

DEPARTMENT OF COMMERCE

International Trade Administration

[A-337-803]

Notice of Final 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: On April 9, 2001, the Department of Commerce (the Department) published the preliminary results of its second administrative review of the antidumping duty order on fresh Atlantic salmon from Chile. The review covers eleven producers/exporters of the subject merchandise. The period of review (POR) is July 1, 1999, through June 30, 2000. Based on our analysis of comments received, these final results differ from the preliminary results. The final results are listed below in the *Final Results of Review* section.

EFFECTIVE DATE: August 13, 2001.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Salim Bhabhrwala, at (202) 482-3003 or (202) 482-1784, respectively; AD/CVD Enforcement, Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 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 (April 2000).

Background

On April 9, 2001, the Department published in the *Federal Register* the preliminary results of the second administrative review of the antidumping duty order on fresh Atlantic salmon from Chile. See *Notice of Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review: Fresh Atlantic Salmon From Chile*, 66 FR 18431 (April 9, 2001) (*Preliminary Results*).

We invited parties to comment on the *Preliminary Results*. On May 9, 2001,

we received case briefs from respondents Cultivadora de Salmones Linao Ltda. (Linao), Pesquera Mares Australes Ltda. (Mares Australes), Salmones Mainstream S.A. (Mainstream), Salmones Pacific Star, Ltda. (Pacific Star), and Salmones Pacifico Sur S.A. (Pacifico Sur).

The Coalition for Fair Atlantic Salmon Trade (the petitioner) did not file a case brief. No rebuttal briefs were filed.

Partial Rescission of the Antidumping Duty Administrative Review

Prior to the publication of the preliminary results in this review, respondents Chisal, S.A., and Fitz Roy certified to the Department that they had not shipped subject merchandise to the United States during the POR. As described in the *Preliminary Results*, we examined entry data for U.S. imports, confirmed that neither company had shipped subject merchandise to the United States during the POR, and preliminarily rescinded the review with respect to these companies. No new information has come to the Department's attention in this regard since the publication of the preliminary rescission determination. Accordingly, we are rescinding the review with respect to these two companies.

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, 0304.90.1009, 0304.90.1089, and 0304.90.9091 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.

Analysis of Comments Received

The issues raised in the case briefs by parties to this administrative review are addressed in the Decision Memorandum, which is hereby adopted by this notice. A list of the issues addressed in the Decision Memorandum is appended to this notice. The Decision Memorandum is on file in Room B-099 of the main Commerce building, and can also be accessed directly on the Web at ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we have made adjustments to the preliminary results calculation methodology in determining the final dumping margins in the proceeding. These adjustments are discussed in the Decision Memorandum.

As a result of our review, we determine that the following weighted-average margins exist for the period of July 1, 1999, through June 30, 2000:

Exporter/manufacturer	Weighted-average margin percentage
Cultivos Marinos Chiloe, Ltda.	0.02 (de minimis).
Pesquera Eicosal Ltda.	0.00.
Fiordo Blanco S.A.	0.27 (de minimis).
Cultivadora de Salmones Linao Ltda.	0.09 (de minimis).
Salmones Mainstream S.A.	0.00.
Pesquera Mares Australes.	0.00.
Salmones Multiexport Ltda.	0.00.
Salmones Pacific Star, Ltda.	0.00.
Salmones Pacifico Sur S.A.	0.00.
Pesca Chile S.A.	0.06 (de minimis).
Salmones Tecmar S.A.	0.00.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR

351.212(b)(1), we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the importer-specific sales to the total entered value of the same sales. Where the assessment rate is above *de minimis*, we will instruct the Customs Service to assess duties on all entries of subject merchandise by that importer. The Department will issue appraisal instructions directly to the 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 these final results of administrative review, as provided by section 751(a) of the Act: (1) For all exporters/manufacturers covered by this review, the cash deposit rate will be the rate listed above, except where the margin is zero or *de minimis*, a cash deposit of zero will be required; (2) for merchandise exported by producers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recent final results in which that producer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the most recent final results in which that producer participated; and (4) if neither the exporter nor the producer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 4.57 percent, the "All Others" rate established in the less-than-fair-value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final 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 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 in the subsequent assessment of double antidumping duties.

This notice also is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or

destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the 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 these results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 6, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

1. Calculation of Constructed Value Profit Rate.
2. Collapse of Affiliated Parties.
3. Clerical Errors.

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DEPARTMENT OF COMMERCE

International Trade Administration

(A-337-803)

Notice of Final Results of Changed Circumstances Antidumping Duty Review: Fresh Atlantic Salmon From Chile

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

SUMMARY: On August 22, 2000, the Department issued preliminary results of a changed circumstances review with respect to the antidumping duty order on fresh Atlantic salmon from Chile. In those preliminary results, the Department determined that Pesquera Mares Australes, Ltda. (Mares Australes), after merging with Marine Harvest Chile, S.A. (Marine Harvest), constituted a new entity that was subject to the antidumping duty order on fresh Atlantic salmon from Chile. The Department directed that liquidation of entries of subject merchandise under the name of Marine Harvest be suspended effective retroactively to July 1, 2000, the date of the merger of Mares Australes and Marine Harvest. After considering comments from interested parties, the Department continues to find that the post-merger Marine Harvest is a new entity subject to the antidumping duty order on fresh Atlantic salmon from Chile. Moreover, the Department has determined that, as the old Marine Harvest's sales were combined with

those of Mares Australes during the second administrative review of fresh Atlantic salmon from Chile, the cash deposit rate applicable to future entries by Marine Harvest is the rate calculated for those combined sales.

EFFECTIVE DATE: August 13, 2001.

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, DC 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).

Background

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). The order covered merchandise produced by a number of companies, including Mares Australes, Ltda. (Mares Australes). The order excluded merchandise produced by a number of other companies, including Marine Harvest, which had been found to be dumping at a *de minimis* level in the less-than-fair-value (LTFV) investigation.

On July 15, 1999, the parent company of Mares Australes purchased Marine Harvest. One week after the acquisition, the managing director of Mares Australes formed several task forces of Mares Australes and Marine Harvest officials to discuss how to harmonize and integrate the management of the two companies. By the end of 1999, the companies had laid off redundant management, and had created a single management structure.

Mares Australes and Marine Harvest continued to distinguish salmon produced at their respective facilities, and to export their salmon to the United States under the respective names, until the end of June 2000. On July 1, 2000, the parent company of Mares Australes directed, through a shareholder's