NC–170 Asheville, Horse Sale, Asheville, North Carolina
OH–150 Smokey Lane Stables, Inc., Sugarcreek, Ohio
TX–345 Giddings Livstock Commission Co., Giddings, Texas

Pursuant to the authority under Section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Grain Inspection, Packers and Stockyards Administration, Room 3408-South Building, U.S. Department of Agiculture, Washington, D.C. 20250 by April 16, 1996. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, D.C., this 1st day of April 1996.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division, Packers and Stockyards Programs.

[FR Doc. 96–8939 Filed 4–9–96; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–614–801]

Fresh Kiwifruit From New Zealand; Preliminary Results of Antidumping Duty 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 by the New Zealand Kiwifruit Marketing Board (NZKMB), the respondent in this case, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on fresh kiwifruit from New Zealand. The review covers one exporter of the subject merchandise to the United States for the period June 1, 1994, through May 31, 1995.

We preliminarily determine that sales have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between the United States price (USP) and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. (No longer than five pages, including footnotes.)

EFFECTIVE DATE: April 10, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4474 or 482–3814, respectively.

APPLICABLE STATUTE: 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 Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On June 2, 1992, the Department published the antidumping duty order on fresh kiwifruit from New Zealand (57 FR 23203). On June 6, 1995, the Department published a notice of ''Opportunity to Request Administrative Review'' of this antidumping duty order for the period June 1, 1994, through May 31, 1995 (60 FR 29821). We received a timely request for review by the respondent, NZKMB. On July 14, 1995, the Department initiated a review of NZKMB (60 FR 36260). The period of review (POR) is June 1, 1994 through May 31, 1995.

Scope of the Review

The product covered by this review is fresh kiwifruit. Processed kiwifruit, including fruit jams, jellies, pastes, purees, mineral waters, or juices made from or containing kiwifruit, are not covered under the scope of this review. The subject merchandise is currently classifiable under subheading 0810.90.20.60 of the Harmonized Tariff Schedule (HTS). Although the HTS number is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Constructed Export Price

The Department treated certain sales by the respondent as constructed export prices (CEP) sales, as provided in section 772 (b) of the Tariff Act. Sales to the United States by NZKMB were made to the first unaffiliated party in the United States after importation, and hence warranted CEP methodology.

We calculated CEP based on packed F.O.B. (ex-New Zealand coolstore), and packed F.O.B., freight-prepaid prices. We made deductions, where appropriate, for New Zealand inland freight (coolstore to port), loading charges in New Zealand, ocean freight, basic marine insurance, charter insurance, U.S. import duties, U.S. brokerage and handling, U.S. inland freight (decreased to account for prepaid freight where applicable), and price discounts (*i.e.*, advertising allowances, special advertising allowances, market adjustment discounts, advertising rebates which actually constituted discounts, and discounts for quality problems). In accordance with sections 772(d) (1) and (2) of the Tariff Act, we made additional deductions, where appropriate, for agent commissions, broker commissions, credit, direct advertising, and indirect selling expenses. Indirect selling expenses included inventory carrying costs, repacking, U.S. primary and U.S. satellite coolstore charges, New Zealand and U.S. instore insurance, fire insurance, product liability and tamper insurance, earthquake insurance, indirect advertising, quality control expenses, miscellaneous selling-agent-related charges, other U.S.-incurred indirect expenses, and other New Zealand-incurred indirect selling expenses associated with selling in the United States. Furthermore, pursuant to section 772(d)(3), the price was further reduced by an amount for profit to arrive at the CEP. Finally, we increased the U.S. price to account for post sale price adjustments not reflected in the gross price.

Normal Value

In order to determine whether there were sufficient sales of kiwifruit in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of kiwifruit by NZKMB to its volume of kiwifruit sales to the United States, in accordance with section 773(a)(1)(B) of the Act. The petitioner has claimed that the home market should not be considered viable. However, since

respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent. Therefore, we have based NV on home market sales.

In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Third country sales were used as the basis of foreign market value in the most recently completed review as the home market was not viable in that proceeding. Because many of the NZKMB's third-country sales were found to have been made at prices below the cost of production and were therefore disregarded in that review, the Department initiated a COP investigation for the purposes of this administrative review. (See memorandum to file dated November 7, 1995.) Just as the Department found in the original investigation, and the first and second administrative reviews, we find that in comparing NV to COP, the reseller/exporter's acquisition prices are irrelevant because section 773(b) of the Tariff Act requires that the Department look at the actual COP of the subject merchandise. Thus, we used the cost incurred by kiwifruit farmers, the actual producers of the subject merchandise, to calculate the COP benchmark.

