

## DEPARTMENT OF COMMERCE

## International Trade Administration

A-337-806

**Notice of Preliminary Results of Antidumping Duty Administrative Review, Notice of Intent to Revoke in Part: Individually Quick Frozen Red Raspberries from Chile**

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on individually quick frozen ("IQF") red raspberries from Chile. The period of review ("POR") is July 1, 2004, through June 30, 2005. This review covers sales of IQF red raspberries by seven producers/exporters. We preliminarily find that, during the POR, sales of IQF red raspberries were made below normal value. Also, we intend to revoke the antidumping duty order with respect to Santiago Comercio Exterior Exportaciones Sociedad Anonima ("SANCO"). Interested parties are invited to comment on these preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** August 8, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Devta Ohri (Olmue, Valle Frio), Andrew McAllister (Vitafoods), Scott Holland (VBM), Yasmin Bordas (SANCO, Valles Andinos), Steve Williams (Arlavan), or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-3853, (202) 482-1174, (202) 482-1279, (202) 482-3813, (202) 482-4619, or (202) 482-0182, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On July 9, 2002, the Department of Commerce ("Department") published an antidumping duty order on IQF red raspberries from Chile. *See Notice of Antidumping Duty Order: IQF Red Raspberries From Chile*, 67 FR 45460 (July 9, 2002). On July 1, 2005, the Department published a notice of opportunity to request administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 38099 (July 1, 2005).

On July 29, 2005, we received a request for review of 57 companies from the Pacific Northwest Berry Association, Lynden, Washington, and each of its individual members, Curt Maberry Farm; Enfield Farms, Inc.; Maberry Packing; and Rader Farms, Inc. (collectively, "the petitioners"). On July 29, 2005, we also received requests for review from Fruticola Olmue S.A. ("Olmue"), Alimentos Naturales Vitafoods S.A. ("Vitafoods"), Vital Berry Marketing S.A. ("VBM"), SANCO,<sup>1</sup> and Valles Andinos S.A. ("Valles Andinos").<sup>2</sup> On August 19, 2005, the petitioners requested that Sociedad Agroindustrial Valle Frio Ltda. ("Valle Frio") and Arlavan S.A. ("Arlavan") be mandatory respondents. On August 29, 2005, we initiated an administrative review of all 57 companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (August 29, 2005).

On September 23, 2005, the petitioners withdrew their request for review for 50 of the 57 companies for which they had originally requested an administrative review. On October 14, 2005, Valles Andinos withdrew its request for review. In accordance with 19 CFR 351.213(d)(1), on December 28, 2005, we partially rescinded this administrative review with respect to the 50 companies included in the petitioners' withdrawal request. We did not rescind the review with respect to Valles Andinos because the petitioners' July 29, 2005, request for review included a request for Valles Andinos. *See Individually Quick Frozen Red Raspberries from Chile: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 76771

<sup>1</sup> On July 6, 2004, the Chilean tax authority approved a name change for Santiago Comercio Exterior Exportaciones Limitada ("SANCO Ltda.") to Santiago Comercio Exterior Exportaciones Sociedad Anonima ("SANCO S.A."). SANCO stated that it underwent this restructuring because, under Chilean law, share companies (S.A.) can more easily add new partners. As part of the restructuring, SANCO created a separate limited liability company, Inversiones L.M. Ltda., that does not participate in the production, processing, sales process, or any other operations for SANCO's raspberry business. SANCO commenced exporting the merchandise under review as SANCO S.A. to the United States on July 30, 2004, after the beginning of the period of review. We reviewed SANCO's questionnaire responses and supporting documentation to confirm that the activities related to SANCO's name change are limited to those described above. For further information, *see SANCO's December 29, 2005, section A supplemental questionnaire response ("SQR")*, at pages 1 through 6. Based on the information submitted, we preliminarily determine that SANCO S.A. is the successor-in-interest to SANCO Ltda.

<sup>2</sup> These five companies were also included in the petitioners' July 29, 2005, request for review of 57 companies.

(December 28, 2005). Thus, the seven companies in this review are: Arlavan, Vitafoods, Olmue, SANCO, Valle Frio, Valles Andinos, and VBM (collectively, "the respondents").

On September 26, 2005, the Department issued antidumping questionnaires to the respondents. The respondents submitted their initial responses to the antidumping questionnaire from October 2005 through May 2006. 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. On March 22, 2006, we requested that Valle Frio respond to the constructed value ("CV") portion of the Department's questionnaire.

On March 7, 2006, and May 26, 2006, the Department published in the **Federal Register** extensions of the time limit for the completion of the preliminary results of this review until no later than June 13, 2006, and July 31, 2006, respectively, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.213(h)(2). *See Certain Individually Quick Frozen Red Raspberries From Chile: Notice of Extension of Time Limit for 2004-2005 Administration Review*, 71 FR 11386 (March 7, 2006); *Certain Individually Quick Frozen Red Raspberries From Chile: Notice of Extension of Time Limit for 2004-2005 Administrative Review*, 71 FR 30378 (May 26, 2006).

**Scope of the Order**

The products covered by this order are imports of IQF whole or broken red raspberries from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (e.g., organic or not), the size of the container in which packed, or the method of packing. The scope of the order excludes fresh red raspberries and block frozen red raspberries (i.e., puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this order is currently classifiable under subheading 0811.20.2020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

**Verification**

As provided in section 782(i) of the Act, during March to April 2006, we verified the information provided by Olmue and SANCO in Chile using

standard verification procedures, including examination of relevant sales and financial records, and selection of original documentation containing relevant information. The Department reported its findings on July 5, July 6, and July 27, 2006. See Memorandum to the File, “*Verification of the Sales Response of Santiago Comercio Exterior S.A. in the 2004–2005 Antidumping Duty Administrative Review of Individually Quick Frozen Red Raspberries from Chile*,” dated July 5, 2006 (“*Sales Verification Report – SANCO*”); Memorandum to the File, “*Verification of the Cost Response of Santiago Comercio Exterior S.A. in the Antidumping Review of Individually Quick Frozen Red Raspberries from Chile*,” dated July 6, 2006 (“*Cost Verification Report – SANCO*”); Memorandum to the File, “*Verification of the Sales and Cost of Production Responses of Fruticola Olmué S.A. in the 2004–2005 Antidumping Duty Administrative Review of Individually Quick Frozen Red Raspberries from Chile*,” dated July 27, 2006 (“*Verification Report – Olmué*”). These reports are on file in the Central Records Unit (“CRU”) in room B–099 of the main Department building.

#### Intent To Revoke In Part

The Department “may revoke, in whole or part” an antidumping order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222(b)(2). In determining whether to revoke an antidumping duty order in part, the Secretary will consider: (A) whether one or more exporters or producers covered by the order have sold the merchandise at not less than normal value (“NV”) for a period of at least three consecutive years; (B) whether, for any exporter or producer that the Secretary previously has determined to have sold the subject merchandise at less than NV, the exporter or producer agrees in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Secretary concludes that the exporter or producer, subsequent to the revocation, sold the subject merchandise at less than NV; and (C) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping.

