presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i) of the Act.

Dated: October 1, 2001.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

## Appendix—Issues in Decision Memo

*Comments*

1. Exchange Rates
2. Financing Expenses
3. Profit Used for Constructed Value

[FR Doc. 01–25099 Filed 10–4–01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–122–837]**

### Notice of Preliminary Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada

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

**ACTION:** Notice of preliminary determination of sales at less than fair value.

**SUMMARY:** We preliminarily determine that greenhouse tomatoes from Canada are being, or are likely to be, sold in the United States at less-than-fair-value prices as provided in section 733 of the Tariff Act of 1930, as amended. The estimated margins of sales at less than fair value are shown in the ''Suspension of Liquidation'' section of this notice.

**EFFECTIVE DATE:** October 5, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mark Ross or Minoo Hatten, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone; (202) 482–4794 or (202) 482–1690, 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. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to 19 CFR part 351 (April 2000).

### Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigation: Greenhouse Tomatoes From Canada*, 66 FR 20630 (April 24, 2001) (*Initiation Notice*)), the following events have occurred:

On May 14, 2001, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of greenhouse tomatoes from Canada. See ITC Investigation No. 731–TA–925 (Publication No. 3224).

Since it was not practicable to examine all known producers/exporters of subject merchandise, in accordance with section 777A(c)(2) of the Act and 19 CFR 351.204(c)(2), on May 15, 2001, we selected the five largest producers/exporters of greenhouse tomatoes from Canada as the mandatory respondents in this investigation. For further discussion, see the ''Selection of Respondents'' memorandum dated May 15, 2001, from Laurie Parkhill, Director, Office 3, to Richard W. Moreland, Deputy Assistant Secretary, Group I.

On May 16, 2001, we received a request from the Canadian Embassy on behalf of Westmoreland Sales, Golden Jem Produce Inc., and MCN Acres Ltd. to treat these companies as voluntary respondents in this investigation. On May 24, 2001, these potential voluntary respondents were provided with a copy of the questionnaire and specific written guidance on the Department's criteria for including a voluntary respondent in the investigation. We have not received a response to our questionnaire from any voluntary respondents.

On May 24, 2001, we issued the antidumping questionnaire to mandatory respondents BC Hot House Foods, Inc., Red Zoo Marketing (a.k.a. Produce Distributors, Inc.), Veg Gro Sales, Inc. (a.k.a. K & M Produce Distributors, Inc.), J–D Marketing, Inc., and Mastronardi Produce Ltd. In the cover letter of the questionnaire, we informed the mandatory respondents that we had initiated a cost-of-production (COP) inquiry in this case. These respondents did not produce the subject merchandise. Therefore, consistent with our policy regarding COP investigations, it became necessary to select producers which supplied the five respondents in order to gather COP information for this investigation. We requested comments regarding the selection of the COP respondents and on May 31, 2001, and June 21, 2001, we received comments from interested parties regarding the selection COP respondents. On June 29, 2001, the Department identified the COP respondents. See the ''Identification of Cost-of-Production Respondents'' memorandum dated June 29, 2001, from Laurie Parkhill, Director, Office 3, to Richard W. Moreland, Deputy Assistant Secretary, Group I. After identifying the appropriate companies for cost reporting and issuing questionnaires to these companies, we discovered that two of them were only resellers of greenhouse tomatoes and not growers. Therefore, we requested COP data from the growers which supplied these resellers. See the July 13 and July 19, 2001, letters from Laurie Parkhill, Director, Office 3, to counsel for Veg Gro Sales, Inc., and J–D Marketing, Inc., respectively.

During June, July, August, and September of 2001, the five mandatory respondents submitted their responses to the Department's original and supplemental questionnaires.

On August 10, 2001, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on August 15, 2001, and postponed the preliminary determination until no later than September 24, 2001 (see *Antidumping Duty Investigation Covering Greenhouse Tomatoes from Canada: Notice of Postponement of Preliminary Determination*, 66 FR 43838, August 21, 2001). On September 27, 2001, the Department postponed the due date for the preliminary determination until no later than October 1, 2001. See *Antidumping Duty Investigation On Greenhouse Tomatoes from Canada: Notice of Postponement of Preliminary Determination*, 66 FR 49344, September 27, 2001.

