

product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of NZKMB's sales of a given product were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

We found that all of NZKMB's home market sales were at prices less than COP. We, therefore, disregarded all home market sales and based NV on CV in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, SG&A, profit and U.S. packing costs. Section 773(e)(2)(B) of the Act states that in the absence of above-cost sales of a foreign like product, SG&A and profit shall be based on (i) expenses and profit of the respondent's other products, or (ii) the expenses and profit of other producers subject to the antidumping investigation or review, or (iii) any other reasonable method. The first two alternatives are not available in this case, since NZKMB sells no other products and there are no other New Zealand exporters subject to this review. Therefore, we must rely on "other reasonable" methods. In this case, NZKMB earned no profits on home market sales and we have no other information on the record with respect to profit earned in the home market. Therefore, consistent with the methodology used in the most recent prior review of this proceeding, as facts available, we used the profits realized at the grower level. In this instance, we used the average profit of the twenty sampled growers as the profit figure in our margin calculations. With respect to selling expenses, we have used the selling expenses associated with the home market sales. *See Fresh Kiwifruit from New Zealand: Amended Final Results of Antidumping Duty Administrative Review*, 62 FR 47440 (September 9, 1997).

In comparing CEP to CV, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses and advertising expenses, in accordance with sections 773(a)(6)(C)(iii) and 773(a)(8) of the Act. With respect to commissions, where applicable, we offset any commission

paid on a U.S. sale by reducing the NV by the amount of home market indirect selling expenses, including inventory carrying costs, up to the amount of the U.S. commission, in accordance with 19 CFR 351.410(e).

Currency Conversion

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

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margin exists for the period June 1, 1997, through May 31, 1998:

Manufacturer/exporter	Percent margin
New Zealand Kiwifruit Marketing Board	4.66

Interested parties may request a hearing within 30 days of the publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will subsequently issue a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written briefs not later than 120 days after the date of publication of this notice.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total entered value of the examined sales. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisal instructions directly to the Customs Service.

Further, the following deposit requirements will be effective for all

shipments of fresh kiwifruit from New Zealand 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)(1) of the Act: (1) The cash deposit rate for NZKMB will be the rate established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, de minimis within the meaning of 19 CFR 351.106, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to 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.

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

Dated: June 29, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-17394 Filed 7-7-99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-833]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Live Cattle From Canada

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

EFFECTIVE DATE: July 8, 1999.

FOR FURTHER INFORMATION CONTACT: Gabriel Adler or Kris Campbell, Office 5, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 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 Commerce (Department) regulations refer to the regulations codified at 19 CFR Part 351 (April 1998).

Preliminary Determination

We preliminarily determine that live cattle from Canada are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the *Suspension of Liquidation* section of this notice.

Case History

This investigation was initiated on December 22, 1998. See *Initiation of Antidumping Duty Investigations: Live Cattle from Canada and Mexico*, 63 FR 71886 (December 30, 1998) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

On January 20, 1999, the United States International Trade Commission (the ITC) preliminarily determined that there is a reasonable indication that imports of the product under investigation are materially injuring the United States industry.

On March 1, 1999, after considering comments from interested parties on the issue of respondent selection, the Department selected the following companies as respondents in this investigation: Cor Van Raay Farms Ltd. and Butte Grain Merchants Ltd. (Cor Van Raay); Pound Maker Adventures, Ltd. (Pound Maker); Riverside Feeders Ltd. and Grandview Cattle Feeders Ltd. (Riverside/Grandview); Jameson, Gilroy and B & L Livestock Ltd. (JGL); Groenenboom Farms, Ltd. (Groenenboom); and Schaus Land and Cattle Company (Schaus) (collectively "respondents"). See *Selection of Respondents*, below. On March 2, 1999, the Department issued an antidumping

questionnaire to the selected respondents.¹

The respondents submitted their initial responses to the questionnaire in March, April and May 1999. After analyzing these responses, we issued supplemental questionnaires to the respondents to clarify or correct the initial questionnaire responses. We received timely responses to these questionnaires.