The Department’s regulations require, *inter alia*, that a company requesting revocation submit the following: (1) a certification that the company has sold

the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in commercial quantities in each of the three years forming the basis of the receipt of such a request; and (3) an agreement that the order will be reinstated if the company is subsequently found to be selling the subject merchandise at less than fair value. 19 CFR 351.222(e)(1)(i)–(iii). See, e.g., *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order: Brass Sheet and Strip From the Netherlands*, 65 FR 742, 743 (January 6, 2000). On July 29, 2005, SANCO submitted a certification to the effect that for a consecutive three-year period, including the current review period, it sold the subject merchandise in commercial quantities at not less than NV and that it would continue to do so in the future. Therefore, because we have determined that this respondent satisfies the requirements of 19 CFR 351.222(b), we preliminarily determine to revoke in part the antidumping order with respect to SANCO. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary, “*Preliminary Determination to Revoke in Part the Antidumping Duty Order*,” dated July 31, 2006. This memorandum is on file in room B–099 of the CRU.

#### Collapsing Determination

The Department’s regulations provide that affiliated producers will be treated 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. 19 CFR 351.401(f)(1). 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 between the affiliated producers. See 19 CFR 351.401(f)(2). These factors are illustrative, and not exhaustive.

In its questionnaire responses, Valle Frio indicated that it had an affiliated producer, Agricola Framparque (“Framparque”), during the POR. Upon review of Valle Frio’s questionnaire responses, we preliminarily determine that Framparque should be collapsed with Valle Frio for the purposes of this review. See Memorandum to Susan Kuhbach, Director, “*Collapsing of Sociedad Agroindustrial Valle Frio Ltda.*,” dated July 31, 2006.

#### Fair Value Comparisons

To determine whether sales of IQF red raspberries from Chile to the United States were made at less than NV, we compared export price (“EP”) to NV, as described in the “Export Price” and “Normal Value” sections of this notice.

In accordance with section 771(16) of the Act, we considered all products sold by the respondents in the comparison market covered by the description in the “Scope of the Order” section, above, to be foreign-like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 773(a)(1)(C)(ii) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondents’ volume of home market sales of the foreign-like product to the volumes of their U.S. sales of the subject merchandise. See the “Normal Value” section, below, for further details.

We compared U.S. sales to monthly weighted-average prices of contemporaneous sales made in the comparison market. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we compared U.S. sales to CV. In making product comparisons, consistent with our determination in the original investigation, we matched foreign like products based on the physical characteristics reported by the respondent in the following order: grade, variety, form, cultivation method, and additives. See *Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: IQF Red Raspberries from Chile*, 66 FR 67510, 67511 (December 31, 2001).

Because the respondents’ merchandise is always shipped on or before the date of invoice, we are using the date of shipment (*i.e.*, guia de

despacho/dispatch note date) as the date of sale. *See Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13172–73 (March 18, 1998).

### Export Price

For sales to the United States, we calculated EP, in accordance with section 772 of the Act. 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.

We made company-specific adjustments as follows.

#### (A) Vitafoods

We calculated EP because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because constructed export price methodology was not otherwise warranted. We based EP on the packed, delivered duty paid (“DDP”) or cost, insurance, and freight (“CIF”) price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These deductions included, where appropriate, freight incurred in transporting merchandise to the Chilean port, domestic brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, and U.S. customs duties. *See Memorandum to the File, “Preliminary Results Calculation Memorandum for Alimentos Naturales Vitafoods S.A.”*, dated July 31, 2006 (“*Vitafoods Preliminary Calculation Memorandum*”).

We have preliminarily excluded two sales reported, at the Department’s request, in Vitafoods’ U.S. sales database. We note that these sales were made to an unaffiliated U.S. entity for delivery to Canada. *See Vitafoods’ October 26, 2005, section A response*, at Exhibit A–5; *see also Vitafoods’ July 3, 2006, SQR* at page 2 and Exhibits 3S–4 and 3S–5. The unaffiliated U.S. entity subsequently trucked the merchandise from Canada to the United States. *See Vitafoods’ July 28, 2006, SQR* at pages 1–3 and Exhibits 1–2. Certain documentation indicates that, at the time of sale, the sales might have been destined for either Canada or the United States. Vitafoods has stated that it considered these sales as Canadian rather than U.S. because the only

destination known to Vitafoods was Canada. As we do not have conclusive evidence that Vitafoods knew, or should have known, at the time of sale, that the ultimate destination of the merchandise was the United States, the Department is preliminarily treating these sales as Vitafoods’ sales to Canada.

#### (B) Arlavan

We calculated EP because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because constructed export price methodology was not otherwise warranted. We based EP on the packed, free on board (“FOB”) price to unaffiliated purchasers in the United States.

We adjusted the reported gross unit price, where applicable, for billing adjustments. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These deductions included, where appropriate, freight incurred in transporting merchandise to the warehouse and/or to the port, domestic brokerage and handling, international freight, U.S. port charges, agriculture certificates, and U.S. brokerage and handling.

We did not include in our calculation certain sales listed in the U.S. sales database because we had reason to believe the supplier knew, or should have known, that the ultimate destination of the merchandise was the United States. For further discussion, *see Memorandum to the File, “Preliminary Results Calculation Memorandum for Arlavan, S.A.”*, dated July 31, 2006 (“*Arlavan Preliminary Calculation Memorandum*”), which is on file in the CRU.

Because Arlavan is a reseller, and not a producer, of merchandise, we classified the expenses that were reported by Arlavan as general and administrative (“G&A”) expenses and financial expenses as indirect selling expenses. *See Arlavan Preliminary Calculation Memorandum*.

#### (C) Olmue

We calculated EP because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because constructed export price methodology was not otherwise warranted. We based EP on the packed, cost and freight (“C&F”) price to unaffiliated purchasers in the United States.

We adjusted the reported gross unit price, where applicable, for billing

adjustments and interest revenue. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where appropriate, inland freight incurred in transporting merchandise to the Chilean port, brokerage and handling, and international freight.

We have reclassified certain commissions paid by Olmue as indirect selling expenses. These commissions were not sale-specific payments to a selling agent working on behalf of Olmue. Rather, these expenses related to general selling services (*i.e.*, not directly facilitating sales) performed by another company. Therefore, certain reported commissions are properly classified as indirect selling expenses. *See Verification Report – Olmue* at section III.A. (Corporate Structure and Organization), section XI.C.1. (Commissions), and section XI.D.1. (Indirect Selling Expenses); *see also Memorandum to the File, “Preliminary Results Calculation Memorandum for Fruticola Olmue S.A.”*, dated July 31, 2006 (“*Olmue Preliminary Calculation Memorandum*”), which is on file in the CRU.

As a result of verification findings, we revised the following fields in Olmue’s U.S. sales listing: quantity, inland freight, commissions, indirect selling expenses, selling agent, date of payment, credit expenses, and billing adjustments. *See Olmue Preliminary Calculation Memorandum; see also Verification Report – Olmue*.

