deposit rate for companies listed above will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis,* the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less than fair value (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; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation conducted by the Department, the cash deposit rate will be 24.64 percent, the ''All Others'' rate established in the LTFV investigation.

These cash deposit 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 351.402(f)(2) 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2000.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–20031 Filed 8–7–00; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–337–803)

Notice of Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review: Fresh Atlantic Salmon From Chile

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

SUMMARY: In response to requests by eight producers/exporters of subject merchandise and the petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on fresh Atlantic salmon from Chile. This review covers nine producers/exporters of the subject merchandise. The period of review (POR) is July 28, 1998, through June 30, 1999.

We preliminarily determine that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) or constructed export price (CEP) and the normal value.

Interested parties are invited to comment on these preliminary results. Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument. Further, we would appreciate parties submitting comments to provide the Department with an additional copy of the public version of any such comments on diskette.

EFFECTIVE DATE: August 8, 2000.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Gabriel Adler, at (202) 482–3003 or (202) 482–3813, respectively; AD/CVD Enforcement Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (1999).

Case History

On July 30, 1998, the Department issued an antidumping duty order on fresh Atlantic salmon from Chile. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Fresh Atlantic Salmon from Chile,* 63 FR 40699 (July 30, 1998). On July 9, 1999, the Department issued a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 64 FR 38181 (July 15, 1999). On July 30, 1999, in accordance with 19 CFR 351.213(b)(1), the Coalition for Fair Atlantic Salmon Trade (the petitioners) requested a review of 61 producers/exporters of fresh Atlantic salmon.

On October 5, 1999, the petitioners withdrew their request for all companies except: (1) Cultivos Marinos Chiloe Ltda. (Cultivos Marinos); (2) Chisal S.A (Chisal); (3) Cultivadora de Salmones Linao Ltda. (Linao); (4) Fiordo Blanco, S.A. (Fiordo Blanco); (5) I.P. (Invertec Pesquera) Mar de Chiloe, S.A. (Invertec); (6) Pesquera Mares Australes (Mares Australes); (7) Salmones Pacific Star (Pacific Star); (8) Salmones Mainstream, S.A. (Mainstream); (9) Salmones Pacifico Sur, S.A. (Pacifico Sur); and (10) Salmones Tecmar, S.A. (Tecmar). Petitioners subsequently withdrew their request for a review of Invertec and Chisal. *See Partial Rescission of Antidumping Duty Administrative Review,* below.

Also on July 30, 1999, the following companies requested that the Department conduct an administrative review for the period from July 28, 1998, through June 30, 1999: (1) Cultivos Marinos; (2) Pesquera Eicosal Ltda. (Eicosal); (3) Fiordo Blanco; (4) Linao; (5) Mainstream; (6) Mares Australes; (7) Pacifico Sur; and (8) Tecmar.

On August 30, 1999, we published the notice of initiation of this antidumping duty administrative review, covering the period July 28, 1998, through June 30, 1999. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 64 FR 47167 (August 30, 1999).

Partial Rescission of Antidumping Duty Administrative Review

On October 5, 1999, the petitioners withdrew their requests for review of the following companies:

Aquacultura de Aguas Australes
Agromar Ltda.
Aquachile S.A.
Aguas Claras S.A.
Aquasur Fisheries Ltda.
Asesoria Acuicola S.A.
Best Salmon
C.M. Chiloe Ltda.
Cenculmavique
Centro de Cultivo de Moluscos
Cerro Farellon Ltda.
Chile S.A.
Complejo Piscicola Coyhaique
Cultivos San Juan
Cultivos Yardan S.A.
Fisher Farms
Fitz Roy
G.M. Tornagaleones S.A.