Due to the large number of growers from which the NZKMB purchased kiwifruit during the POR, the Department determined that sampling was both administratively necessary and methodologically appropriate to calculate a representative cost of producing the subject merchandise for purposes of this administrative review (see section 777A of the Tariff Act). We selected the sample of kiwifruit growers as follows: Farms were segregated by geographic regions into either the Bay of Plenty region or non-Bay of Plenty regions. In selecting the sample of 20 growers, we determined that we would select 15 growers representing the Bay of Plenty region and five from the non-Bay of Plenty regions, in order to reflect the relative proportion of kiwi production from each of the two regions. Because the Department's purpose is to estimate the average unit cost per tray of exported kiwifruit, as a second step we have assigned selection probabilities to the growers on the basis of the volume of kiwifruit each grower submitted to the NZKMB for export. We sent COP questionnaires through the NZKMB to the 20 kiwifruit growers selected, all of which responded to the Department's questionnaire. The 20 COP responses submitted, along with the sales and supplemental responses, were analyzed and relied upon, where appropriate, in reaching the preliminary results of the review.

We calculated the cost of cultivation for each grower by summing all costs for the 1994–1995 kiwifruit season. These costs included the cost of materials, farm labor, farm overhead, and packing. We allocated the cost on a per-tray equivalent basis over the total number of tray equivalents submitted by each grower to the NZKMB. (A tray equivalent is a standard unit of measurement for kiwifruit. It is representative of the kiwifruit which can fit into a standard packing tray.) We then adjusted those costs to reflect fruit loss. We added the NZKMB's general and administrative expenses to the farm's average cost per tray.

The orchard set-up costs for all growers were amortized over 20 years as was done in prior reviews. Where growers purchased an established orchard, the acquisition price of the farm was treated as the set-up cost.

For growers that allocated costs over the productive area, that is, canopy area, we made adjustments to include the headlands and sidelands in the productive area of the kiwifruit orchard for the purpose of allocating costs. We made adjustments to growers' cost for depreciation, interest, labor, repairs, management, vehicles, fertilizer, spraying, rates (property tax), electricity, shelter, water, general and administrative, pruning, and mowing on a farm-specific basis where appropriate.

We calculated a simple average COP from the sampled growers' individual COPs. The total COP was calculated on a New Zealand dollar per single-layer tray equivalent basis (NZ$/SLT).

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below COP, we examined whether such sales were made within an extended period of time in substantial quantities, and whether such sales were made at prices which would permit recovery of all costs within a reasonable period of time.

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 at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices less than the COP, we disregarded only the below-cost sales where such sales were found to be made within an extended period of time (in accordance with section 773(b)(2)(B) of the Act) and at prices which would not permit recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act). Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV, in accordance with section 773(b)(1) of the Act.

The results of our cost test indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act) for certain home market models/product codes, more than 20 percent of the home market sales were sold at below the COP prices, which would not permit the recovery of all costs within a reasonable period of time. Thus, we excluded these below-cost sales and used the remaining above-cost sales as the basis of determining NV, in accordance with section 773(b)(1). For those home market models/product codes for which there were no above-cost sales, we compared EP and/or CEP to CV, in accordance with section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(D) of the Act, we examined whether the prices of below cost sales would provide for recovery of costs within a reasonable period of time. As the prices of below cost sales were below the weighted average per unit cost of production for the POR, we conclude that no cost recovery took place.

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the respondent's cost of materials and fabrication as reported in the U.S. sales databases. In accordance with section 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses. Pursuant to section 773(e)(3), we included U.S. packing as reported in the U.S. sales databases.

We adjusted NV where appropriate, to reflect deductions for home market rebates, inland freight, delivery premiums, pre-sale warehouse expenses, credit expenses, and warranty expenses in the calculation of NV for comparison to CEP transactions. We also deducted home market packing expenses and added U.S. packing expenses.

Level of Trade and CEP Offset

As set forth in section 773(a)(2)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, at 829–831, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade as the U.S. sale. When the Department is unable to find sale(s) in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at a different level of trade.

In accordance with section 773(a)(7)(A) of the Act, if we compare a U.S. sale at one level of trade to normal value sales at a different level of trade, the Department will adjust the normal value to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling functions performed by the seller at the level of trade of the U.S. sale and at the level of trade of the NV sale. Second, the differences must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which normal value is determined. When constructed export price is applicable, section 773(a)(7)(B) of the Act establishes the procedures for making a constructed export price offset when: (1) Normal value is at a different level of trade, and (2) the data available do not provide an appropriate basis for a level of trade adjustment from the U.S. sale. Also, in accordance with section 773(a)(7)(B), to qualify for a CEP offset, the level of trade in the home market must also constitute a more advanced stage of distribution than the level or trade of the CEP.