On several occasions the petitioners submitted comments arguing that the cost respondents for BC Hot House Foods, Inc., are unrepresentative of the other growers that supplied the

respondent with greenhouse tomatoes during the period of investigation (POI). See, *e.g.*, the petitioners' July 11, August 3, and September 7, 2001, submissions. The petitioners requested that we use the weighted-average yield figure for all of the growers that supplied BC Hot House Foods, Inc., during the POI to adjust the COP data submitted by the cost respondents. For this preliminary determination, we have not made any such adjustment to the COP data. For further discussion, see the ''Representativeness of Cost Data Submitted for BC Hot House Foods, Inc.'' memorandum dated October 1, 2001, from Mark Ross, Acting Program Manager, to Laurie Parkhill, Director, Office 3.

**Period of Investigation**

The POI is January 1, 2000, through December 31, 2000.

**Scope of Investigation**

The merchandise subject to this investigation consists of all fresh or chilled tomatoes grown in greenhouses in Canada, *e.g.*, common round tomatoes, cherry tomatoes, plum or pear tomatoes, and cluster or ''on-the-vine'' tomatoes. Specifically excluded from the scope of this investigation are all field-grown tomatoes.

The merchandise subject to this investigation may enter under item numbers 0702.00.2000, 0702.00.2010, 0702.00.2030, 0702.00.2035, 0702.00.2060, 0702.00.2065, 0702.00.2090, 0702.00.2095, 0702.00.4000, 0702.00.4030, 0702.00.4060, 0702.00.4090, 0702.00.6000, 0702.00.6010, 0702.00.6030, 0702.00.6035, 0702.00.6060, 0702.00.6065, 0702.00.6090, and 0702.00.6095 of the Harmonized Tariff Schedule of the United States (HTSUS). These subheadings may also cover products that are outside the scope of this investigation, *i.e.*, field-grown tomatoes. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

In accordance with our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (66 FR 20630). On May 14, 2001, BC Vegetable Greenhouse I, L.P. (BCVG), filed comments requesting that the scope be limited to include only hydroponic tomatoes and expressly exclude ''heirloom'' and ''organic'' tomatoes grown in greenhouses. On May 21, 2001, the petitioners filed comments opposing BCVG's request to limit the scope. After considering the respondent's request and the petitioners' objections, we determined that the scope of this investigation should remain as published in the *Initiation Notice*. Our analysis of this scope issue is detailed in the memorandum from Laurie Parkhill, Director, Office 3, to Richard W. Moreland, Deputy Assistant Secretary, Group I, dated July 30, 2001, entitled ''Request to Limit Scope of Investigation.''

**Facts Available**

Red Zoo Marketing sold subject merchandise to an affiliated U.S. importer, Colasanti Produce & Plants, Inc. (Colasanti). Colasanti reported that it was unable to report specific sales of the subject merchandise because it ''does not keep data according to separate, individual products.'' See Colasanti's response dated July 25, 2001, at page C–1. Moreover, Colasanti stated that ''there is no separate data for tomatoes, only for produce, which encompasses tomatoes and hundreds of other products.'' *Ibid.* As a result, Colasanti was unable to report sales in the manner we requested. Because Colasanti did not report its sales to its unaffiliated customers, the use of facts available in determining the margin for Colasanti's sales is warranted.

Based on Colasanti's representations of itself as a small grocery store and the fact that it does not keep records that would allow it to report its sales data in the manner we require, we preliminarily determine that Red Zoo Marketing and Colasanti responded to our questionnaire to the best of their ability. There is no evidence on the record to suggest that either Red Zoo Marketing or Colasanti did not cooperate to the best of its ability. Red Zoo Marketing and Colasanti did not report these sales because it was impossible for them to do so based on their records. We intend to verify this assertion.

Because we preliminarily determine that Red Zoo Marketing and Colasanti responded to the best of their ability, we have determined the margin for sales through Colasanti using non-adverse facts available. This facts-available rate is the weighted-average margin we have calculated for Red Zoo Marketing based on its sales to all other customers. Because this facts-available rate is based on Red Zoo Marketing's own record data, it is not necessary to corroborate this information. We have applied facts available by excluding Red Zoo Marketing's sales to Colasanti from Red Zoo Marketing's U.S. sales database.