Huitosal
Huitosal Mares Australes Salmo Pac.
I.P. Mar de Chiloe S.A.
Invertec Seafood S.A.
Manao Bay Fisheries
Mardim Ltda.
Ocean Horizons
P. Antares S.A.
P. Chiloe S.A.
P. Friosur S.A.
P. Los Fiordas
Pacific Mariculture
Patagonia Fish Farming S.A.
Patagonia Salmon Farming, S.A.
Pes Quellon Ltda.
Pesca Chile S.A.
Piscicultura Iculpe
Piscicultura La Cascada
Piscicultura Santa Margarita
Prosmolt S.A.
Salmon Andes S.A.
Salmones Americanos S.A.
Salmones Antarctica S.A.
Salmones Caicaen S.A.
Salmones Llanquihue
Salmones Multiexport Ltda.
Salmones Quellon
Salmones Ranco Sur Ltda.
Salmones Unimarc S.A.
Salmosan
Seafine
Trusal S.A.
Ventisqueros S.A.

In addition, on October 21, 1999, and November 12, 1999, the petitioners withdrew their request that the Department conduct an administrative review of the entries of Invertec and of Chisal, respectively. Pursuant to 19 CFR 315.213(d)(1), we are rescinding the review with respect to these companies.

From April 2000 through July 2000, we conducted verifications of sales and cost data submitted by respondents Cultivos Marinos, Eicosal, Fiordo Blanco, Salmones Mainstream, Mares Australes, and Pacifico Sur. The verification of most elements of the sales data submitted by Fiordo Blanco is scheduled to take place at the offices of the respondent's affiliated Canadian reseller in early August 2000. Shortly before the issuance of these preliminary results of review, Fiordo Blanco submitted a letter purporting to contain minor corrections to its sales data. Given the lateness of that filing, we have not considered it for these preliminary results of review. Further, the Department has not yet determined whether this submission properly contains only minor corrections to the record pursuant to verification. The Department will make this determination after the sales verification scheduled to take place in Canada in August 2000.

Scope of the Review

The product covered by this review is 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 review. 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 of the United States (HTSUS). Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Use of Facts Available

We have preliminarily determined, as a result of a partial verification conducted by the Department, to base Fiordo Blanco's antidumping rate on the facts available in accordance with section 776(a) of the Act. The Department conducted verification of cost and some sales data in Chile before the issuance of the preliminary results of this review, and is scheduled to conduct additional verification procedures at the Canadian offices of Fiordo Blanco's North American distributor after the issuance of the preliminary results. As described below, during the verification in Chile, the Department determined that there were errors in the reporting of date of sale for U.S. and Canadian sales, which call into question the overall reliability of the data submitted by Fiordo Blanco for purposes of these preliminary results. Therefore, we have preliminarily assigned to Fiordo Blanco a margin based on adverse facts available, which, in this case, is the highest margin calculated for any respondent in the original investigation.

The specific findings at verification which led to this decision are as follows. From June 26 through June 30, 2000, the Department conducted a verification in Puerto Montt, Chile, of the cost data submitted by Fiordo Blanco. The major portion of the sales verification was scheduled to take place after the issuance of the preliminary results of this review, at the Canadian offices of Heritage, Fiordo Blanco's affiliated North American consignment reseller, where all of the sales to the first unaffiliated customers in the U.S. and Canadian markets were generated. However, since certain expenses associated with those sales were incurred in Chile, and recorded in the books of Fiordo Blanco's Chilean operations, the Department conducted verification of those elements in Chile, concurrent with the cost verification.

In its questionnaire responses, Fiordo Blanco had stated that the appropriate date of sale for both markets was the date of shipment. Fiordo Blanco noted that material terms of sale were established earlier, on the date that sales personnel recorded a customer's order, but claimed that the date of order could not be easily reported:

> We are reporting the date of sale, both for U.S. and Canadian sales, as the date of shipment from { the North American warehouse }. While the order may be negotiated one or two days prior to shipment, we do not track the order date electronically in our system. It would be extremely burdensome to search paper records concerning thousands of sales to determine the actual order date for all sales * * *

See Fiordo Blanco Section A response at 20.

