

affirmed the margin calculated for this company in the final determination of sales at less than fair value in certain cut-to-length carbon steel plate from Belgium. As there is now a final and conclusive court decision in this action, we are amending our final determination of sales at less than fair value and we will instruct the Customs Service to change cash deposit rates, where appropriate.

**EFFECTIVE DATE:** July 30, 1998.

**FOR FURTHER INFORMATION CONTACT:**

Sanjay Mullick or Kris Campbell, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230; telephone: (202) 482-0588 or 482-3813, respectively.

**Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of December 31, 1994. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations as codified at 19 CFR part 353 (April 1, 1997).

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 9, 1993, the Department published the final determination of sales at less than fair value (LTFV) in the investigation of certain cut-to-length carbon steel plate from Belgium.<sup>1</sup> The antidumping duty rate calculated for respondent Fabrique de Fer de Charleroi S.A. (FFC) was 3.65 percent.

On August 19, 1993, the Department published an amended final determination, in which we corrected a ministerial error by recalculating the profit rate used in determining FFC's constructed value (CV).<sup>2</sup> The recalculation included profit on home market sales of 'Z-type' steel, which is within the general class or kind of merchandise, but which was not sold in the United States during the period of investigation and was not used for matching purposes. The amended final determination rate for FFC was 13.31 percent.

On January 16, 1998, the Court of International Trade (CIT) issued a remand concerning this segment of the

proceeding, in which the CIT found the Department's calculation of the CV profit rate for FFC in the amended final determination to be erroneous.<sup>3</sup> The CIT agreed with the Department that section 773(e)(1) of the Act requires the calculation of CV profit based on sales of the "general class or kind" of merchandise, which includes Z-type steel.<sup>4</sup> However, the Court held that, in the Department's amended determination, the profits on Z-type sales were "extrapolated out of realistic and rational proportion."<sup>5</sup> Accordingly, the CIT issued the following instructions:

The ITA may have 45 days from the date hereof to consider and report whether, in the exercise of its sound discretion, factoring plaintiff's (FFC) profit on home-market sales of Z-type product in a manner more reflective of the record leads to a weighted-average margin percentage greater than the 3.65 reported at 58 Fed. Reg. 37,091 for FFC. If the court does not receive an affirmative report to this effect by the end of this period, that original margin will be affirmed.<sup>6</sup>

The Department did not issue an affirmative report to the Court. On March 12, 1998, the Court vacated the amended final rate for FFC (13.31 percent) and affirmed the margin calculated for this company in the final determination (3.65 percent).<sup>7</sup> The period to appeal has expired and no appeal was filed. Therefore, as there is now a final and conclusive court decision in this action, we are amending our final determination of sales at LTFV.

**Amendment to Final Determination**

Pursuant to section 516A(e) of the Act, we are now amending the final determination of sales at LTFV of certain cut-to-length carbon steel plate from Belgium with respect to exports by FFC. In addition, as a result of the change in FFC's margin, we are recalculating the "All-Others" rate. The revised weighted-average percentage dumping margins are as follows:

Manufacturer/exporter	Percentage
Fabrique de Fer de Charleroi S.A. ....	3.65
All Others .....	6.75

The above rate listed for FFC will not affect that company's deposit or assessment rates for any segment of this proceeding. Since publication of the

<sup>3</sup> *Fabrique de Fer de Charleroi S.A. v. United States*, Slip Op. 98-4 (CIT January 16, 1998) ("Fabrique").

<sup>4</sup> *Fabrique* at 8-9.

<sup>5</sup> *Id.* at 12.

<sup>6</sup> *Id.* at 13.

<sup>7</sup> *Fabrique de Fer de Charleroi S.A. v. United States*, Slip Op. 98-26 (CIT March 12, 1998).

first amended LTFV final determination and order, the Department has completed, pursuant to section 751 of the Act, an administrative review of the antidumping order covering FFC's entries for the period August 1, 1995 through July 31, 1996.<sup>8</sup> That review established FFC's assessment rates for that period, and also established its current weighted-average deposit rate. Any entries made prior to that review period were subject to automatic liquidation pursuant to 19 C.F.R. 353.22 (e). However, the Department will instruct the Customs Service to change the cash deposit requirements for producers/exporters subject to the "All-Others" rate to 6.75 percent.<sup>9</sup>

This notice is published in accordance with section 735(d) of the Act and 19 CFR 353.21.

Dated: July 23, 1998.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-337-803]

**Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Fresh Atlantic Salmon From Chile**

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

**EFFECTIVE DATE:** July 30, 1998.

**FOR FURTHER INFORMATION CONTACT:**

Gabriel Adler or Kris Campbell, Office of AD/CVD Enforcement 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1442 or (202) 482-3813, respectively.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of

<sup>8</sup> *Certain Cut-to-Length Carbon Steel Plate from Belgium: Final Results of Antidumping Duty Administrative Review*, 63 FR 2959 (January 20, 1998).