**Product Comparisons**

Pursuant to section 771(16) of the Act, all products produced by the respondents that are within the definition of the scope of the investigation and were sold in the home market during the POI fall within the definition of the foreign like product. On May 2, 2001, we solicited comments from interested parties regarding product-matching criteria and matching hierarchy. The interested parties submitted comments on this issue on May 14, 16, and 18, 2001, and September 18, 2001. As part of their comments on the product-matching criteria and matching hierarchy, certain mandatory respondents also commented that the Department should average prices across grades and sizes within a particular type when making product comparisons.[1]

For this preliminary determination we have not averaged prices across grades and sizes within a particular type for product comparisons. Instead, for calculating average prices, we have relied on four criteria (*i.e.*, type, color, size, and grade) to establish distinct ''models'' which we then used to match U.S. sales of subject merchandise to identical home-market sales of the foreign like product. Based on our overall analysis of the greenhouse-tomato industry, we determined that the type, color, size, and grade of tomatoes correspond to physical differences and associated commercial differences that are important for product-matching and obtaining a reasonable comparison of prices.

We have also determined that it is not appropriate to compare prices of products that do not have the same type, color, size, and grade because these are significant physical characteristics which will affect the price comparability of these products. We can not account for these differences by means of a traditional difference-in-merchandise adjustment. Specifically, the respondents in this investigation have reported that their methods of tracking costs and the nature of producing greenhouse tomatoes does not allow them to distinguish costs by grade, size, or color. *See*, e.g., page 5 of the September 18, 2001, comments from the Ontario respondents and page D–1 of the August 6, 2001, response of BC

[1] On September 27, 2001, the petitioners submitted information and argument in support of using monthly weighted-average prices and not annual-average prices for the margin calculations. This information was received too late for us to consider for this preliminary determination. We will review this information and evaluate the appropriateness of this methodology for the final determination.

Hot House Foods, Inc., to our COP questionnaire. In accordance with 19 CFR 351.411, we generally will make a reasonable allowance for differences in physical characteristics by considering differences in variable costs associated with the physical differences. Since the respondents have reported that they cannot report costs that distinguish between factors other than type, we have matched sales of subject merchandise to home-market sales of identical type, color, size, and grade, but not to home-market sales of similar merchandise.[2] This methodology is consistent with that taken in other antidumping proceedings which involved foreign like product with significant differences for which we could not account 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 Tomatoes from Mexico,* 61 FR 56608, 56610 (November 1, 1996), and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Fresh Atlantic Salmon from Chile,* 63 FR 2664, 2666 (January 16, 1998).

**Fair Value Comparisons**

To determine whether sales of greenhouse tomatoes to the United States were made at less-than-fair-value prices, we compared the export price or constructed export price (CEP) to the normal value. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average export prices and CEPs to normal values. Any company-specific changes to the export-price, CEP, and normal-value calculations are discussed in each company's individual preliminary determination analysis memorandum from analyst to file dated October 1, 2001, and described in the ''Company-Specific Changes to Normal Value and U.S. Price'' section of this notice.

**Export Price**

We calculated export price, in accordance with section 772(a) of the Act, for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States or to an unaffiliated purchaser for exportation to the United States, based on the facts of the record. We calculated export price based on packed FOB or delivered prices to unaffiliated purchasers in the United States. We identified the correct starting price by accounting for billing adjustments (*e.g.,* the adjustments for damage, quality, or condition claims) and making deductions for early-payment discounts and rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where appropriate, foreign inland freight, foreign brokerage and handling, foreign warehousing expenses, and U.S. inland freight expenses.

**Constructed Export Price**

We calculated the CEP, in accordance with section 772(b) of the Act, for sales made to the first unaffiliated purchaser that took place after importation into the United States. We based the CEP on the packed, delivered prices to unaffiliated purchasers in the United States. We identified the correct starting price by accounting for billing adjustments (*e.g.,* the adjustments for damage, quality, or condition claims) and making deductions for early-payment discounts and rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight, foreign brokerage and handling, foreign warehousing expenses, and U.S. inland freight expenses. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions, credit expenses), inventory carrying costs, U.S. repacking expenses, and indirect selling expenses. Finally, where applicable we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

**Normal Value**

A. Home-Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.,* whether the aggregate volume of home-market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home-market sales of the foreign like product to its volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1)(B) of the Act. Since each respondent's aggregate volume of home-market sales of the foreign like product was greater than five percent of the volume of U.S. sales of the subject merchandise, we determined that the home market was viable for all respondents.

*B. Affiliated-Party Transactions and Arm's-Length Test*

The Department's standard practice with respect to the use of home-market sales to affiliated parties for normal value is to determine whether such sales are at arm's-length prices. Therefore, in accordance with that practice, we performed an arm's-length test for the two mandatory respondents that reported home-market sales to affiliates (*i.e.,* Red Zoo Marketing and J-D Marketing, Inc.).