#### (D) SANCO

We calculated EP because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because constructed export price methodology was not otherwise warranted. We based EP on the packed, FOB or FOB plus duty paid price to unaffiliated purchasers in the United States.

We adjusted the reported gross unit price, where applicable, for billing adjustments. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included freight incurred in transporting merchandise to the warehouse or to the Chilean port, warehousing, domestic brokerage and handling, U.S. brokerage and handling, and U.S. customs duties.

For its U.S. sales, SANCO reported the bill of lading date as the shipment date. As a result of verification findings, we have revised the shipment date to match the issuance date of the dispatch note, because that is when the

merchandise under review was shipped from the plant or warehouse to the Chilean port. We also recalculated U.S. imputed credit expenses using the revised date of shipment. For further discussion, see Memorandum to the File, "*Preliminary Results Calculation Memorandum for SANCO, S.A.*" dated July 31, 2006 ("*SANCO Preliminary Calculation Memorandum*"), which is on file in the CRU. See also *Sales Verification Report – SANCO*.

As a result of verification findings, we have revised the direct selling expenses, indirect selling expenses, warehousing expenses, inland freight expenses incurred in Chile, brokerage and handling expenses incurred in Chile, and U.S. customs duties for certain U.S. sales. See *SANCO Preliminary Calculation Memorandum*. See also *Sales Verification Report – SANCO*.

(E) *Valle Frio*

We calculated EP because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because constructed export price methodology was not otherwise warranted. We based EP on the packed, FOB price to unaffiliated purchasers in the United States.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where appropriate, inland freight incurred in transporting merchandise to the Chilean port, domestic brokerage and handling expenses, and thermograph expenses.

(F) *Valles Andinos*

We calculated EP because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because constructed export price methodology was not otherwise warranted. We based EP on the packed, FOB or C&F price to unaffiliated purchasers in the United States.

We adjusted the reported gross unit price, where applicable, for billing adjustments. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included freight incurred in transporting merchandise from the plant to the Chilean port and domestic brokerage and handling.

For its U.S. market sales, Valles Andinos reported the bill of lading date as the shipment date. We have revised the shipment date to match the issuance date of the dispatch note, because that is when the merchandise under review was shipped from the plant or

warehouse to the Chilean port. We also recalculated U.S. imputed credit expenses using the revised date of shipment. For further discussion, see Memorandum to the File, "*Preliminary Results Calculation Memorandum for Valles Andinos, S.A.*," dated July 31, 2006 ("*Valles Andinos Preliminary Calculation Memorandum*"), which is on file in the CRU.

Because Valles Andinos is principally a reseller, we classified the expenses that were reported by Valles Andinos as general and administrative expenses and financial expenses as indirect selling expenses. See *Valles Andinos Preliminary Calculation Memorandum*.

(G) *VBM*

We calculated EP because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because constructed export price methodology was not otherwise warranted. We based EP on the DDP price to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These deductions included, where appropriate, domestic inland freight, domestic brokerage and handling, pre-sale warehousing expenses, international freight, and U.S. customs duties. We adjusted the reported gross unit price, where applicable, for billing adjustments.

**Normal Value**

*A. Home Market Viability*

Section 773(a)(1) of the Act directs that NV 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. The Act 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.

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Arlavan, Olmue, SANCO, Valle Frio, and Valles Andinos reported that their

home market sales of IQF red raspberries during the POR were less than five percent of their sales of IQF red raspberries to the United States. Therefore, these five respondents did not have viable home markets for purposes of calculating NV. As its largest third country market, Arlavan reported Germany, Olmue and Valle Frio reported France, SANCO reported the United Kingdom, and Valles Andinos reported Canada. In all instances, sales to the third countries exceed five percent of sales to the United States. Accordingly, for purposes of calculating NV, Arlavan reported its sales to Germany, Olmue and Valle Frio reported their sales to France, SANCO reported its sales to the United Kingdom, and Valles Andinos reported its sales to Canada. In future administrative reviews, the Department will consider re-examining the selection of France as Valle Frio's comparison market. In particular, the Department will evaluate the comparability of foreign-like product to the subject merchandise.

VBM and Vitafoods reported that their home market sales of IQF red raspberries during the POR were more than five percent of their sales of IQF red raspberries to the United States. Therefore, VBM's and Vitafoods' home markets were viable for purposes of calculating NV. Accordingly, VBM and Vitafoods reported their home market sales.

To derive NV for all respondents, we made the adjustments detailed in the "Calculation of Normal Value Based on Comparison Market Prices" and "Calculation of Normal Value Based on Constructed Value" sections, below.

*B. Cost of Production Analysis*

In the most recently completed segment of the proceeding at the time of initiation (*i.e.*, the first administrative review), the Department found that SANCO and Olmue made sales in the comparison market at prices below the cost of producing the merchandise and excluded such sales from the calculation of NV. Therefore, the Department determined that there were reasonable grounds to believe or suspect that IQF red raspberry sales were made in the comparison market at prices below the cost of production ("COP") in this administrative review for SANCO and Olmue. See section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a COP inquiry for these two respondents.

The petitioners made an allegation of sales below the COP with respect to Arlavan (December 12, 2005), Valles Andinos (December 21, 2005), Vitafoods

(December 21, 2005), VBM (December 21, 2005), and Valle Frio (March 20, 2006, supplemented on March 29, 2006). We found that the petitioners' allegations provided the Department with a reasonable basis to believe or suspect that sales in the comparison market by Arlavan, Valles Andinos, Vitafoods, and VBM were made at prices below the COP. Accordingly, for these companies, we initiated an investigation to determine whether their comparison market sales of IQF red raspberries were made at prices below the COP during the POR. See Memoranda to Susan H. Kuhbach, Director, on the following dates: January 12, 2006 (Arlavan), January 17, 2006 (Valles Andinos), January 24, 2006 (Vitafoods), and January 20, 2006 (VBM).

For Valle Frio, we found that the petitioners' allegation did not provide the Department with a reasonable basis to believe or suspect that sales in the comparison market were made at prices below the COP. Therefore, we did not initiate an investigation to determine whether Valle Frio's comparison market sales of IQF red raspberries were made at prices below the COP during the POR. See Memorandum to Susan H. Kuhbach, Director, "*Petitioners' Allegation of Sales Below the Cost of Production by Sociedad Agroindustrial Valle Frio, Ltda.*," dated April 19, 2006.

Because Valles Andinos and Arlavan are trading companies, we sent cost questionnaires to Valles Andinos' and Arlavan's suppliers. We chose the two largest suppliers for each respondent. For Valles Andinos, we received complete questionnaire responses from both suppliers. For Arlavan, we received a complete questionnaire from one supplier (Agricola San Antonio Limitada ("San Antonio")); however, as explained below, we have not received complete, useable information from the other supplier (DICAF Exportaciones Limitada ("DICAF")).