Immediately prior to the date of this determination (on June 29th and 30th), the respondents filed revised U.S., home market, and cost databases. Our initial examination of this information indicates that, for at least one company, the antidumping rate calculated using such data may differ significantly from the rates listed below. We will examine this data further and, if we find that the errors corrected result in a rate that differs substantially from the rates as calculated for this preliminary determination, we may issue an amended preliminary determination for any such company.

Period of Investigation

The period of investigation (POI) is October 1, 1997, through September 30, 1998. This period corresponds to each respondent's four most recent fiscal quarters prior to the filing of the petition (i.e., November 12, 1998).

Scope of Investigation

The scope of this investigation covers all live cattle except (1) imports of dairy cows for the production of milk for human consumption and (2) purebred or other cattle specially imported for breeding purposes.

The merchandise subject to this investigation is classifiable as statistical reporting number 0102.90.40 of the Harmonized Tariff Schedule of the United States (HTSUS), with the exception of 0102.90.40.72 and 0102.90.40.74. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual

¹ Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market. Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation.

dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

After consideration of the complexities expected to arise in this proceeding (including issues of model matching, cost of production, and the segmented nature of the cattle industry), and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we found that given our resources, we would be able to investigate the six producers/exporters with the greatest export volume, as identified above. For a more detailed discussion of respondent selection in this investigation, see Memorandum from Gary Taverman to Richard W. Moreland, (March 1, 1999) (Respondent Selection Memorandum).

Collapsing Determinations

The Department's regulations provide for the treatment of affiliated producers as a single entity where: (1) those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (2) the Department concludes that there is a significant potential for the manipulation of price or production.² In identifying a significant potential for the manipulation of price or production, the Department may consider such factors as: (i) the level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions

² See 19 CFR 351.401(f)(1).

between the affiliated producers.³ These factors are illustrative, and not exhaustive.

In this investigation, we have preliminarily determined to collapse (1) Riverside/Grandview with affiliates Vander Heyden Ranches and VanVaerenbergh Farms, (2) Pound Maker with affiliates Dale Blair and Blair Stock Farms, and (3) JGL with affiliates M&T Feedlot and Kirk Sinclair. For a detailed discussion of this collapsing determination, requiring reference to business proprietary information, see Memorandum from the Team to Richard Moreland, dated June 30, 1999, regarding Collapse of Affiliated Parties.

Product Comparisons

Pursuant to section 771(16) of the Act, all products produced by the respondents that fit the definition of the scope of the investigation and were sold in the comparison market during the POI fall within the definition of the foreign like product. For slaughter cattle, we have relied on three criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: type, breed, and gender. For feeder cattle we have included a fourth matching criterion of weight band, given the impact of weight on price for sales of this type of cattle.

We have determined that it is generally not possible to match across type, breed, or gender, because there are significant differences among products that cannot be accounted for by means of a difference-in-merchandise adjustment. See, e.g., letter from the Canadian Cattlemen's Association to the Department of Commerce, dated January 20, 1999, at 5 (noting that for these categories, the different products "are characterized by significant differences in market structure (both demand and supply) and in market pricing," such that "[s]ales comparisons cutting across these proposed categories would produce distorted results and should not be permitted.") See also letter from the Ranchers-Cattlemen Action Legal Foundation (R-Calf, the petitioner) to the Department of Commerce, dated June 8, 1999 (R-Calf letter), at 11. However, the record indicates that such a distortion does not arise with respect to products of different weight bands. See R-Calf letter at 10-11. Therefore, for sales of feeder cattle (for which there are variations in weight bands), in situations where an identical match is not possible we have sought to compare feeder cattle of different weight bands,

with a difference-in-merchandise adjustment.