<sup>9</sup> The current "All-Others" rate is 6.84 percent.

<sup>1</sup> *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Belgium*, 58 FR 37083 (July 9, 1993).

<sup>2</sup> *Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Belgium*, 58 FR 44164 (August 19, 1993).

Commerce (the Department) regulations refer to the regulations last codified at 19 CFR part 353 (April 1, 1997).

### Amended Final Determination

On June 1, 1998, in accordance with section 735(a) of the Act, the Department made a final determination that fresh Atlantic salmon from Chile is being, or is likely to be, sold in the United States at less than fair value. See *Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon from Chile*, 63 FR 31411 (June 9, 1998) (final determination). On June 9, 1998, the Coalition for Fair Atlantic Salmon Trade (the petitioners) and the Association of Salmon and Trout Producers of Chile (the respondents) filed timely allegations that the Department had made ministerial errors in its final determination. On June 16, 1998, the petitioners and respondents each filed comments addressing the other party's ministerial error allegations.

We have determined, in accordance with 19 CFR 353.28, that certain ministerial errors were made in the final determination. For a detailed discussion of the Department's analysis of the parties' allegations of ministerial errors, see Memorandum to Richard W. Moreland from the Team, Regarding Clerical Error Allegations, dated July 1, 1998; see also Memorandum from Gabriel Adler to the File, dated July 24, 1998.

Therefore, in accordance with 19 CFR 353.28(c), we are amending the final determination of the antidumping duty investigation of fresh Atlantic salmon from Chile. The revised final weighted-average dumping margins are as follows:

Exporter/Manufacturer	Original margin	Revised margin
Aguas Claras .....	8.27	5.44
Camanchaca .....	0.21	0.16
Eicosal .....	10.91	10.69
Mares Australes .....	2.24	2.23
Marine Harvest .....	1.36	1.36
All Others .....	5.19	4.57

### Scope of Order

The scope of this order covers fresh, farmed Atlantic salmon, whether imported "dressed" or cut. Atlantic salmon is the species *Salmo salar*, in the genus *Salmo* of the family salmoninae. *Dressed* Atlantic salmon refers to salmon that has been bled, gutted, and cleaned. Dressed Atlantic salmon may be imported with the head on or off; with the tail on or off; and with the gills in or out. All cuts of fresh Atlantic salmon are included in the scope of the investigation. Examples of cuts include,

but are not limited to: crosswise cuts (steaks), lengthwise cuts (fillets), lengthwise cuts attached by skin (butterfly cuts), combinations of crosswise and lengthwise cuts (combination packages), and Atlantic salmon that is minced, shredded, or ground. Cuts may be subjected to various degrees of trimming, and imported with the skin on or off and with the "pin bones" in or out.

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

The merchandise subject to this order 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.

### Antidumping Duty Order

On July 22, 1998, pursuant to section 735(b)(1)(A)(i) of the Act, the International Trade Commission (ITC) notified the Department of its final determination that the fresh Atlantic salmon industry in the United States is materially injured or threatened by material injury by reason of imports of the subject merchandise from Chile.

In accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all entries of fresh Atlantic salmon from Chile.

For purposes of determining which entries are subject to assessment of duties, the Department must consider whether the ITC's determination is based on material injury or the threat of material injury. Per section 736(b)(2) of the Act, if the ITC's determination is threat-based, and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the Department's preliminary determination, then the Department will assess duties on entries made on or after the date of the publication of the ITC's notice of final determination, and will refund any bonds or deposits of estimated antidumping duties posted

since the Department's preliminary antidumping determination.

In this case, the ITC's notification did not indicate whether its determination should be considered a material injury determination or a threat determination. The vote by the three ITC Commissioners was as follows: one vote finding material injury, one vote finding threat of injury (without an accompanying "but for" injury finding), and one vote finding neither material injury nor threat of injury. The Department must therefore interpret whether section 736(b)(2) of the Act is triggered by such votes.

In making this determination, the Department has been guided by applicable judicial precedent. See *MBL (USA) Corp. v. United States*, 787 F. Supp. 202 (CIT 1992). According to the CIT's ruling in that case, inherent in non-material injury votes (i.e., "negative" votes and "threat" votes) "is the realization that antidumping duties will not be imposed, just as affirmative views can signify imposition of such duties from the date of a preliminary less-than-fair-value determination rather than from the date of a final decision on material injury." 787 F. Supp. at 208.

Therefore, in accordance with *MBL*, the Department has determined that section 736(b)(2) of the Act is applicable to this case. Therefore, the Department will direct the Customs Service to assess, upon further advice, antidumping duties on all unliquidated entries of fresh Atlantic salmon from Chile entered, or withdrawn from warehouse, for consumption on or after the date on which the ITC published its final determination of threat of material injury in the **Federal Register**, and to terminate the suspension of liquidation for entries of fresh Atlantic salmon from Chile, entered, or withdrawn from warehouse, prior to that date.