The questionnaires we sent to the Partner and General Manager of DICAF were returned as undeliverable. See Memorandum to File, "*Attempts to Deliver Section D Questionnaire in the Antidumping Administrative Review of Individually Quick Frozen Red Raspberries from Chile*," dated April 21, 2006. In its May 15, 2006, SQR at 1, Arlavan indicated that DICAF was bankrupt, and Arlavan provided contact information for Agroindustrial del Maule ("Agromaule"), which although separately incorporated has, effectively, the same familial ownership as DICAF. The Department, therefore, sent a cost questionnaire to Agromaule in early April 2006 and received a response from

Agromaule's "legal representative" on May 1, 2006, which was mostly incomplete and unusable to the Department. The Department did, however, receive from Arlavan and Agromaule several supplemental responses that assisted the Department in further understanding the nature of the DICAF-Agromaule relationship. According to these responses, by August 2004, DICAF was unable to purchase its own raw materials because the Chilean tax authorities prohibited the company from doing so due to the fact that it was in arrears on taxes owed. See *Agromaule's May 1, 2006, section D response* at 1. According to Arlavan and Agromaule, the familial owners of DICAF formed Agromaule in September 2004 to make a "fresh startup" as DICAF was preparing for bankruptcy. See *id.* at 1 and *Agromaule's May 1, 2006, section D response* at 1. Agromaule purchased raw materials and then paid DICAF to process them. Although DICAF and Agromaule are legally two separate entities, the products, services, and personnel, as well as contact information, were the same. See *Arlavan's May 15, 2006, SQR* at 1.

According to Arlavan, beginning with the 2004-05 growing season, the contacts at DICAF began having Arlavan contract for product purchases using Agromaule forms and making payments to Agromaule. Arlavan thus began working with Agromaule, receiving the same service and products it had received from DICAF – and working with the same people until the end of the 2004-2005 growing season, at which time Arlavan was informed that Agromaule would no longer be operating and would no longer be able to supply Arlavan with products. See *id.* at 1.

Despite the Department's issuance of several supplemental questionnaires, Agromaule failed to provide the cost information required by the Department for these preliminary results. As a result, the Department has applied adverse facts available to calculate a COP for DICAF/Agromaule. See "Individual Company Adjustments" and "Use of Facts Otherwise Available" sections, below.

#### 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for G&A expenses, financial expenses, and comparison market packing costs, where appropriate.

We note that several respondents reported a blended cost for purchases of raw raspberries, *i.e.*, they reported a

single price for purchases of whole and broken berries rather than different prices for the whole and broken berries. The Department is considering whether, in such instances, it is appropriate to compute these companies' berry costs using an alternative methodology and we intend to solicit additional information from these parties after the preliminary results.

#### 2. Individual Company Adjustments

We relied on the COP data submitted by each respondent in its cost questionnaire responses except in specific instances where, based on our review of the submissions and our verification findings, we believe that an adjustment is required, as discussed below.

##### (A) Vitafoods

We are continuing to analyze Vitafoods' July 24, 2006, SQR, and may have further modifications to its cost data for the final results.

1) We have revised Vitafoods' G&A expenses to include certain proprietary non-operating expenses. See *Vitafoods Preliminary Calculation Memorandum*.

2) We have revised Vitafoods' financial expenses to include a loss in currency transactions. Because these expenses relate to currency swap and other similar agreements, they are properly classified as financial expenses. See *Vitafoods Preliminary Calculation Memorandum*.

##### (B) Arlavan

We calculated a weighted-average COP using the COP of Arlavan's one responding supplier (San Antonio) for purchases from San Antonio and all other suppliers from whom information was not requested. As explained above, we used adverse facts available for the COP of the non-responsive supplier (DICAF/Agromaule). See "Use of Facts Otherwise Available" section, below. Specifically, we calculated the simple average of the three highest COPs of all respondents' suppliers and used this as the DICAF/Agromaule COP. The suppliers' COPs were weighted by the quantities of subject merchandise purchased from them by Arlavan.

##### (C) Olmue

For one non-organic meeker control number for which Olmue did not report costs, as facts available, we assigned the reported costs of other non-organic meeker control numbers to the above-mentioned control number. See "Facts Otherwise Available" section, below; see also *Olmue Calculation Memorandum*.

##### (D) SANCO

1) SANCO valued whole quality raspberries bagged as non-whole frozen raspberry product at the average purchase price of non-whole quality

fresh raspberries rather than the average purchase price of whole quality fresh raspberries. We revalued whole quality raspberries bagged as non-whole frozen raspberry product at the average purchase price of whole quality raspberries. In addition, a portion of SANCO's freight relating to the transportation of fresh raspberries was omitted from the reported costs. Therefore, we added this portion of freight to the purchase price of fresh raspberries. Finally, we incorporated the two minor corrections to the raw material cost SANCO presented at verification (*i.e.*, transcription errors made in the preparation of the purchase list and overstatement of the amount purchased).

2) SANCO reported the G&A and financial expenses of its affiliated frozen fruit processor, Agroindustria Sagrada Familia Ltda. ("ASF"), based on the POR and included these expenses in the variable overhead cost. To adjust for this, we first removed the G&A and financial expenses from variable overhead. We then calculated G&A and financial expense ratios based on ASF's 2004 financial statements and applied the ratios to SANCO's conversion costs (*i.e.*, direct labor, variable overhead, fixed overhead).

3) We adjusted SANCO's G&A expense ratio to include certain depreciation expenses in the numerator and exclude these same depreciation expenses from the denominator. We also included in the numerator of the G&A expense ratio a loss on sales of fixed assets. *See* Memorandum from Frederick W. Mines to Neal Halper, Director Office of Accounting, "Cost of Production and Constructed Value Adjustments for the Preliminary Results," dated July 31, 2006.

(E) *Valles Andinos*

We made the following adjustments to the suppliers' reported COP data for non-organic frozen raspberry products:

1) For one supplier, we recalculated direct labor expenses. For further discussion, *see Valles Andinos Preliminary Calculation Memorandum*.

2) For the same supplier, we revised the allocation percentage applied to packing materials, variable overhead, and fixed overhead. *Id.*

3) We calculated each supplier's COP based on the total cost of manufacture ("COM") of the subject merchandise, general and administrative expenses, and financial expenses. The suppliers' COPs were weighted by the quantities of subject merchandise purchased from them by Valles Andinos. We weight-averaged the suppliers' calculated COPs on the basis of Valles Andinos's finished product purchases by quantity.

*Id.*; *see also Valles Andinos's February 9, 2006, SQR*, at pages 1–2.

We made the following adjustment to Valles Andinos's reported COP data for organic frozen raspberry products:

For the small amount of organic frozen raspberry products that Valles Andinos produced pursuant to a tolling arrangement, we based the COM on Valles Andinos's reported direct materials and processing costs. *See Valles Andinos's July 12, 2006, SQR* at page 1; *see also Valles Andinos Preliminary Calculation Memorandum*.

(F) *VBM*

We did not make any changes.