Fair Value Comparisons

To determine whether sales of live cattle from Canada were made in the United States at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the normal value, as described in the *Export Price and Constructed Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated POI weighted-average EPs and CEPs for comparison to POI weighted-average normal values.

Export Price and Constructed Export Price

In accordance with section 772 of the Act, we calculated either an EP or a CEP, depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act.

Consistent with these definitions, we found that all the respondents made EP sales during the POI. These sales are properly classified as EP sales because they were made by the exporter or producer to unaffiliated customers in the United States prior to the date of importation.

We also found that Schaus made CEP sales during the POI. These sales involved cattle exported as feeder cattle, which were custom fed at unaffiliated U.S. feedlots and then sold to unaffiliated U.S. customers. Because the sales were made by the respondent after the date of importation, the sales are properly classified as CEP sales.

For all respondents, we calculated EP and CEP, as appropriate, based on prices charged to the first unaffiliated customer in the United States.

All six respondents made at least some sales on a spot-price basis. For such sales, where invoices were issued to the U.S. customer before the date of shipment, we have relied on the date of invoice as the date of sale, since that is the date on which the material terms of

sale were established. Where invoices were issued after the date of shipment, or not issued at all, we have relied on the date of shipment as the date of sale, since it is the Department's practice not to rely on a date later than the date of shipment as the date of sale.

Three of the respondents also made sales to the United States pursuant to futures contracts. For such sales, we based the date of sale on the "lock-in" date (i.e., the date on which the respondent, pursuant to the terms of the contract, accepted the future delivery price indicated by the Chicago Mercantile Exchange Board on that day in question), since that was the date on which the essential terms of sale were established.

As the starting U.S. price, we relied on either the gross unit price shown on sales invoices (for live-weight sales) or the net price shown on settlement reports (for dressed-weight sales).⁴ In accordance with section 772(c)(2) of the Act, we reduced the EP and CEP by movement expenses and export taxes and duties, where appropriate. These included foreign inland freight, international freight, brokerage, and customs duties.

Section 772(d)(1) of the Act provides for additional adjustments to the CEP. We reduced the CEP by the amount of credit expenses and further manufacturing expenses. Section 772(d)(3) of the Act requires that the CEP be adjusted for the profit allocated to CEP selling expenses. As described below, we made such an adjustment in the case of Schaus, the only respondent to have made CEP sales.

We made company-specific adjustments as follows:

Cor Van Raay

We based EP on delivered and FOB prices to unaffiliated customers in the United States. We made deductions from the starting price, where appropriate, for movement expenses including international freight, U.S. customs duty, and miscellaneous movement charges.

Groenenboom

We based EP on delivered and FOB prices to unaffiliated customers in the United States. We made deductions from the starting price, where appropriate, for movement expenses including international freight and transit insurance.

JGL

We based EP on delivered and FOB prices to unaffiliated customers in the United

⁴ For sales made on a live-weight basis, the price charged for each animal is based on the weight of the animal prior to slaughter. For sales made on a dressed-weight basis, the price charged for each animal is based on the weight of the animal after slaughter, and takes into account adjustments for grade and yield.

³ See 19 CFR 351.401(f)(2).

States. We made deductions from the starting price, where appropriate, for movement expenses, including international freight, U.S. inland freight, insurance, feed expenses, yard insurance, straw expenses, and loading expenses.

Pound Maker

We based EP on delivered and FOB prices to unaffiliated customers in the United States. We made deductions from the starting price, where appropriate, for movement expenses, including international freight, U.S. customs duty, transit insurance and brokerage expenses.

Riverside/Grandview

We based EP on delivered and FOB prices to unaffiliated customers in the United States. We made deductions from the starting price, where appropriate, for movement expenses including freight from the respondent's facility to the customer, U.S. customs duty, and brokerage and handling expenses.