In conducting verification of reported expenses based on the books of Fiordo Blanco in Chile, the verifiers noted an irregularity in the reporting of date of sale, which appeared to derive from the records maintained by Heritage in Canada. Late on the evening prior to the last day of verification, the respondent notified the verifiers that it had inadvertently reported the date of order, rather than the date of shipment, as the date of sale. (According to Fiordo Blanco, the date of shipment had not been reported at all, and the date of order, which was in fact recorded electronically, had been erroneously reported instead.) The company could not explain why the date of order, which it had suggested was not recorded electronically, had been inadvertently reported to the Department *in lieu* of the shipment date. Heritage officials, contacted by

telephone, were also unable to reconcile these inconsistencies.

In preparing these preliminary results, two weeks after the verification of Fiordo Blanco's data in Chile, the Department requested that Fiordo Blanco provide order dates and shipment dates for a randomly selected sample of thirty U.S. and Canadian sales, and also provide documentation supporting these dates. The Department compared these dates to those originally reported in the Section B and C responses, and found that for some sales the respondent had actually reported the date of shipment as the date of sale, and for others it had reported the date of order. There appeared to be no systematic pattern to the choice of date of sale, and the respondent was unable to explain this discrepancy. *See Memorandum from the Team to the File,* dated July 11, 2000.

These discrepancies and contradictions in the reporting of date of sale are of concern in that the date of sale is an important element in identifying appropriate sales comparisons, particularly in an administrative review. While additional verification at Fiordo Blanco's North American affiliate, scheduled to take place after the issuance of these results, might give the Department greater confidence in the reliability of Fiordo Blanco's submitted data, at present the Department cannot rely on these data to calculate a dumping margin for the preliminary results of review. As such, consistent with section 776(a) of the Act, the Department has based the preliminary results of review for Fiordo Blanco on the facts available.

Consistent with section 782(d) of the Act, Fiordo Blanco was given opportunities to correct its defective submissions. On January 18, 2000, the Department issued a supplemental questionnaire to Fiordo Blanco, requesting confirmation that the date of shipment from Heritage's warehouses was the earliest date upon which all material terms of sale are set. In its response, Fiordo Blanco confirmed that the date of shipment was the only date tracked and that it had been reported as the date of sale. On April 17, 2000, Fiordo Blanco submitted the overall reconciliation of the company's sales database to its financial statements, as called for in section A of the antidumping questionnaire. This exercise required the respondent to confirm that the appropriate sales had been reported for the POR, and was an opportunity for Fiordo Blanco to examine the correctness of its reported dates of sale. Fiordo Blanco did not mention any problem with the date of sale in its submitted reconciliation. Despite these opportunities, Fiordo Blanco did not act to the best of its ability to confirm the accuracy of its reported data and to provide any necessary corrections. Therefore, we preliminarily determine that the use of adverse facts available is appropriate, in accordance with section 776(b) of the Act.

Where we must base the entire dumping margin for a respondent in an administrative review on facts available because that respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the use of inferences adverse to the interests of that respondent in choosing facts available. Section 776(b) of the Act also authorizes the Department to use, as adverse facts available, information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. We have preliminarily assigned to Fiordo Blanco, as adverse facts available, a rate of 10.69 percent, the highest rate determined for any respondent during any segment of this proceeding. This rate was calculated for a respondent in the less-than-fair-value (LTFV) investigation.

Because information from prior segments of the proceeding constitutes secondary information, section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) says that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See* H.R. Doc. 316, vol. 1, at 870 (1994).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this review, we are not aware of any circumstances that would render inappropriate the preliminary use of the margin selected for Fiordo Blanco.

We note that, as scheduled, the Department intends to conduct a sales verification at the offices of Heritage after the issuance of these preliminary results. Depending on the findings of that verification, the Department may find it appropriate, for the final results of review, to calculate a dumping margin for Fiordo Blanco using some or all of the data submitted by the respondent.