We compared the adjusted weighted-average COP for each respondent to its comparison market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales were made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities 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 comparison market prices. The prices were exclusive of any applicable billing adjustments, movement expenses, direct selling expenses, commissions, indirect selling expenses, and packing expenses.

3. 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 POR 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. Because we compared prices to the POR 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.

For Olmue, Valles Andinos, VBM, and Vitafoods, we found that more than 20 percent of the comparison market sales of IQF red raspberries within an extended period of time were made at prices less than the COP. Further, the prices at which the merchandise under review was sold did not provide for the recovery of costs within a reasonable

period of time. Therefore, we disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. For those U.S. sales of IQF red raspberries for which there were no useable comparison market sales in the ordinary course of trade, we compared EPs to the CV 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 Comparison Market Prices*

We determined price-based NVs for each company as follows. For all respondents, we made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses consistent with section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale ("COS") in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the "commission offset"). Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, or (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology. Company-specific adjustments are described below.

(A) *Vitafoods*

We based comparison market prices on the packed prices to unaffiliated purchasers in Chile. We adjusted the starting price by the amount of billing adjustments and movement expenses, including inland freight expenses from the plant to the distribution warehouse, warehousing, and inland freight expenses from distribution warehouse to the customer. We made COS adjustments by deducting direct selling expenses incurred for home market sales (*i.e.*, credit expenses and direct selling expenses) and adding U.S. direct selling expenses (*i.e.*, credit expenses).



*See Vitafoods Preliminary Calculation Memorandum.*

Because the denominator used in calculating Vitafoods' indirect selling expenses ratio is net of billing adjustments, we have applied the calculated indirect selling expenses ratio to Vitafoods' gross unit price net of billing adjustments. *See Vitafoods' July 3, 2006, supplemental questionnaire response* at page 4.

(B) *Arlavan*

We based comparison market prices on the packed prices to unaffiliated purchasers in Germany. We adjusted the starting price, where applicable, by the amount of movement expenses, including inland freight to the warehouse, warehousing, inland freight from distribution center to the Chilean port, Chilean brokerage and customs fees, agriculture certificates, temperature control recorders during transit, port charges, and international freight. We made COS adjustments by deducting direct selling expenses incurred for comparison market sales (e.g., commissions, external quality control/biological testing, courier charges, and credit expenses) and adding U.S. direct selling expenses (e.g., commissions, external quality control/microbiological testing, courier charges, and credit expenses). *See Arlavan Preliminary Calculation Memorandum.*

Because Arlavan is a reseller, and not a producer, of merchandise, we classified the expenses that were reported by Arlavan as G&A expenses and financial expenses as indirect selling expenses. *See Arlavan Preliminary Calculation Memorandum.*

(C) *Olmue*

We based comparison market prices on the packed, C&F price to unaffiliated purchasers in France. We adjusted the reported gross unit price, where applicable, for billing adjustments. We adjusted the starting price by the amount of movement expenses, including inland freight to the Chilean port, international freight, and brokerage and handling. We made COS adjustments by deducting direct selling expenses incurred for comparison market sales (e.g., microbiological/pesticide testing, commissions, credit expenses) and adding U.S. direct selling expenses (e.g., microbiological/pesticide testing, commissions, credit expenses). *See Olmue Preliminary Calculation Memorandum.*

We have reclassified certain commissions paid by Olmue as indirect selling expenses. These commissions were not sale-specific payments to a selling agent working on behalf of Olmue. Rather, these expenses related to general selling services (i.e., not directly

facilitating sales) performed by another company. Therefore, certain reported commissions are properly classified as indirect selling expenses. *See Verification Report – Olmue* at section III.A. (Corporate Structure and Organization), section XI.C.1. (Commissions), and section XI.D.1. (Indirect Selling Expenses); *see also Olmue Preliminary Calculation Memorandum.*

As a result of verification findings, we revised the following fields in Olmue's French sales listing: inland freight, commissions, indirect selling expenses, selling agent, date of payment, credit expenses, billing adjustments, and date of shipment. *See Olmue Preliminary Calculation Memorandum; see also Verification Report – Olmue.*

(D) *SANCO*

We based comparison market prices on the packed prices to unaffiliated purchasers in the United Kingdom. We adjusted the starting price by the amount of billing adjustments and movement expenses, including inland freight to the warehouse, warehousing, inland freight to the Chilean port, domestic brokerage and handling, and international freight. We made COS adjustments by deducting direct selling expenses incurred for comparison market sales (e.g., credit expenses, microbiological testing) and adding U.S. direct selling expenses (e.g., credit expenses, microbiological testing).

For its comparison market sales, SANCO reported the bill of lading date as the shipment date. As a result of verification findings, we have revised the shipment date to match the issuance date of the dispatch note, because that is when the foreign-like product was shipped from the plant or warehouse to the Chilean port. We also recalculated comparison market imputed credit expenses using the revised date of shipment. *See SANCO Preliminary Calculation Memorandum; see also Sales Verification Report – SANCO.*

As a result of verification findings, we have revised the sale dates, payment dates, direct selling expenses, indirect selling expenses, warehousing expenses, and brokerage and handling expenses incurred in Chile for certain comparison market sales. *See SANCO Preliminary Calculation Memorandum; see also Sales Verification Report – SANCO.*

(E) *Valle Frio*

We based comparison market prices on the packed prices to unaffiliated purchasers in France or sold to an unaffiliated purchaser for exportation to France. We adjusted the starting price by the amount of movement expenses, including, where appropriate, inland freight from the plant to the port,

international freight, container handling/brokerage charges, and thermograph expenses. We made COS adjustments by deducting direct selling expenses incurred for comparison market sales (e.g., credit expenses, commissions, microbiological/pesticide testing, label expenses) and adding U.S. direct selling expenses (e.g., credit expenses, microbiological/pesticide testing, label expenses). *See Memorandum to the File, "Preliminary Results Calculation Memorandum for Sociedad Agroindustrial Valle Frio Ltda.," dated July 31, 2006 ("Valle Frio Preliminary Calculation Memorandum"),* which is on file in the CRU.

(F) *Valles Andinos*

We based comparison market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price by the amount of movement expenses, including inland freight from the plant to the Chilean port, domestic brokerage and handling, and international freight. We made COS adjustments by deducting direct selling expenses incurred for comparison market sales (e.g., credit expenses, bank fees, and courier fees) and adding U.S. direct selling expenses (e.g., credit expenses, bank fees, and courier fees). *See Valles Andinos Preliminary Calculation Memorandum.*

For its comparison market sales, Valles Andinos reported the bill of lading date as the shipment date. We have revised the shipment date to match the issuance date of the dispatch note, because that is when the foreign-like product was shipped from the plant or warehouse to the Chilean port. We also recalculated comparison market imputed credit expenses using the revised date of shipment. *See Valles Andinos Preliminary Calculation Memorandum.*

Because Valles Andinos is principally a reseller, we classified the expenses that were reported by Valles Andinos as general and administrative expenses and financial expenses as indirect selling expenses. *See Valles Andinos Preliminary Calculation Memorandum.*

(G) *VBM*

We based comparison market prices on the packed prices to unaffiliated purchasers in VBM's home market. We adjusted the starting price by the amount of movement expenses, including inland freight to the warehouse and warehousing. We made COS adjustments by deducting direct selling expenses incurred for comparison market sales (e.g., credit expenses) and adding U.S. direct selling expenses (e.g., credit expenses, bank fees, stack reservations, postage and

handling charges, and microbiological testing expenses). See *VBM Preliminary Calculation Memorandum*.

