Individually Quick Frozen Red Raspberries From Chile

Investigation No. 731-TA-948 (Final)

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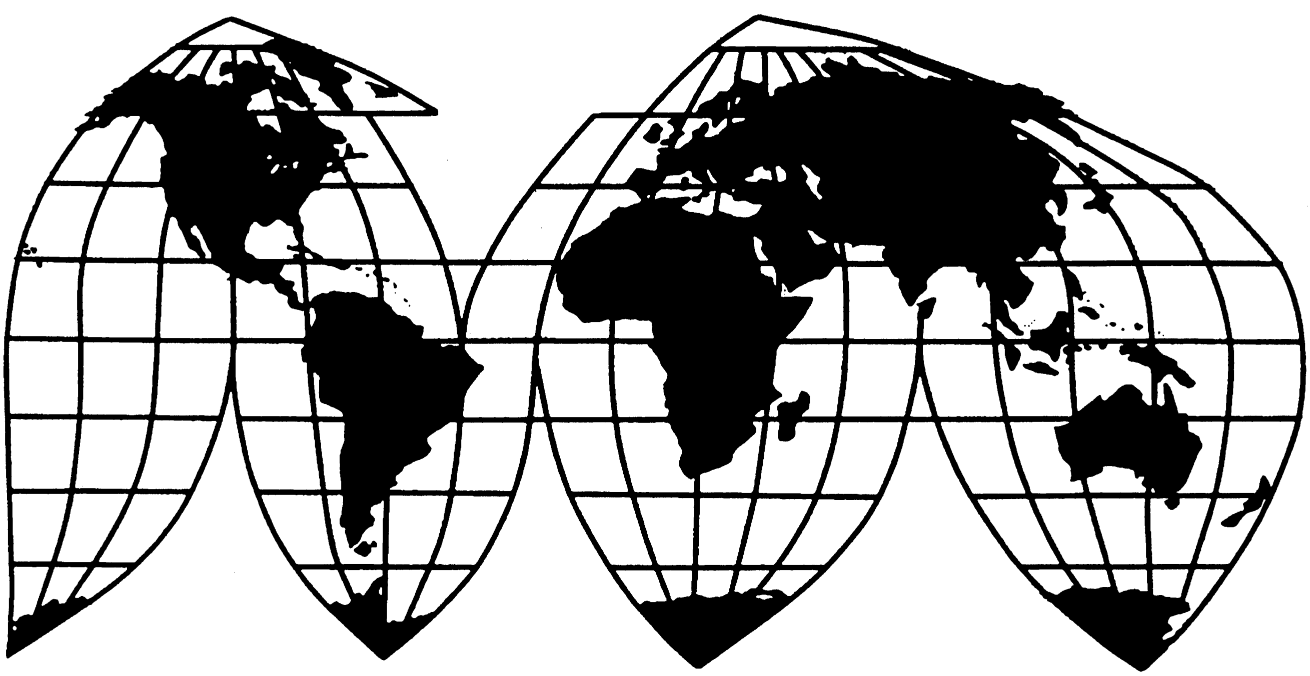
U.S. International Trade Commission



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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-948 (Final)

Individually Quick Frozen Red Raspberries from Chile

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Chile of individually quick frozen ("IQF") red raspberries,[3] provided for in subheading 0811.20.20 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted this investigation effective May 31, 2001, following receipt of a petition filed with the Commission and Commerce by the IQF Red Raspberry Fair Trade Committee, Washington, DC. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of IQF red raspberries from Chile were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of February 1, 2002 (67 *FR* 4994). The hearing was held in Washington, DC, on May 23, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Vice Chairman Jennifer A. Hillman dissenting.

[3] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as IQF red raspberries, whole or broken, 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 petition excludes fresh red raspberries and block frozen red raspberries (i.e., puree, straight pack, juice stock, and juice concentrate).

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is materially injured by reason of imports of individually quick frozen ("IQF") red raspberries from Chile that are sold in the United States at less than fair value ("LTFV").[1]

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[2] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[3] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[4]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[5] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[6] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[7] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[8]

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[1] Vice Chairman Jennifer A. Hillman dissenting. She joins sections I. A through D and II. A.

[2] 19 U.S.C. § 1677(4)(A).

[3] 19 U.S.C. § 1677(4)(A).

[4] 19 U.S.C. § 1677(10).

[5] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (CIT 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case' "). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455, n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (CIT 1996).

[6] See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

[7] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[8] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at

(continued...)

B. Product Description

Commerce's notices of initiation define the imported merchandise within the scope of this investigation as follows:

> individually quick frozen (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 petition excludes fresh red raspberries and block frozen red raspberries (i.e., puree, straight pack, juice stock, and juice concentrate).
> The merchandise subject to this investigation is classifiable under 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 scope of this investigation is dispositive.[9]

Producers process IQF red raspberries by freezing IQF-quality fresh red raspberries either in a liquid nitrogen bath or by running the berries through a "tunnel" over very cold air.[10] Customers typically use IQF red raspberries in baked goods, yogurt, and fruit drinks, or in place of fresh raspberries after defrosting.[11]

C. Domestic Like Product

In the preliminary phase of this investigation, Petitioner, IQF Red Raspberries Fair Trade Committee,[12] argued that the Commission should find one domestic like product consisting of IQF red raspberries.[13] Respondent, Asociación Gremial de Exportadores de Productos Congelados A.G. ("AGEPCO"),[14] argued that the Commission should find that organic IQF red raspberries are a domestic like product separate from non-organic IQF red raspberries.[15] The Commission, in its preliminary

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[8] (...continued)
748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[9] Initiation of Antidumping Duty Investigation: IQF Red Raspberries from Chile, 66 Fed. Reg. 34407 (June 28, 2001); Initiation of Countervailing Duty Investigation: IQF Red Raspberries from Chile, 66 Fed. Reg. 34423 (June 28, 2001).