Fair Value Comparisons

We compared the EP or CEP to the NV, as described in the *Export Price and Constructed Export Price* and *Normal Value* sections of this notice. We first attempted to compare contemporaneous sales of products sold in the United States and comparison markets that are identical with respect to the matching characteristics. Pursuant to section 771(16) of the Act, all products produced by the respondents that fit the definition of the scope of the review and were sold in the comparison markets during the POR fall within the definition of the foreign like product. We have relied on four criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: form, grade, weight band, and trim.[1] As in the original LTFV investigation, we have determined that it is generally not possible to match similar products, because there are significant differences among products that cannot be accounted for by means of a difference-in-merchandise adjustment. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Fresh Atlantic Salmon from Chile,* 63 FR 2664 (January 16, 1998). Therefore, we have compared

[1] The ''trim'' characteristic was not a matching criterion in the original investigation. However, the Department has preliminarily incorporated it into the model matching hierarchy based on evidence of pricing and cost differences for salmon of different trims.

U.S. sales to comparison market sales of identical merchandise, and have not compared U.S. sales to comparison market sales of similar merchandise. Where there were no appropriate sales of comparable merchandise, we compared the merchandise sold in the United States to constructed value (CV).

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP as defined in sections 772(a) and 772(b) of the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold by the exporter or producer outside the United States to an unaffiliated purchaser for exportation to the United States, before the date of importation, 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 inside 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 subsections 772(c) and (d) of the Act.

For all respondents, we calculated EP and CEP, as appropriate, based on the packed prices charged to the first unaffiliated customer in the United States. Where sales were made through an unaffiliated consignment seller, we did not consider the consignment seller to be the customer; rather, we considered the customer to be the consignment seller'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 CEP. In this case, all CEP sales were made through unaffiliated resellers for the account of the producer/exporter. Consistent with past practice, for these sales we deducted from the CEP commissions charged to, and other direct expenses incurred for the account of, the producer/exporter. We did not deduct an amount for CEP profit, because the commission already contains an element for profit realized by the unaffiliated reseller.

We determined the EP or CEP for each company as follows:

Cultivos Marinos

We calculated an EP for all of Cultivos Marinos' sales because the merchandise was sold directly by Cultivos Marinos to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), international freight, U.S. brokerage and U.S. duties. We also deducted the amount for billing adjustments from the starting price and added duty drawback, in accordance with section 772(c)(1)(B) of the Act.

Eicosal

We calculated an EP for all of Eicosal's sales because the merchandise was sold directly by Eicosal to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), international freight, U.S. brokerage and U.S. duties. We also deducted the amount for billing adjustments from the starting price and added duty drawback, in accordance with section 772(c)(1)(B) of the Act.

Linao

During the POR, Linao made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by Linao to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made for the account of the producer/exporter by an unaffiliated consignment broker in the United States after the date of importation. EP and CEP sales were based on the packed, delivered and duty-paid (DDP) U.S. port and C&F U.S. port price for exportation to the United States. We made deductions from the starting price for discounts and rebates, as well as movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), international freight, U.S. brokerage, and U.S. duties. We also deducted the amount for billing adjustments from the starting price and added the amount for duty drawback, in accordance with section 772(c)(1)(B) of the Act.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including commissions, direct selling expenses (credit expenses and industry association fees), and indirect selling expenses incurred in the United States by the unaffiliated consignment agent on behalf of the exporter which were charged to the respondent separately from the commission.

Mainstream

We calculated an EP for all of Mainstream's sales because the merchandise was sold directly by Mainstream to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), international freight, brokerage and handling, and U.S. customs duties. We also deducted the amount for billing adjustments from the starting price and added duty drawback, in accordance with section 772(c)(1)(B) of the Act.

Mares Australes

We calculated an EP for all of Mares Australes' sales because the merchandise was sold directly by Mares Australes to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), customs brokerage fees, international freight, U.S. customs duties and U.S. handling charges. We also added duty drawback, in accordance with section 772(c)(1)(B) of the Act.

