification

In accordance with section 782(i) of the Act, we intend to verify information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of fresh Atlantic salmon from Chile, except for subject merchandise produced and exported by Camanchaca, Mares Australes, and Marine Harvest (which have *de minimis* weighted-average margins), that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice. We note that, as stated in the *Case History* section of the notice above, we have extended the provisional measures from four months to no more than six months.

The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
Aguas Claras	3.31
Eicosal	8.27
Camanchaca	0.18
Mares Australes	1.21
Marine Harvest	1.87
All Others	5.79

Section 735(c)(5)(A) of the Act directs the Department to exclude all zero and *de minimis* weighted-average dumping margins, as well as dumping margins determined entirely under facts available under section 776 of the Act, from the calculation of the ''all others'' rate. We have excluded the *de minimis* dumping margins for Camanchaca, Mares Australes, and Marine Harvest from the calculation of the ''all others'' rate. No dumping margins were based entirely on facts available.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs must be submitted to the Assistant Secretary for Import Administration no later than April 13, 1998. Rebuttal briefs will be due no later than April 20, 1998. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made, the hearing will tentatively be held on Monday, April 28, 1998, at 8:30 A.M., at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within ten days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination no later than 135 days after the date of publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(f) of the Act.

Dated: January 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1164 Filed 1–15–98; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Wednesday, January 21, 1998, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Bicycle Helmets

The staff will brief the Commission on options for a final safety standard for bicycle helmets.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: January 14, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–1287 Filed 1–14–98; 2:49 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Friday, January 23, 1998, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.