#### *D. Calculation of Normal Value Based on Constructed Value*

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for IQF red raspberries for which we could not determine the NV based on comparison market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on the CV.

Section 773(e) of the Act provides that the CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general and administrative ("SG&A") expenses, profit, and U.S. packing costs. For Arlavan, Olmue, SANCO, and Valles Andinos, we calculated the cost of materials and fabrication based on the methodology described in the "Cost of Production Analysis" section, above.

For Valle Frio, we calculated CV based on the sum of the cost of materials and fabrication plus an amount for G&A, and financial expenses in accordance with section 773(e) of the Act. We relied on the costs reported by Valle Frio and Framparque, except that we reclassified Framparque's G&A and financial expenses from overhead as they reported them, to G&A and financial expenses. See Memorandum from Angela Strom to Neal Halper, Director Office of Accounting, "Constructed Value Calculation Adjustments for the Preliminary Results - Sociedad Agroindustrial Valle Frio Ltda.," dated July 31, 2006.

We based SG&A expenses and profit for the above-mentioned respondents on the actual amounts incurred and realized by the respondents 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 used U.S. packing costs as described in the "Export Price" section, above.

We made adjustments to CV 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 comparison market sales from, and adding U.S. direct selling expenses to, CV.

#### *E. Use of Facts Otherwise Available*

Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title. In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, (1994) ("SAA") at 870. Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1377 (Fed. Cir. 2003); *Antidumping Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997). In this case, we have found that an adverse inference is appropriate for DICAFAgromaule, a supplier of Arlavan, because DICAFAgromaule did not act to the best of its ability to report the data requested by the Department. See *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Individually Quick Frozen Red Raspberries from Chile*, 69 FR 47869 (Aug. 6, 2004) (unchanged in final); cf. *Shandong Huarong Mach. Co., Ltd. v. United States*, Slip Op. 06-88 (CIT June 9, 2006) ("court agrees . . . that Company C, as a foreign manufacturer of subject merchandise, is an interested party under § 1677(9)(A)").

The Department acknowledges record evidence that Chilean courts declared

DICAFA bankrupt in August 2005, and that Agromaule ceased operations in 2005. See August 27, 2005, Official Gazette of bankruptcy declaration decision and Taxpayer Situation Information Statement in *Arlavan's May 15, 2005, SQR* at Exhibit SD-2. See also Agromaule's current Taxpayer Situation Information Statement at Exhibit SD-1 showing no tax authority stamps since 2005. However, the Department finds that statements submitted by Arlavan and Agromaule regarding the requested cost information do not reconcile and make the use of adverse facts available appropriate.

First, Arlavan submitted a letter to the Department indicating that Agromaule's legal representative was willing to cooperate with the Department's review, but did not have the requisite information needed to respond to the Department's questionnaire. See *Arlavan's May 1, 2006, Letter in Reference to Agroindustrial del Maule's section D response*. According to Arlavan, Agromaule's records were taken from the company by Agromaule's accounting consultant, who also ran Agromaule's daily operations. He left the company in May 2005. See *Agromaule's May 1, 2006, section D response* at 2. This same accounting consultant had also been the General Manager and part owner of DICAFA. We note, however, that there are close familial relationships between Agromaule and DICAFA. See *Agromaule's May 15, 2006, section D questionnaire response* at 3 and *Agromaule's June 5, 2006, supplemental section D questionnaire* at 2.

Arlavan's Assistant General Manager also contacted Agromaule's former accounting consultant directly. Contrary to the assertions of Agromaule's legal representative, the consultant maintained that he had no corporate records or documents of either Agromaule or DICAFA. The consultant refused to put this in writing and would not respond to an email request by Arlavan. See *May 1, 2006, Letter from Arlavan in reference to Agroindustrial del Maule's section D response*.

These conflicting stories are difficult to reconcile, given the close relationship between DICAFA and Agromaule. As noted above, the familial owners of DICAFA formed Agromaule as DICAFA was preparing to enter bankruptcy.

Given the close relationship between DICAFA and Agromaule, including the direct relationship between the accounting consultant/GM/Partner of DICAFA and the President of Agromaule, and the inconsistencies regarding the whereabouts of the corporate records, the Department preliminarily



determines that DICAF/Agromaule did not act to the best of its ability and adverse inference is warranted. Therefore, we have applied adverse facts available pursuant to section 776(a)(2)(D) of the Act.

The Department is requesting further documentation from Agromaule regarding the location of the books and records and Agromaule's ability to respond to the Department's questionnaire.

The Department is applying neutral facts available to one of Olmue's reported control numbers for which it did not provide costs. Olmue noted that it did not have cost data for this control number because it was not produced during the POR. *See Olmue's February 21, 2006, supplemental questionnaire response* at page 18. Accordingly, we have applied facts available for the costs of this control number. Olmue's reported costs demonstrate that variety and cultivation type are the only product characteristics affecting Olmue's cost. Because the control number without reported costs is a non-organic meeker product, we have assigned the reported costs of other non-organic meeker control numbers to the above-mentioned control number. *See id.*; *see also Olmue Calculation Memorandum*.

#### F. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),<sup>3</sup> including selling functions,<sup>4</sup> class of customer ("customer

category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either comparison market or third country prices<sup>5</sup>), we consider the starting prices before any adjustments. When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In this review, we determined the following, with respect to the LOT, for each respondent.

##### (A) Vitafoods

Vitafoods reported a single LOT in each market, and claimed that the LOT in each of these markets was the same. Therefore, Vitafoods did not request an LOT adjustment.

We examined the information reported by Vitafoods regarding its marketing processes for its U.S. and home market sales, including customer categories and the type and level of selling activities performed. Vitafoods has reported one channel of distribution for sales to the United States. In this channel of distribution, Vitafoods arranges to get the subject merchandise to the port for export. For certain sales in this channel, Vitafoods is also the importer of record. For other sales in this channel, Vitafoods' customer is the importer of record. Because Vitafoods has reported no significant variation in the selling activities for these sales, we preliminarily find that there is a single LOT for Vitafoods' U.S. sales.

Vitafoods has reported two channels of distribution for its home market sales. In the first channel of distribution (channel 1), merchandise is transported from the processing plant to the cold storage warehouse, and then delivered to the customer's facility. In the second channel of distribution (channel 2), merchandise is transported from the processing plant to the cold storage warehouse, and then transported to the

distribution center where it is delivered to the customer. Because Vitafoods has not reported substantial differences in the selling activities for these two channels, we preliminarily find that there is a single LOT for Vitafoods' home market sales.