We excluded from our analysis sales respondents made to affiliated customers in the home market which were not at arm's-length prices because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102(b). To test whether these sales were made at arm's-length prices, we compared the prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, rebates, and packing expenses. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c).

*C. Cost-of-Production Analysis*

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of greenhouse tomatoes in the home market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a countrywide sales-below-cost-investigation to determine whether sales were made at prices below their respective COP (see *Initiation Notice,* 66 FR 20630).

1. Calculation of the Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (G&A), including interest expenses, and home-market packing costs.[3]

2. Test of Home-Market Sales Prices

In determining whether to disregard home-market sales made at prices less

[2] We will examine this issue further at verification and make modifications as necessary for the final determination.

[3] On September 14, 2001, BC Hot House Foods, Inc., submitted information on alleged startup costs incurred during the POI. We received this information too late to be considered for this preliminary determination. We will review this information and evaluate the appropriateness of such an adjustment for the final determination.

than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit the recovery of all costs within a reasonable period of time. Because greenhouse tomatoes are a highly perishable agricultural product, pursuant to the Statement of Administrative Action accompanying the URAA, H.R. Doc. 103–316, Vol. 1 (1994) (SAA), at 832 and section 773(b)(2)(C)(ii) of the Act, to determine whether below-cost sales were made in substantial quantities within an extended period of time, we compared the weighted-average per-unit price of a given product sold in the home market during the POI to the weighted-average per-unit COP of that product over the POI. In accordance with section 773(b)(2)(B) of the Act, we have determined that the POI is an extended period of time. Where a respondent's weighted-average per-unit price of a given product was greater than or equal to the respective weighted-average COP, we did not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in ''substantial quantities.'' Where a respondent's weighted-average per-unit price of a given product was less than the respective weighted-average COP, we found that below-cost sales were made within an extended period of time in substantial quantities within the meaning of section 773(b)(2)(C)(ii) of the Act.

Pursuant to section 773(b)(2)(D) of the Act, we examined whether individual transactions made at prices found to be below cost permitted the recovery of all costs within a reasonable period of time. Where the analysis described above resulted in a determination that the below-cost sales of these perishable products were made in ''substantial quantities'' over an ''extended period of time,'' we also determined that individual below-cost sales were not at prices sufficient to recover costs within a reasonable period of time. Where sales of a given product were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit the recovery of all costs within a reasonable period of time, we identified individual below-cost transactions by comparing the individual transaction prices to the respective weighted-average COP.

3. Results of the COP Test

For all respondents we have disregarded individual below-cost transactions and used the remaining above-cost sales as the basis for determining normal value, in accordance with section 773(b)(1) of the Act.

*D. Calculation of Constructed Value*

Section 773(a)(4) of the Act provides that, where normal value cannot be based on comparison-market sales, normal value may be based on constructed value. Accordingly, for all five respondents, when home-market sales of comparison products were not available, either because there were no sales of a comparable product or we disregarded all sales of the comparable product as a result of the COP test, we based normal value on constructed value.

In accordance with sections 773(e)(1) and (e)(2)(A) of the Act, we calculated constructed value based on the sum of the cost of materials and fabrication for the foreign like product plus amounts for selling expenses, G&A, including interest, profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the ''Calculation of the Cost of Production'' section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A, and profit on the amounts incurred and realized by the mandatory respondents and the cost respondents in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

*A. Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate normal value based on sales in the comparison market at the same level of trade as the export-price or CEP transaction. Sales are made at different levels of trade if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.;* see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa,* 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison-market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.,* the chain of distribution),[4] including selling functions, class of customer (or customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for the export-price and home-market sales (i.e., normal value based on either home-market or third-country prices [5]), we consider the starting prices before any adjustments. 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. See *Micron Technology, Inc.* v. *United States,* 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same level of trade as the export price or CEP, the Department may compare the U.S. sale to sales at a different level of trade in the comparison market. In comparing the export-price or CEP sales to sales of the foreign like product at a different level of trade in the comparison market, where available data make it practicable, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a normal-value level of trade is more remote from the factory than the CEP level of trade and we are unable to make a level-of-trade adjustment, we shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. 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).

We obtained information from each respondent regarding the marketing stages involved in making the reported home-market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution. Detailed company-specific level-of-trade findings are discussed in detail in the company-specific preliminary determination analysis memoranda and described below.