Schaus

We based EP and CEP on delivered and FOB prices to unaffiliated customers in the United States. We made deductions from the starting price, where appropriate, for movement expenses including freight from the respondent's facility to the customer, U.S. customs duty, and export processing fees. In addition to these adjustments, for CEP sales, in accordance with section 772(d)(1) of the Act, we adjusted the CEP by the amount of direct selling expenses and revenues (*i.e.*, credit expenses and interest revenue). In accordance with section 772(d)(2) of the Act, we reduced the CEP by the amount of further manufacturing expenses. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

Normal Value

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs that normal value be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

All respondents had viable home markets for live cattle, and they reported home market sales data for purposes of the calculation of normal value.

Adjustments made in deriving the normal values for each company are described in detail in *Calculation of Normal Value Based on Home Market Prices* and *Calculation of Normal Value Based on Constructed Value*, below.

B. Cost of Production Analysis

Based on allegations contained in the petition, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that live cattle sales made in Canada were made at prices below the cost of production (COP). See *Initiation Notice*, 63 FR at 71889. As a result, the Department has conducted investigations to determine whether the respondents made sales in their respective home markets at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for live cattle, based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses. We relied on the COP data submitted by each respondent in its cost questionnaire response, except in specific instances where the submitted costs were not appropriately quantified or valued, or otherwise required adjustment, as discussed below:

Cor Van Raay

We adjusted the reported COP to account for differences in cost associated with the gender of the cattle. Since Cor Van Raay did not differentiate its reported costs by gender, but other respondents did, as facts available we based the gender adjustment on the average gender-related cost difference reported by other respondents.

Groenenboom

We adjusted the reported COP to account for differences in cost associated with the gender of the cattle. Since Groenenboom did not differentiate its reported costs by gender, but other respondents did, as facts available we based the gender adjustment on the average gender-related cost difference reported by other respondents.

Pound Maker

We adjusted the denominator used in the G&A expense rate calculation by removing cost of sales amounts which did not appear on Pound Maker's financial statements.

Riverside/Grandview

We adjusted the reported COP to account for differences in cost associated with the gender of the cattle. Since Riverside/Grandview did not differentiate its reported costs by gender, but other respondents did, as facts available we based the gender adjustment on the average gender-related cost difference reported by other respondents. We also adjusted financial expenses to exclude offsets for a disaster claim and custom work, and to include a payout penalty assessed by

a lender and imputed interest expenses on non-interest bearing loans from shareholders.

Schaus

We adjusted the reported COP to exclude offsets for various income items not associated with the production of the subject merchandise.

2. Valuation of Resale Merchandise

Respondents JGL and Schaus had sales not only of their own-produced cattle, but also of cattle that they purchased and resold without additional value added.

Consistent with our practice regarding the cost of resales of subject merchandise, we requested cost of production data from certain of JGL's suppliers. See Memorandum to Richard W. Moreland from Gary Taverman and Neal Halper, April 8, 1999 (Reporting Methodology Memorandum) at 5-7.⁵ At the same time, given the nature of the industry and the manner in which costs are maintained, we determined to rely on JGL's own costs as a surrogate for supplier costs where appropriate, and also to request a complete listing of JGL's acquisition costs as an alternative source of cost data. *Id.* at 6 ("[U]pon receipt and analysis of the section D response, we may determine that JGL's own production costs are an appropriate surrogate for resale costs, to the extent that JGL produces cattle that are comparable to those involved in straight resales.") and 7 ("Given that this approach might not yield cost data for all combinations of type, breed, gender, and weight of cattle sold by respondents, we would propose also to obtain a complete listing of acquisition costs, as a possible alternative basis for calculation of cost of production.") (at footnote 13).