Pacific Star

We calculated an EP for all of Pacific Star's sales because the merchandise was sold directly by Pacific Star to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), customs brokerage fees, international freight, U.S. customs duties and U.S. handling charges. We also added duty drawback, in accordance with section 772(c)(1)(B) of the Act.

Pacifico Sur

During the POR, Pacifico Sur made both EP and CEP transactions. We calculated an EP for sales where the

merchandise was sold directly by Pacifico Sur to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made for the account of the producer/exporter by an unaffiliated consignment broker in the United States after the date of importation. EP and CEP sales were based on the packed DDP U.S. port and C&F U.S. port price for exportation to the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), international freight, U.S. brokerage, and U.S. duties. We also deducted the amount for billing adjustments from the starting price and added the amount for duty drawback, in accordance with section 772(c)(1)(B) of the Act.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including commissions and other direct selling expenses (credit, industry association fees, product claims and repacking).

Tecmar

We calculated an EP for all of Tecmar's sales because the merchandise was sold directly by Tecmar to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), international freight, U.S. brokerage and handling, and U.S. duties. We also added the amount for duty drawback to the starting price, in accordance with section 772(c)(1)(B) of the Act.

Normal Value

A. Selection of Comparison Markets

Based on a comparison of the aggregate quantity of home market sales and U.S. sales by Cultivos Marinos and Eicosal, we determined that the quantity of foreign like product sold in Chile permitted a proper comparison with the sales of the subject merchandise to the United States pursuant to section 773(a)(1)(B) of the Act, because the quantity of sales in the home market was more than five percent of the quantity of sales to the U.S. market. Accordingly, for those two respondents we based NV on home market sales.[2]

Respondents Linao, Mares Australes, Pacific Star, Mainstream, Pacifico Sur, and Tecmar did not have viable home markets, as defined above. Therefore, for these respondents, in accordance with section 773(a)(1)(C) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in each respondent's largest third-country market. For Linao, Mainstream,[3] and Pacific Star, the largest third-country market is Brazil; for Tecmar, the largest third-country market is Argentina. Respondents Mares Australes and Pacifico Sur did not have any viable comparison market. Therefore, in accordance with section 773(e) of the Act, we based NV for these respondents on CV.

B. Cost of Production Analysis

Based on timely allegations filed by the petitioners, we initiated cost of production (COP) investigations of Cultivos Marinos, Fiordo Blanco, Pacific Star, and Tecmar, to determine whether sales were made at prices below the COP. *See Memorandum From Case Analysts to Gary Taverman*, dated January 12, 2000. In addition, because we disregarded below-cost sales in the final determination of the LTFV investigation of Eicosal, we had reasonable grounds to believe or suspect that home market sales of the foreign like product by this company have been made at prices below the COP during the period of the first review. Therefore, pursuant to section 773(b)(1) of the Act, we also initiated a COP investigation of sales by Eicosal.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of materials, fabrication, and general expenses. We relied on the submitted COPs except in the specific instances noted below, where the submitted costs were not appropriately quantified or valued.

We made the following company-specific adjustments to the cost data submitted in this review:

Cultivos Marinos: We adjusted Cultivos Marinos' general and administrative (G&A) expense ratio to include certain depreciation expenses which had been omitted from its submitted calculation and we adjusted the company's financial expense ratio to exclude offsets for estimated monetary gains associated with debt.

Eicosal: We calculated Eicosal's financial expenses from its parent company's consolidated financial statements. We also adjusted Eicosal's financial expense ratio to exclude offsets for estimated monetary gains associated with debt.

Pacific Star: We adjusted Pacific Star's financial expense ratio to exclude offsets for estimated monetary gains associated with debt.

Tecmar: We adjusted Tecmar's financial expense ratio to exclude offsets for estimated monetary gains associated with debt.