On or after the date of publication of this notice in the **Federal Register**, the Customs Service will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the corrected weighted-average ad valorem dumping margins noted above.

This notice constitutes the antidumping duty order with respect to fresh Atlantic salmon from Chile, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, at Room B-099 of the Main Commerce Building, for an up-to-date list of antidumping duty orders currently in effect.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or

destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply with the regulations and terms of an APO is subject to sanction.

This order is published pursuant to section 736(a) of the Act and 19 CFR 353.21.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D.072198A]

#### ICCAT Advisory Committee; Public Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT), in conjunction with the Highly Migratory Species (HMS) Management Division of NMFS, announces the schedule of regional public meetings to be held this fall.

**DATES:** The meetings are scheduled from August to November 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the meetings.

**ADDRESSES:** The meetings will be held in South Carolina, Florida, U.S. Virgin Islands, Maryland, Massachusetts, New York. See **SUPPLEMENTARY INFORMATION** for specific addresses of the meetings.

**FOR FURTHER INFORMATION CONTACT:** Jonathon Krieger (international issues) 301-713-2276 or Rachel Husted (domestic issues) 301-713-2347.

**SUPPLEMENTARY INFORMATION:** The meetings are scheduled as follows:

*Thursday, August 13, 1998, 7 pm to 10 pm* - Marine Research Institute Auditorium, 217 Fort Johnson Road, Charleston, South Carolina 29412;

*Friday, August 14, 1998, 7 pm to 10 pm* - Best Western Bayside Inn, 711 West Beach Drive, Panama City, Florida 32401;

*Thursday, September 3, 1998, 7 pm to 10 pm* - Buccaneer Hotel, Estate Shoyes, St. Croix, Virgin Islands 00824;

*Tuesday, October 6, 1998, 7 pm to 10 pm* - Holiday Inn, 2625 North Salisbury Boulevard, Salisbury, Maryland 21801;

*Wednesday, October 7, 1998, 7 pm to 10 pm* - Cape Ann Marina Resort, 75 Essex Avenue, Gloucester, Massachusetts 01930.

*Thursday, October 8, 1998, 7 pm to 10 pm* - Crown Plaza La Guardia, 104-04 Ditmars Boulevard, East Elmhurst, New York 11369;

Additionally, the annual fall meeting of the Advisory Committee will be held in Silver Spring, Maryland, November 1-3, 1998. There will be an opportunity for public comment on international issues on Sunday, November 1, from 2-6 p.m.

The meeting location is the Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Domestic issues will not be discussed at this meeting.

The following topics may be presented to the public for discussion at the regional meetings:

#### International Issues

1. Background on ICCAT
2. Information on the Advisory Committee and Commissioners
3. Status of Highly Migratory Species Managed by ICCAT
4. Topics for the 1998 ICCAT Annual Meeting

#### Domestic Issues

1. HMS Rulemaking Actions
2. HMS Activities Under the Magnuson-Stevens Fishery Conservation and Management Act
3. Regional Concerns/Issues

Representatives from the Advisory Committee to the U.S. section to ICCAT and NMFS will be in attendance at the regional meetings. There will be an opportunity for public comment on each issue. The length of the meetings may be adjusted based on the progress of the discussions.

#### Special Accommodation

The meeting locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jonathon Krieger at (301) 713-2276 at least 5 days prior to the meeting date.

Dated: July 24, 1998.

**Richard W. Surdi,**

*Acting Office Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 072398C]

#### Atlantic Coastal Fisheries Cooperative Management Act Provisions; Atlantic Coast Weakfish Fishery; Exempted Fishing Permits (EFPs)

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Applications for Exempted Fishing Permits (EFPs); request for comments.

**SUMMARY:** NMFS announces the receipt of four applications for EFPs. If granted, these EFPs would authorize a Flynet Characterization Study to be conducted by the North Carolina Division of Marine Fisheries in a closed area south of Cape Hatteras. The four participating flynet vessels, each with its own EFP and observer aboard, would conduct up to 12 trips over a 4-month period for a total of up to 64 trips.

**DATES:** Written comments on the applications must be received on or before August 14, 1998.

**ADDRESSES:** Send comments to Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries (Fx2), NMFS, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910. The applications, related documents and copies of the regulations under which EFPs are subject may also be requested from this address.

**FOR FURTHER INFORMATION CONTACT:** Thomas Meyer, 301-427-2014; FAX: 301-427-2014.

**SUPPLEMENTARY INFORMATION:** These EFPs are requested under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), 16 U.S.C. 5101 *et seq.*, and regulations at 50 CFR 697.6 concerning the acquisition of information and data activities that are otherwise prohibited by the regulations in this part. Since regulations under the Atlantic Coastal Act must be consistent with the national standards set forth in section 301 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, EFPs requested under the Atlantic Coastal Act need to be addressed in the same manner as EFPs requested under the Magnuson-Stevens Act, and regulations at 50 CFR 600.745 concerning scientific research activity, exempted fishing, and exempted educational activity.