Comparing sales in Vitafoods' two markets, there is no indication that there were significantly different selling activities or sales process activities. Although Vitafoods did make billing adjustments (*i.e.*, discounts) on home market sales, these discounts are granted to each category of customers and do not significantly increase the level of selling activities performed by Vitafoods. Vitafoods did not provide technical services or post-sale warehousing, or incur advertise for either U.S. or home market sales.

Therefore, we preliminarily find that a single LOT exists in both the U.S. and home markets, and that Vitafoods' U.S. and home market sales were made at the same LOT.

##### (B) Arlavan

Arlavan reported a single LOT in each market, and claimed that the LOT in each of these markets was the same. Therefore, Arlavan did not request an LOT adjustment.

We examined the information reported by Arlavan regarding its marketing processes for its comparison market and U.S. sales, including customer categories and the type and level of selling activities performed. Arlavan reported two channels of distribution in the third country market and in the United States. In the first channel of distribution (channel 1), merchandise purchased by Arlavan is transported directly from the supplier facility to the port for shipment. In the second channel of distribution (channel 2), merchandise is purchased from a supplier and transported to cold storage. Then, the merchandise is sold and shipped by Arlavan to the port of exit. In channels 1 and 2, Arlavan is responsible for arranging transportation to the port in Chile. For sales to the third country, Arlavan is responsible for arranging international freight. For sales to the United States, Arlavan is responsible for arranging international freight in a limited number of sales. Arlavan sells to the same customer types in channels 1 and 2. Based on this, we preliminarily find that a single LOT exists in both the U.S. and third country markets.

Comparing sales in Arlavan's two markets, there is no indication that there were significantly different selling activities or sales process activities. Although, due to clerical errors, Arlavan did make billing adjustments for U.S.

<sup>3</sup> The marketing process in the United States and comparison market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered each respondent's narrative response to properly determine where in the chain of distribution the sale occurs.

<sup>4</sup> Selling functions associated with a particular chain of distribution help us to evaluate the level(s)

of trade in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

<sup>5</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

sales, these adjustments do not significantly increase the level of selling activities performed by Arlavan. Arlavan did not grant discounts or rebates, provide technical services, or post-sale warehousing, or advertise on either U.S. or comparison market sales.

Therefore, we preliminarily find that a single LOT exists in both the U.S. and comparison markets, and that Arlavan's sales to the U.S. and third country markets were made at the same LOT.

(C) *Olmue*

Olmue reported a single channel of distribution and a single LOT in the third country and U.S. markets, and claimed that its sales in both markets were at the same LOT. Therefore, Olmue did not request an LOT adjustment.

We examined the information reported by Olmue regarding its sales processes for its third country and U.S. sales, including customer categories and the type and level of selling activities performed. Olmue reported that it sold to similar categories of customer in France and the United States. In both markets, Olmue reported similar selling activities regardless of the customer category. Sales in both markets were direct shipments from the plant to the customer. Therefore, there were no differences in the channels of distribution between the two markets. Also, Olmue did not grant rebates or discounts, provide technical services or post-sale warehousing, or advertise on sales to the U.S. or third country markets.

Therefore, we preliminarily find that a single LOT exists in both the U.S. and third country markets, and that Olmue's sales to the U.S. and third country markets were made at the same LOT.

(D) *SANCO*

SANCO reported one channel of distribution in the third country market. In this channel of distribution, sales are made directly to the customer through short-term purchase orders. SANCO's customer is the importer of record. SANCO is responsible for arranging inland freight to the Chilean port and international freight. Accordingly, we preliminarily determine that the third country sales in this channel of distribution constitute a single LOT.

In the U.S. market, SANCO reported two channels of distribution. In both channels of distribution, sales are made directly to the customer through short-term purchase orders. In the first channel of distribution (channel 1), the customer is the importer of record. In the second channel of distribution (channel 2), SANCO is the importer of record. For sales in channels 1 and 2, SANCO is responsible for arranging inland freight from the plant to the

Chilean port and, on certain sales, international freight. Because the sales processes in these channel of distribution were similar, we preliminarily determine that there is a single LOT in the United States.

Comparing sales in SANCO's two markets, there is no indication that there were significantly different selling activities or sales process activities. SANCO also did not grant rebates or discounts, provide technical services or post-sale warehousing, or advertise on either U.S. or third country sales.

Therefore, we preliminarily find that a single LOT exists in both the U.S. and third country markets, and that SANCO's sales to the U.S. and third country markets were made at the same LOT.

(E) *Valle Frio*

Valle Frio reported two channels of distribution in the third country market and a single channel of distribution in the United States. Valle Frio indicated that its sales to the United States and third country markets were made at the same level of trade and it did not request a level of trade adjustment.

In the single channel of distribution for U.S. sales, merchandise is shipped directly to the customer on an FOB (Chilean port) basis. For third country sales in the first channel of distribution (channel 1), Valle Frio shipped the merchandise directly to the third country market. In the second channel of distribution (channel 2), merchandise is sold to a Chilean customer who re-sold the product to the third country. For both markets, Valle Frio sold to wholesalers and distributors, and Valle Frio's prices did not vary based on channel of distribution or customer category.

We examined the information reported by Valle Frio regarding its marketing processes for its third country and U.S. sales, including customer categories and the type and level of selling activities performed. For sales to the third country and United States, Valle Frio's selling activities were limited to receiving and processing orders, and, depending on the terms of sale, arranging for delivery to the third country. Valle Frio offered no technical assistance, inventory maintenance services, or advertising in either market for IQF red raspberries, regardless of channel of distribution. Valle Frio indicated that all export sales require that a microbiological analysis be conducted in order to ensure compliance with phytosanitary requirements. According to Valle Frio, all selling activities were performed in Chile.

Therefore, we preliminarily find that a single LOT exists in both the U.S. and third country markets, and that Valle Frio's U.S. and third country sales were made at the same LOT.

(F) *Valles Andinos*

Valles Andinos reported one channel of distribution in the comparison market. In this channel, sales are made directly to the customer. All sales are shipped from Valles Andinos's supplier's cold storage facilities in Chile to the port, and are delivered by sea freight to the comparison market customer. Accordingly, we preliminarily determine that comparison market sales are made at a single LOT.

In the U.S. market, Valles Andinos reported one channel of distribution. In this channel, sales are made directly to the customer. All sales are shipped from Valles Andinos's supplier's cold storage facilities in Chile to the port, and are delivered by sea freight to the U.S. customer. Accordingly, we preliminarily determine that the sales are made at a single LOT in the United States.

Comparing sales in Valles Andinos's two markets, there is no indication that there were significantly different selling activities or sales process activities. Valles Andinos did not grant rebates or discounts, provide technical services or post-sale warehousing, or advertise on either U.S. or third country sales.

Therefore, we preliminarily find that a single LOT exists in both the U.S. and comparison markets, and that Valles Andinos's sales in the U.S. and comparison market were made at the same LOT.