2. Test of Comparison Market Sales Prices

As required by section 773(b) of the Act, we compared the adjusted weighted-average COP for each respondent subject to a cost investigation to the comparison-market sales prices of the foreign like product, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, 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 comparison-market prices, less any applicable movement charges, taxes, rebates, commissions, and other direct and indirect selling expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in ''substantial quantities.'' Where (1) 20 percent or

[2] In the original LTFV investigation, the Department rejected the use of home market sales for purposes of establishing NV for two respondents, finding that a particular market situation existed with respect to those sales. In reaching that determination, the Department noted that those respondents' home market sales were almost exclusively of industrial grade salmon, which were incidental to their export-oriented businesses, and were sold essentially for salvage value. In this review, we have accepted the use of home market sales by Cultivos Marinos and Eicosal, since these sales included export-grade salmon sold to customers with a specific demand for those products.

[3] We note that the petitioners have called into question the use of sales to the Brazilian market as the basis for NV for Mainstream. According to the petitioners, the respondent's U.S. sales are primarily of fillets, and fillets were introduced to the Brazilian market by Mainstream in small quantities only after the issuance of the antidumping order in this case. We have preliminarily accepted the use of sales to the Brazilian market as the basis for NV for Mainstream. However, we will give further consideration to this issue for the final results of review, and invite parties to submit comments in their case briefs in this regard.

more of a respondent's sales of a given product were made at prices below the COP and thus such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of price to weighted-average COPs for the POR, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act, we disregarded the below-cost sales.

We found that for certain fresh Atlantic salmon products, Cultivos Marinos, Eicosal, Pacific Star, and Tecmar made comparison-market sales at prices below the COP within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. We therefore excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

C. Calculation of Normal Value Based on Comparison-Market Prices

We determined price-based NVs for respondent companies as follows. For all respondents, we made adjustments for any differences in packing, and we deducted movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset).

Company-specific adjustments are described below.

Cultivos Marinos: We based home market prices on the packed prices to unaffiliated purchasers in Chile. We adjusted the starting price for foreign inland freight, interest revenue and billing adjustments. We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (credit expense). No other adjustments to NV were claimed or allowed.

Eicosal: We based home market prices on the packed prices to unaffiliated purchasers in Chile. We adjusted the starting price for foreign inland freight. We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (credit expense, inspection fees, and bank charges). No other adjustments to NV were claimed or allowed.

Linao: We based third-country market prices on the packed, FOB plant or C&F port-city prices to unaffiliated purchasers in Brazil. We adjusted for the following movement expenses: foreign inland freight, airport handling fees, and customs brokerage. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit, quality control and inspection, certification expenses, and bank charges) and adding U.S. direct selling expenses (credit and association fees). We also added the amount for third country duty drawback to the starting price.

Mainstream: We based third-country market prices on the packed, FOB plant or C&F port-city prices to unaffiliated purchasers in Brazil. We adjusted for the following movement expenses: foreign inland freight, international freight, customs fees and airport handling charges. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit, sanitary certification, association fees, bank charges and loan guarantees) and adding U.S. direct selling expenses (credit, association fees, and bank charges). We also added the amount for third country duty drawback to the starting price.

Pacific Star: We based third-country market prices on the packed, FOB plant or C&F port-city prices to unaffiliated purchasers in Brazil. We adjusted for the following movement expenses: foreign inland freight, airport handling fees, and Customs brokerage. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit, quality control and inspection, certification expenses, and bank charges) and adding U.S. direct selling expenses (credit and association fees). We also added the amount for third country duty drawback to the starting price.

Tecmar: We based third-country market prices on the packed, FOB plant or C&F port-city prices to unaffiliated purchasers in Argentina. We adjusted for the following movement expenses: foreign inland freight, international freight and brokerage and handling. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit, quality control, health certificate and bank charges) and adding U.S. direct selling expenses (credit, quality control, inspection and bank charges). We also added the amount for third country duty drawback to the starting price.