While we have received the cost data requested from JGL's suppliers, we are continuing to analyze this information and have determined not to use such costs for this preliminary determination. We note that the reported supplier costs, which pertain to feeder cattle, have in most instances not been provided on a weight-band specific basis (see *Product Comparisons* section, above, regarding comparisons of feeder cattle on a weight-band specific basis and matching across weight bands). Other aspects of the cost data contained in these responses also require further analysis, including issues raised by the petitioners regarding alleged

⁵ See also, *Fresh and Chilled Atlantic Salmon From Norway, Final Results of Antidumping Duty Administrative Review*, 61 FR 65522, 65525 (December 13, 1996); *Elemental Sulphur From Canada, Final Results of Antidumping Finding Administrative Review*, 61 FR 8239, 8250 (March 4, 1996).

inadequacies in these supplier submissions.⁶ While we do not agree with the petitioners that alleged deficiencies in the supplier responses (e.g., hay costs associated with grazing cattle, and family labor costs) require the determination of respondent JGL's resale costs based on application of adverse facts available,⁷ particularly given the information provided by JGL with respect to its own feeder costs and acquisition prices, we intend to closely scrutinize the reporting of such supplier costs in supplemental questionnaires and at verification of JGL and the supplier firms. If, based on the results of verification and of our analysis of the information provided by the suppliers, we determine that such firms have not cooperated to the best of their ability, we may determine such supplier costs based on the facts available for the final determination.

Accordingly, we are determining the costs of cattle resold by JGL using JGL's own costs as a surrogate, where available, and are otherwise relying on the acquisition price paid by JGL.⁸

For Schaus, consistent with the methodology described above with respect to JGL, we have valued resold cattle using Schaus' cost of production for own-produced cattle as a surrogate for the costs incurred by Schaus' suppliers, or where such data were not available, we have relied on the acquisition price paid by Schaus for cattle to be resold. For the final determination, we will consider whether it would be more appropriate to rely on other cost data, such as the cost data reported by the JGL suppliers, as a surrogate for the costs incurred by Schaus' suppliers.

3. Test of Home Market Sales Prices

We compared the adjusted weighted-average COP for each respondent to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (i.e., a period of one year) in substantial quantities⁹ and

whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the revised COP to the home market prices, less any applicable movement charges, taxes, rebates, commissions and other direct and indirect selling expenses.

4. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were 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 during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) or the Act. Because we compared prices to the POI average COP, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

We found that, for certain models of live cattle, more than 20 percent of the home market sales of all six respondents were made within an extended period of time at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded the below-cost sales and used the remaining above-cost sales as the basis for determining normal value, in accordance with section 773(b)(1) of the Act. For those U.S. sales of live cattle for which there were no comparable home market sales in the ordinary course of trade, we compared EPs or CEPs to the constructed value in accordance with section 773(a)(4) of the Act. See *Calculation of Normal Value Based on Constructed Value* section, below.

C. Calculation of Normal Value Based on Home Market Prices

We performed price-to-price comparisons where there were sales of comparable merchandise in the home market that did not fail the cost test.

Cor Van Raay

We calculated normal value based on delivered or FOB prices and made

of such sales represented 20 percent or more of the volume of sales under consideration for the determination of normal value.

deductions from the starting price, where appropriate, for movement expenses (inland freight from the respondent's facility to the customer). In addition, we made COS adjustments for direct expenses (i.e., credit expenses), in accordance with section 773(a)(6)(C)(iii) of the Act.

Groenenboom

We calculated normal value based on delivered or FOB prices and made deductions from the starting price, where appropriate, for movement expenses (inland freight from the respondent's facility to the customer, plus insurance). In addition, we made COS adjustments for direct expenses, including credit expenses, Alberta Cattle Commission Fees, branding fees, banking fees, and grading fees, in accordance with section 773(a)(6)(C)(iii) of the Act.

JGL

We calculated normal value based on delivered or FOB prices and made deductions from the starting price, where appropriate, for billing adjustments and movement expenses (including inland freight from the respondent's facility to the customer, freight insurance, feed expenses, yard insurance, straw expenses, and loading expenses). In addition, we made COS adjustments for direct expenses and revenues, including credit expenses, branding inspection fees, veterinary fees, and miscellaneous expenses, as well as interest revenue, where appropriate, in accordance with section 773(a)(6)(C)(iii) of the Act.