With respect to Red Zoo Marketing, Veg Gro Sales, Inc., J-D Marketing, Inc., and Mastronardi, we found that each performed similar selling functions for

[4] The marketing process in the United States and home markets begins with the producer and extends to the sale of the final user or consumer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative respondent to determine where in the chain of distribution the sale occurs.

[5] Where normal value is based on constructed value, we determined the normal-value level of trade based on the level of trade of the sales from which we derive selling expenses, G&A, and profit for constructed value, where possible.

all of its home-market channels of distribution such that, in each case, we found one level of trade in the home market. In addition, each company performed similar selling functions for their channels of distribution such that in each case we found one level of trade in the United States. For all four respondents, we found that each companies single home-market level of trade is the same as its single U.S. level of trade. Therefore, it was not necessary to make a level-of-trade adjustment.

For BC Hot House Foods, Inc., based on differences in customer categories and selling activities among its home-market channels of distribution, we determined that the sales were made at two levels of trade. Similarly, we found two levels of trade for BC Hot House Foods, Inc.'s export-price and CEP sales to the U.S. market. Where possible, we matched export-price and CEP sales to sales at the same level of trade in the home market and made no level-of-trade adjustment. Where we matched export-price sales or CEP sales to home-market sales at a different level of trade, in accordance with section 773(a)(7)(A) of the Act, we determined whether there was a pattern of consistent price differences between these different levels of trade in the home market. Based on an analysis of the price differences between the two home-market levels of trade, we found that there was a pattern of consistent price differences, and we calculated a level-of-trade adjustment for the differences.

*F. Calculation of Normal Value Based On Home-Market Prices*

We calculated normal value based on packed, ex-distribution warehouse or delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's length. To identify the correct starting price, we accounted for billing adjustments, where appropriate. We made deductions, where applicable, for early-payment discounts and other discounts and rebates. We also made adjustments for inland freight and warehousing expense, where appropriate, in accordance with section 773(a)(6)(B)(iii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for commissions, imputed credit expenses, and other direct selling expenses. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on home-market or U.S. sales where commissions were granted on sales in one market but not in the other. We also added U.S. packing costs and deducted home-market packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act, respectively. Finally, where appropriate, we made an adjustment for differences in level of trade under section 773(a)(7)(A) of the Act and 19 CFR 351.412(b)–(e).

*G. Calculation of Normal Value Based on Constructed Value*

For comparisons of price to constructed value, we made adjustments to constructed value in accordance with section 773(a)(8) of the Act. Where we compared constructed value to CEP, we made circumstances-of-sale adjustments by deducting HM direct selling expenses. Where we compared constructed value to EP, we made circumstances-of-sale adjustments by deducting HM direct selling expenses and adding U.S. direct selling expenses. Finally, we made an adjustment for differences in level of trade under section 773(a)(7)(A) of the Act and 19 CFR 351.412(b)(e).

**Company-Specific Changes to Normal Value and U.S. Price**

We relied on data submitted by the respondents except as discussed in our company-specific preliminary determination analysis memoranda. Any company-specific changes to the export-price, CEP, and normal-value calculations are described below.

We relied on COP data submitted by the cost respondents except as discussed in our company-specific preliminary calculation memoranda. We have calculated a simple-average cost in situations where a respondent reported more than one cost for the same product. See *Fresh Kiwifruit From New Zealand: Notice of Final Determination of Sales at Less Than Fair Value,* 56 FR 60092 (November 27, 1991), and *Live Cattle From Canada: Notice of Final Determination of Sales at Less Than Fair Value,* 64 FR 56738, 56751–52 (October 21, 1999).

For all the cost respondents, we revised the calculations of the financial-expense rate. In addition, for some cost respondents, we revised the G&A rate, variable-overhead calculation, and fixed-overhead calculation.

*Red Zoo Marketing*

We excluded Red Zoo Marketing's home-market zero-priced sample sales. We revised the calculation of the cost of manufacture to disallow the claimed energy-cost adjustment, the claimed amortization adjustments for a new trough system, and the claimed depreciation adjustment. In addition, we segregated the reported costs by type of tomato (*e.g.,* cherry, roma). Finally, we recalculated the ratios of the G&A expense and interest expense to reflect the revised cost of manufacturing.

*BC Hot House Foods, Inc.*

We reallocated the advertising costs that BC Hot House Foods, Inc., reported for its sales of subject merchandise and we calculated an amount for credit expenses on certain U.S. transactions for which the respondent had not received payment. We revised the calculation of G&A expenses to include head-office management fees. Additionally, in the absence of audited consolidated financial statements, we recalculated the interest-expense rates based on the financial statements of the selected cost respondents.