D. Calculation of Normal Value Based on Constructed Value

For those sales for which we could not determine NV based on comparison-market sales because there were no contemporaneous sales of a comparable product in the ordinary course of trade, we compared EP, or CEP, to CV. Section 773(e) 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 SG&A, profit, and U.S. packing. For Cultivos Marinos, Eicosal, Pacific Star, and Tecmar, we calculated CV based on the methodology described in the COP section, above. For Linao, Mares Australes, and Pacifico Sur, we calculated CV as discussed below. In accordance with section 773(e)(2)(A) of the Act, we used the actual amounts incurred and realized by each 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 to calculate SG&A expenses and profit. For Mares Australes and Pacifico Sur, which had no comparison market sales, we relied on the weighted-average SG&A and profit ratios of the two respondents with home market sales, consistent with section 773(e)(2)(B)(ii) of the Act.

For price-to-CV comparisons, we made adjustments to CV for COS differences, pursuant to section 773(a)(8) of the Act. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses. We also adjusted, where applicable, for the commission offset described in *Calculation of Normal Value Based on Comparison-Market Prices*, above.

Company-specific adjustments are described below.

Cultivos Marinos: We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (credit expense).

Eicosal: We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (credit expense, inspection fees, and bank charges).

Linao: We adjusted Linao's financial expense ratio to exclude offsets for estimated monetary gains associated with debt. In addition, we made COS adjustments by deducting average direct selling expenses incurred by Linao for third-country market sales and adding U.S. direct selling expenses (credit and association fees).

Mares Australes: We adjusted Mares Australes' general and administrative expense ratio to include charges to a provision for catastrophic stock losses and certain other miscellaneous expenses. In addition, we made COS adjustments by adding U.S. direct selling expenses (credit and association fees) and deducting the weighted-average direct selling expenses incurred by the two respondents that had a viable home market during the period.

Pacific Star: We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit, quality control and inspection, certification expenses, and bank charges) and adding U.S. direct selling expenses (credit, products claims, and repacking expenses and association fees).

Pacifico Sur: We adjusted Pacifico Sur's financial expense ratio to exclude offsets for estimated monetary gains associated with debt. In addition, we made COS adjustments by adding U.S. direct selling expenses (credit and association fees) and deducting the weighted-average direct selling expenses incurred by the two respondents that had a viable home market during the period. Because Pacifico Sur had commissions in the U.S. market, we also adjusted the CV by a commission offset, based on the weighted-average indirect selling expenses incurred by the two respondents that had a viable home market during the period.

Tecmar: We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit, quality control, health certificate and bank charges) and adding U.S. direct selling expenses (credit, quality control, inspection and bank charges).

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 as the EP or CEP transaction. The NV level of trade is that of the starting-price sale in the comparison market or, when the NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. level of trade is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP sales, it is the level of the constructed sale from the exporter to the importer.

The U.S. Court of International Trade (CIT) has held that the Department's practice of determining LOT for CEP transactions after CEP deductions is an impermissible interpretation of section 772 (d) of the Act. *See Borden, Inc.* v. *United States,* 4 F. Supp. 2d 1221, 1241–42 (CIT March 26, 1998) (*Borden II*). The Department believes, however, that its practice is in full compliance with the statute. On June 4, 1999, the CIT entered final judgment in Borden II on the LOT issue. *See Borden, Inc.* v. *United States*, Court No. 96–08–01970, Slip Op. 99–50 (CIT, June 4, 1999). The government has appealed *Borden II* to the Court of Appeals for the Federal Circuit. Consequently, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) of the Act prior to starting a LOT analysis, as articulated in the Department's regulations at section 351.412.

To determine whether NV sales are at a different level of trade 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 level of trade, and the difference affects price comparability with U.S. sales, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment pursuant to section 773(a)(7)(A) of the Act. 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 pursuant to section 773(a)(7)(B) of the Act (the CEP offset provision).