Pound Maker

We calculated normal value based on delivered or FOB prices and made deductions from the starting price, where appropriate, for movement expenses (inland freight from the respondent's facility to the customer). In addition, we made COS adjustments for direct expenses (i.e., credit expenses, checkoff fees, brand inspection fees and commission expenses), in accordance with section 773(a)(6)(C)(iii) of the Act.

Riverside/Grandview

We calculated normal value based on delivered or FOB prices and made deductions from the starting price, where appropriate, for movement expenses (inland freight from the respondent's facility to the customer). In addition, we made circumstance-of-sale (COS) adjustments for direct expenses (i.e., credit expenses, brand inspection fees and transit fees), in accordance with section 773(a)(6)(C)(iii) of the Act.

⁶ See letter from R-Calf to the Department, June 28, 1999.

⁷ The petitioners maintain that JGL's resale costs should be valued based on information in the petition published by the Government of Manitoba. *Id.* at 2-5.

⁸ We have examined the acquisition prices reported by JGL in comparison with the costs of feeder cattle on the record for this company and do not find reason to believe that the prices paid by JGL are distortive as a surrogate for supplier costs for the preliminary determination.

⁹ In accordance with section 773(b)(2)(C)(i) of the Act, we determined that sales made below the COP were made in substantial quantities if the volume

Schaus

We calculated normal value based on delivered or FOB prices and made deductions from the starting price, where appropriate, for billing adjustments and movement expenses (including inland freight from the respondent's facility to the customer). In addition, we made COS adjustments for direct expenses and revenues, including credit expenses and interest revenue, where appropriate, in accordance with section 773(a)(6)(C)(iii) of the Act.

D. Calculation of Normal Value Based on 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 the constructed value. Accordingly, for those models of live cattle for which we could not determine the normal value based on comparison market sales, either because (1) there were no sales of a comparable product or (2) all sales of comparison products failed the COP test, we based normal value on the constructed value.

Section 773(e)(1) of the Act provides that the constructed value shall be based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A), profit, and U.S. packing costs. For each respondent, we calculated the cost of materials and fabrication based on the methodology described in the *Calculation of COP* section, above. We based SG&A and profit for each respondent on the actual 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 comparison market, in accordance with section 773(e)(2)(A) of the Act.

We made adjustments to constructed value for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on home market sales from, and adding U.S. direct selling expenses to, constructed value. For comparisons to CEP, we made COS adjustments by deducting direct selling expenses incurred on home market sales from constructed value.

Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine normal value based on sales in the comparison market

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

To determine whether normal value sales are at a different level of trade than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and comparison market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the normal value level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between normal value and CEP affects price comparability, we adjust normal value under section 773(a)(7)(B) of the Act (the CEP-offset provision). 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).

In implementing these principles in this investigation, we obtained information from each respondent about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying levels of trade for EP and home market sales we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and under section 772(d) of the Act.

In this investigation, we found that the respondents perform minimal selling functions in the United States and home markets. With respect to each respondent's EP sales, we found a single level of trade in the United States, and a single, identical level of trade in the home market. It was thus unnecessary to make any level-of-trade adjustment for comparison of EP and home market prices. One respondent, Schaus, also made CEP sales. For this respondent, we

found that the adjusted CEP level of trade was essentially the same as that of the single home market level of trade, such that no level-of-trade adjustment or CEP offset was necessary.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act. The Department's preferred source for daily exchange rates is the Federal Reserve Bank. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice.

Verification

In accordance with section 782(i) of the Act, we intend to verify information to be used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of live cattle from Canada, except for Pound Maker (which has a *de minimis* weighted-average margin), that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing 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 EP or CEP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/producer	Weighted-average margin percentage
Cor Van Raay	4.49
Groenenboom	3.90
JGL	3.94
Pound Maker	¹ 0.18
Riverside/Grandview	6.81
Schaus	5.43
All Others	4.73

¹ *deminimis*.