*Veg Gro Sales, Inc.*

We excluded from our analysis home-market and U.S. sales of greenhouse tomatoes that were reported as grown in countries other than Canada. In addition, we excluded all zero-priced U.S. sample transactions from our analysis.

We revised the calculation of the cost of manufacture to disallow certain claimed adjustments. With regard to both cost respondents for Veg Gro Sales, Inc., we revised the calculation of variable overhead costs to include all heating costs incurred during the POI. We also revised the calculation of fixed overhead to include all depreciation charges incurred during the POI. For one of Veg Gro Sales, Inc.'s cost respondents, we revised the fixed-overhead calculation to include the excluded costs for renting a cooler. We adjusted G&A expenses to include management fees and we revised the calculation of the financial-expense rate to include short-term interest income received from affiliates and all long-term interest expenses incurred by the company.

For the other Veg Gro Sales, Inc., cost respondent, we revised the G&A rate calculation to include shareholders' life-insurance premiums. We also revised this cost respondent's financial-expense rate to exclude imputed short-term interest income and include all long-term interest expense experienced by the company.

Because we did not receive information concerning the G&A and financial expenses experienced by the exporting company, Veg Gro Sales, Inc., we calculated a rate which reflects these G&A and financial expenses.

*Mastronardi*

We did not include home-market sales for which we had no cost information and removed all zero-priced

sample transactions from our analysis. We recalculated packing expenses and credit expenses for certain U.S. sales. We excluded sales of greenhouse tomatoes produced outside of Canada. We did not include U.S. sales transactions for which we had no cost information, which represented less than one percent of Mastronardi's U.S. sales, and removed all zero-priced sample transactions from our analysis.

We revised the calculation of variable overhead costs to include all heating costs incurred during the POI. We included the total cost of the plastic covers recorded as a general repair and maintenance expense in the normal books and records of the company in the G&A expense-rate calculation. We revised the denominator in the financial expense rate calculation to reflect the total cost of goods sold incurred by the consolidated entity.

*J–D Marketing, Inc.*

We assigned a customer relationship for J–D Marketing, Inc.'s home-market affiliate in order to perform the arm's-length test. We did not include home-market sales for which we had no cost information and removed all zero-priced sample transactions from our analysis.

We recalculated packing expenses and credit expenses for certain U.S. sales. We did not include U.S. sales for which we had no cost information, which represented less than one percent of J–D's marketing Inc.'s U.S. sales, and we removed all zero-priced sample transactions from our analysis of U.S. sales.

We revised the calculation of variable overhead costs to include all heating costs incurred during the POI. We revised the calculation of fixed overhead costs to include all depreciation charges incurred during the POI. We adjusted G&A expenses to include the total executive salaries and exclude an adjustment for reimbursements from expenses paid on behalf of owners. We also adjusted the company's interest-expense rate to include all interest expenses incurred by the company and to include total cost of goods sold in the denominator.

**Currency Conversion**

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rate in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

**Verification**

As provided in section 782(i) of the Act, we will verify all information upon which we will rely in making our final determination.

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise except for exports by J–D Marketing, Inc., that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

| Exporter/grower | Weighted-average margin percentage |
|---|---|
| BC Hot House Foods, Inc. | 50.75 |
| Red Zoo Marketing (a.k.a. Produce Distributors, Inc.) | 23.17 |
| Veg Gro Sales, Inc. (a.k.a. K & M Produce Distributors, Inc.) | 2.45 |
| J–D Marketing, Inc. | 0.00 |
| Mastronardi Produce Ltd. | 5.54 |
| All Others | 32.36 |

**ITC Notification**

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

**Disclosure**

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Public Comment**

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than one week after the issuance of the Department's verification reports. 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. In accordance with section 774 of the Act, we will hold a public 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 an interested party. If a request for a hearing is made, the hearing will be tentatively held three days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, 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 to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. We will make our final determination no later than 75 days after the date of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: October 1, 2001.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 01–25100 Filed 10–4–01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–475–818; A–489–805]**

### Final Results of Expedited Sunset Reviews: Certain Pasta From Italy and Turkey

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

**ACTION:** Notice of final results of expedited sunset reviews: Certain pasta from Italy and Turkey.

**SUMMARY:** On June 1, 2001, the Department of Commerce (''the Department'') initiated five-year (''sunset'') reviews of the antidumping duty orders on certain pasta (''pasta'') from Italy and Turkey (66 FR 29771) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of notices of intent to