In order to identify levels of trade, the Department must review information concerning selling functions of the manufacturer/exporter. We reviewed the questionnaire responses to establish whether there were sales at different levels of trade based on selling functions performed and services offered to each customer or customer class.

We identified one level of trade in the home market with two types of sales within that level: (1) Direct sales by NZKMB to the customer, and (2) sales through a domestic agent. Both types of sales were made to resellers, retail stores and distributors. We examined the selling functions performed for both types of sales and found that NZKMB handled many of the same or similar selling functions for both types of sales including: quality control, packing quality control, maintenance of fruit while in coolstore, marketing and general promotion, and general price setting. For direct sales, NZKMB also handled order processing, invoicing, and price negotiation with the customer. For sales through the domestic agent, NZKMB paid the agent a commission for handling those responsibilities. Overall, we preliminarily determine that the selling functions between the two sales types are sufficiently similar to consider them as one level of trade in the home market. In addition, all sales, whether made to resellers, retail stores or distributors, included the same selling functions.

For the U.S. market, all sales were reported as CEP sales. The level of trade of the U.S. sales is determined by the adjusted CEP rather than the starting price. We examined the selling functions performed by NZKMB for U.S. CEP sales and preliminarily determined that they are at a different level of trade from NZKMB's home market sales because NZKMB engaged in fewer selling functions for the adjusted CEP sales than for its home market sales. For instance, NZKMB did not engage in any general promotion, marketing activities, or price negotiations for U.S. sales.

Because we compared CEP sales to home market sales at a different level of trade, we examined whether a level of trade adjustment may be appropriate. In this case, respondent only sold at one level of trade in the home market; therefore, there is no basis upon which respondent can demonstrate a consistent pattern of price differences between levels of trade. Further, we do not have information which would allow us to examine pricing patterns based on respondent's sales of other products and there are no other respondents or other record information on which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a level of trade adjustment but the level of trade in the HM is a more advanced stage of distribution than the LOT of the CEP sales, a CEP offset is appropriate. Respondents claimed a CEP offset. We applied the CEP offset to normal value or constructed value, as appropriate. The level of trade methodology employed by the Department in these preliminary results of review is based on the facts particular to this review. The Department will continue to examine its policy for making level of trade comparisons and adjustments for its final results of review.

Fair Value Comparisons

To determine whether sales of kiwifruit by respondents to the United States were made at less than fair value, we compared the CEP to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions. Where possible, in calculating a monthly weighted average normal value, we averaged home market sales across the channel of distribution most comparable to that in which the U.S. transaction was made. Where there were no home market sales through that channel of distribution, we averaged home market sales through the other channel of distribution.

Preliminary Results of Review

We preliminarily determine that the following margin exists for the period June 1, 1994, through May 31, 1995:

Manufacturer/Exporter	Percent margin
New Zealand Kiwifruit Marketing Board	6.33

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentage stated above. Upon completion of this review, the Department will issue assessment instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a) of the Act: (1) The cash deposit rate for the reviewed firm will be that firm's rate established in the final results of this administrative review; (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 in the original 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; (4) If neither the manufacturer nor the exporter is a firm covered in this or any previous review

conducted by the Department, the cash deposit rate will be 98.60 percent, the ''all others'' rate established in the LTFV investigation.

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

Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within ten days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first work day thereafter. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments.

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

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

Dated: March 29, 1996.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–8968 Filed 4–9–96; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of an Import Restraint Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Fiji

April 5, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending a limit.

EFFECTIVE DATE: April 12, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In accordance with the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), the current limit is being amended for textile products in Categories 338/339/638/639, produced or manufactured in Fiji and exported during the period beginning on January 1, 1996 and extending through December 31, 1996. In accordance with the ATC, this amended limit is based on the limit notified to the Textiles Monitoring Body. This limit is amended because Fiji is now a member of the World Trade Organization (WTO).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the current limit for the period January 1, 1996 through December 31, 1996.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 3003, published on January 30, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 5, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive isued to you on January 24, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Fiji and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996.

Effective on April 12, 1996, you are directed, in accordancw with the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), to increase the limit for Categories 338/339/638/639 to 1,087,083 dozen [1] of which not more than 905,903 dozen shall be in Categories 338–S/339–S/638–S/639–S [2].

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–8966 Filed 4–9–96; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Qatar

April 5, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending limits.

EFFECTIVE DATE: April 12, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.