Section 735(c)(5)(A) of the Act directs the Department to exclude all zero and *de minimis* weighted-average dumping margins, as well as dumping margins determined entirely under facts available under section 776 of the Act, from the calculation of the "all others" rate. Accordingly, we have excluded the *de minimis* dumping margin for Pound Maker from the calculation of the "all others" rate.

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 whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

For this investigation, case briefs must be submitted no later than August 6, 1999. Rebuttal briefs must be filed no later than August 13, 1999. 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.

Section 774 of the Act provides that the Department will hold a 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 any interested party. If a hearing is requested, it will be held on August 18, 1999, 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 within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination no later than September 13, 1999 (*i.e.*, 75 days after the date of issuance of this notice).

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

Dated: June 30, 1999.

Richard W. Moreland

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-17392 Filed 7-7-99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of 1997-1998 Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of 1997-1998 administrative review and partial rescission of review.

SUMMARY: We preliminarily determine that sales of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China, were made below normal value during the period June 1, 1997, through May 31, 1998. We are also rescinding the review, in part, in accordance with 19 CFR 351.213(d)(3). Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 8, 1999.

FOR FURTHER INFORMATION CONTACT: Zak Smith or James Breeden, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-0189 and (202) 482-1174, respectively.

SUPPLEMENTARY INFORMATION:

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 Round Agreements Act ("URAA"). In addition, all references to the Department of Commerce's ("the Department's") regulations are to 19 CFR Part 351 (April 1998).

Background

On May 27, 1987, the Department published in the **Federal Register** (52 FR 19748) the antidumping duty order on tapered roller bearings and parts

thereof, finished and unfinished ("TRBs"), from the People's Republic of China ("PRC"). The Department notified interested parties of the opportunity to request an administrative review of this order on June 10, 1998 (63 FR 31717). On June 30, 1998, the petitioner, The Timken Company, requested that the Department conduct an administrative review. Thus, in accordance with 19 CFR 351.221(b)(1), we published a notice of initiation of this antidumping duty administrative review on July 28, 1998 (63 FR 40258).

On September 21, 1998, we sent a questionnaire to the Secretary General of the Basic Machinery Division of the Chamber of Commerce for Import & Export of Machinery and Electronics Products and requested that the questionnaire be forwarded to all PRC companies identified in our initiation notice and to any subsidiary companies of the named companies that produce and/or export the subject merchandise. In this letter, we also requested information relevant to the issue of whether the companies named in the initiation notice are independent from government control. *See the Separate Rates Determination* section, below. Courtesy copies of the questionnaire were also sent to companies with legal representation and to companies listed in the initiation notice for which we were able to obtain addresses.

We received responses to the questionnaire from the following six companies: Luoyang Bearing Corp. (Group) ("Luoyang"), Wafangdian Bearing Factory ("Wafangdian"), Zhejiang Machinery Import & Export Company ("Zhejiang"), China National Machinery Import & Export Corporation ("CMC"), Wanxiang Group Corporation ("Wanxiang"), and Premier Bearing & Equipment ("Premier").

On October 28 and December 4, 1998, the petitioner made requests to rescind the review with respect to Wafangdian, Zhejiang, Wanxiang, and CMC. While the petitioner's rescission requests were made more than 90 days after initiation, 351.213(d)(1) of our regulations provides that we may extend that deadline, and it is our practice to do so where it poses no undue burden on the parties or the Department. Therefore, in accordance with 351.213(d)(1) of our regulations, we have rescinded the review regarding these companies (for a complete discussion of this decision see the Memorandum from Team to Richard Moreland, "Partial Rescission of Review," dated February 19, 1999). CMC objected to the rescission on the grounds that it requested a review when requesting revocation. However, CMC's request for revocation was submitted