(G) *VBM*

VBM reported two channels of distribution to the United States, and two channels of distribution in the home market. VBM claimed that the LOT in each of these markets was the same, and therefore, it did not request an LOT adjustment.

We examined the information reported by VBM regarding its marketing processes for its home market and U.S. sales, including customer categories and the types and levels of selling activities performed. For U.S. sales in the first channel of distribution (channel 1), merchandise is transported from the processing plant to the cold storage warehouse before being transported to the port of shipment. For U.S. sales in the second channel of distribution (channel 2), merchandise is transported directly from the processing plant to the port for shipment. VBM reports that there are no pricing differences between these channels of distribution. In both channels of

distribution, VBM is responsible for arranging inland freight to the port in Chile. VBM is also the importer of record. VBM sells to the same types of customer in both channels of distribution. Except for small differences regarding transportation of the product from the processing plant to the cold storage warehouse, there are no differences in the selling activities for these two channels of distribution. Therefore, we preliminarily find that there is a single LOT in the U.S. market.

VBM has also reported two channels of distribution for its home market sales. For home market sales in the first channel of distribution (channel 1),

merchandise is transported from the processing plant to the cold storage warehouse, and is picked up directly from the warehouse by the customer. For home market sales in the second channel of distribution (channel 2), merchandise is picked up by the customer at the processing plant. Because VBM has not reported substantial differences in the selling activities for these two channels, we preliminarily find that there is a single LOT in VBM's home market.

Comparing sales in VBM's two markets, there is no indication that there were significantly different selling activities or sales process activities.

Therefore, we preliminarily find that a single LOT exists in both the U.S. and home markets, and that VBM's sales in the U.S. and home markets were made at the same LOT.

#### Currency Conversion

We made currency conversions in accordance with section 773A(a) of the Act based on the exchange rates in effect on the date of the U.S. sale as reported by the Federal Reserve Bank.

#### Preliminary Results of Review

We preliminarily find the following weighted-average dumping margins:

Exporter/manufacturer	Weighted-average margin percentage
Alimentos Naturales Vitafoods S.A. ....	0.00
Arlavan S.A. ....	3.03
Fruticola Olmue S.A. ....	4.98
Santiago Comercio Exterior Exportaciones S.A. ....	0.13 ( <i>de minimis</i> )
Sociedad Agroindustrial Valle Frio Ltda./Agricola Framparque ....	0.36 ( <i>de minimis</i> )
Valles Andinos S.A. ....	6.42
Vital Berry Marketing, S.A. ....	4.48

#### Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held 42 days after the publication of this notice, or the first workday thereafter. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. 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 with an electronic version included.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing, within 120 days of publication of these preliminary results.

#### Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.

Pursuant to 19 CFR 351.212(b)(1), for all sales made by respondents for which they have reported the importer of record and the entered value of the U.S. sales, we have calculated importer-specific assessment rates based on the

ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Where the respondents did not report the entered value for U.S. sales, we have calculated importer-specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates based on the estimated entered value. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department will issue appraisal instructions directly to CBP.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to

liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

#### Cash Deposit Requirements

If the final results remain unchanged from these preliminary results, no future cash deposits will be required for the subject merchandise with respect to SANCO. For all other exporters/manufacturers, the following deposit requirements will be effective upon completion of the final results of this administrative review for shipments of IQF red raspberries from Chile entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed companies will be the rates established in the final results of this administrative review (except no cash deposit will be required if its weighted-average margin is *de minimis*, *i.e.*, less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation or a previous review, the cash deposit rate will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received

an individual rate; (3) if the exporter is not a firm covered in this review, a previous review, or the original 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) if neither the exporter nor the manufacturer is a firm covered in this or any previous review will be 6.33 percent, the "all others" rate established in *Notice of Amended Final Determination of Sales at Less than Fair Value: IQF Red Raspberries from Chile*, 67 FR 40270 (June 12, 2002).

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-357-802)

#### Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina: Revocation of Antidumping Duty Order

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

**SUMMARY:** On July 1, 2005, the Department of Commerce initiated and the International Trade Commission instituted the sunset review of the antidumping duty order on light-walled welded rectangular carbon steel tubing from Argentina. The International Trade Commission determined that revocation of this antidumping duty order would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Therefore, the Department of Commerce is revoking the antidumping duty order on

light-walled welded rectangular carbon steel tubing from Argentina.

**EFFECTIVE DATE:** August 22, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Edythe Artman or Minoo Hatten, Office 5, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3931 and (202) 482-1690, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Scope of the Order

The product covered by this order is light-walled welded carbon steel pipes and tubes of rectangular (including square) cross-section having a wall thickness of less than 0.156 inch. This merchandise is classified under item number 7306.60.50.00 of the Harmonized Tariff Schedule of the United States. It was formerly classified under item number 610.4928 of the Tariff Schedules of the United States.

##### Background

On August 22, 2000, the Department of Commerce (the Department) published the continuation of the antidumping duty order on light-walled welded rectangular carbon steel tubing from Argentina resulting from the first sunset review of this order. See *Continuation of Antidumping Duty Orders: Light-Walled Rectangular Welded Carbon Steel Pipe and Tube from Argentina and Taiwan; Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, Korea, Mexico, and Taiwan; Welded Carbon Steel Pipe and Tube From India, Thailand, and Turkey; and Small Diameter Standard and Rectangular Steel Pipe and Tube from Taiwan*, 65 FR 50955 (August 22, 2000). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218, the Department initiated and the International Trade Commission (ITC) instituted the second sunset review of this order on July 1, 2005. See *Initiation of Five-year ("Sunset") Reviews*, 70 FR 38101 (July 1, 2005); *Institution of Five-year Reviews concerning the Countervailing Duty Order on Welded Carbon Steel Pipe and Tube from Turkey and the Antidumping Duty Orders on Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey*, 70 FR 38204 (July 1, 2005). As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margin likely to prevail were the order to be

revoked. See *Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina and Taiwan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 67432 (November 7, 2005). On June 29, 2006, the ITC determined pursuant to section 751(c) of the Act that revocation of the antidumping duty order on light-walled welded rectangular carbon steel tubing from Argentina would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See *Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey*, 71 FR 42118 (July 25, 2006) and ITC Publication 3867 (July 2006), entitled *Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey: Investigation Nos. 701-TA-253 and 731-TA-132, 252, 271, 409, 410, 532-534, and 536 (Second Review)*.

##### Determination to Revoke

As a result of the determination by the ITC that revocation of this antidumping duty order is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department is revoking the order on light-walled welded rectangular carbon steel tubing from Argentina, pursuant to section 751(d) of the Act. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is August 22, 2005 (*i.e.*, the fifth anniversary of the date of publication in the **Federal Register** of the notice of continuation of the antidumping duty order). The Department will notify U.S. Customs and Border Protection to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after August 22, 2005, the effective date of revocation of the antidumping duty order. The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This five-year sunset review and notice are in accordance with section 751(d)(2) and published pursuant to section 777(i)(1) of the Act.

Dated: August 1, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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