To apply these guidelines in this review, we obtained information from each respondent about the marketing stage involved in its reported U.S. and comparison-market sales, including a description of the selling activities performed by the respondent for each of its channels of distribution. In identifying levels of trade for EP and comparison 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 pursuant to section 772(d) of the Act. Generally, if the 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.

In conducting our level-of-trade analysis for each respondent, we took into account the specific customer types, channels of distribution, and selling practices of each respondent. We found that, for all respondents, the fact pattern was virtually identical. Sales to both the U.S. and comparison markets were made to distributors, retailers, and, less commonly, to further-processors. In all cases, the selling functions performed by the respondents for the different customer types and channels of distribution were very limited, and identical in both markets. Therefore, for all respondents, we found that there was a single level of trade in the United States, and a single, identical level of trade in the comparison market. As such, it was not necessary to make any level of trade adjustments.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average margins exist for the period July 28, 1998, through June 30, 1999:

Exporter/manufacturer	Weighted-average Margin percentage
Cultivos Marinos	[1]0.01.
Eicosal	[1]0.40.
Fiordo Blanco	10.69.
Linao	0.00.
Mainstream	0.00.
Mares Australes	0.00.
Pacific Star	4.52.
Pacifico Sur	0.00.
Tecmar	[1]0.01.

[1] De minimis.

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with

the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate on all appropriate entries. Eicosal, Linao, Mainstream, Mares Australes, Pacific Star, and Tecmar reported the entered value of each of their sales. Cultivos Marinos and Pacifico reported the entered value of some, but not all, of their sales. For those sales for which the entered value was not reported, we calculated entered value by subtracting international freight from the gross unit price of the U.S. sale. We calculated importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales. These rates will be assessed uniformly on all of the entries made during the POR. The Department will issue appraisement instructions directly to the U.S. Customs Service upon completion of the final results of this administrative review.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of fresh Atlantic salmon from Chile entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for companies listed above will be the rate established in the final results of this review, except if the rate is less than 0.5 percent, and therefore, *de minimis,* the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior 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; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 4.57 percent, the All Others rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.[4]

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entities 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2000.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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BILLING CODE 3510–DS–P

[4] We note that shortly after the end of the period of the first review, the parent company of Mares Australes purchased Marine Harvest, another producer of fresh Atlantic salmon from Chile, and subsequently merged the operations of the two companies. More recently, the two companies merged formally under the name of Marine Harvest. This issue may require consideration in a future segment of this proceeding.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, and Partial Rescission of Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from the petitioners, the Fresh Garlic Producers Association and its individual members, the Department of Commerce is conducting an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The period of review is November 1, 1998, through October 31, 1999. The petitioners requested a review of four exporters. One company reported that it had no shipments of subject merchandise to the United States during the period of review, and we have confirmed that claim with the U.S. Customs Service. Accordingly, we are rescinding the review with respect to this firm. Because the remaining three exporters have not responded to our questionnaire, we have preliminarily determined to use facts otherwise available for cash-deposit and assessment purposes for all producers/exporters of the subject merchandise.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: August 8, 2000.

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Richard Rimlinger, Office of Antidumping/Countervailing Duty Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3931 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to at 19 CFR Part 351 (1999).

Background

On November 30, 1999, the petitioners requested an administrative review of Wo Hing (H.K.) Trading Co. (Wo Hing), Rizhao Hanxi Fisheries & Comprehensive Development Co., Ltd. (Rizhao), Fook Huat Tong Kee PTE. Ltd. (Fook Huat), and Zhejiang Materials Industry (Zhejiang). In response to the petitioners' request, the Department published a notice of initiation of an administrative review on December 28, 1999 (64 FR 72644), in accordance with 19 CFR 351.213(b). On December 27, 1999, we issued questionnaires to the Embassy of the People's Republic of China (PRC), the Ministry of Foreign Trade and Economic Cooperation (MOFTEC), Wo Hing, Rizhao, and Fook Huat. We sent a questionnaire to Zhejiang in care of MOFTEC, since we were unable to obtain an address or phone number for that company. We