[10] Confidential Staff Report ("CR") at I-11, Public Staff Report ("PR") at I-9. Processing is commonly performed by the raspberry growers that are also processors (grower/processors) but may also be performed by independent processors. Processing generally includes cleaning, washing, inspecting, sorting, culling, freezing, and packing. CR at I-10-11; PR at I-8-9.

[11] CR at II-3-4; PR at II-3.

[12] The IQF Red Raspberries Fair Trade Committee is an ad hoc committee whose members define themselves as 44 growers, 8 grower/processors, one (non-growing) coop/processor, and one processor of IQF red raspberries. CR and PR at III-1.

[13] Petition at 15; Petitioner's Postconference Br. at 3. The IQF Committee of the Washington Red Raspberry Commission was subsequently added as a co-petitioner. CR and PR at I-1, n.1.

[14] Respondent is an association of Chilean growers and processors of IQF red raspberries.

[15] Respondent's Postconference Br. at 7-12.

determination, found that any difference between the two products appeared limited and therefore found one domestic like product consisting of all IQF red raspberries, both organic and non-organic.[16]

In the final phase of this investigation, respondent reiterated its position that organic IQF red raspberries constitute a separate domestic like product from non-organic IQF red raspberries.[17] The petitioners maintained that the Commission's preliminary finding was correct.[18] For the reasons set forth below, we again find that both organic and non-organic IQF red raspberries constitute a single domestic like product.

1. Analysis

Physical characteristics and uses. All IQF red raspberries, whether organic or non-organic, are frozen whole red raspberries and therefore are physically indistinguishable. Petitioners asserted, and respondent did not refute, that both types look and taste the same.[19] Further, both sides agreed that organic and non-organic IQF red raspberries have the same end uses as a food product.[20]

Interchangeability. The record indicates that organic and non-organic IQF red raspberries are substantially interchangeable. Although organic food processing operations cannot use non-organic IQF red raspberries in their products, non-organic food processors can use both organic and non-organic IQF red raspberries in their products. Since the organic and non-organic IQF red raspberries are physically identical, the purchaser not requiring strict adherence to organic standards can use organic or non-organic IQF red raspberries interchangeably. Moreover, the evidence in this case demonstrates that both organic and non-organic IQF red raspberries compete with one another for shelf space at retail outlets.[21]

Manufacturing facilities, processes, and employees. Manufacturing facilities, processes, and employees for organic and non-organic IQF red raspberries overlap significantly. Organic red raspberries must be grown without the use of synthetic fertilizers and pesticides.[22] However, the processing procedures and equipment are basically the same for all IQF red raspberries. One domestic producer of organic and non-organic IQF red raspberries indicated that the same processing facilities and workers were used to harvest and process organic and non-organic IQF red raspberries.[23] The respondent's industry witnesses testified that their organic raspberries are processed in the same IQF

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[16] Individually Quick Frozen ("IQF") Red Raspberries from Chile, Invs. Nos. 701-TA-416 and 731-TA-948 (Preliminary), USITC Pub. 3441 at 5 (July 2001).

[17] See Respondent's Prehearing Br. at 3.

[18] See Petitioners' Prehearing Br. at 4.

[19] Hearing Tr. at 24 (Dorn), and Hearing Transcript at 18 (Connelly).

[20] Hearing Tr. at 24 (Dorn), and Respondent's Prehearing Br. at 7.

[21] Hearing Tr. at 92-93 (Rader); Hearing Tr. at 24-25 (Dorn). See, Greenhouse Tomatoes From Canada, USITC Pub. 3499 at 6 (April 2002) (the Commission found that evidence showing that two products compete against each other for shelf space in retail stores indicated interchangeability).

[22] Respondent pointed out that the National Organic Program ("NOP") requires that, *inter alia*, organic growers forgo the use of synthetic chemicals and prevent commingling with non-organic foods. See 7 C.F.R.§§ 205-205.699 (2002). However, during the period examined, neither this nor any other national organic regulatory scheme was in place, and therefore no uniform national standards existed that would allow a definitive comparison between the processes involved in the manufacture of organic and non-organic IQF red raspberries. See also Certain Pasta from Italy and Turkey, USITC Pub. 2977 at 6 (July 1996)(finding that distinct regulatory standards do not create a sufficient basis for a finding of separate like products).

[23] ***; Hearing Tr. at 92 (Dorn).

tunnel as non-organic raspberries, albeit after the machinery has been washed to remove any chemical residue left by non-organic produce.[24]

Channels of distribution. The record indicates that there is limited overlap in the initial channels of distribution for organic and non-organic IQF red raspberries. *** domestically produced organic IQF red raspberries are sold through distributors, while *** percent of non-organic are sold in the same channel. Most non-organic IQF red raspberries are sold directly to end users.[25] However, both types of berries can be found side by side on the shelves of specialty stores such as Trader Joe's, Whole Foods, and Wild Oats, as well as at traditional retailers such as Giant Foods.[26]

Customer and producer perceptions. The evidence is generally mixed regarding customer perceptions. Because organic IQF red raspberries have the same physical characteristics and end uses, many customers may perceive each in a similar fashion. However, customers who value the purported benefits of organic foods may perceive organic produce as distinct from non-organic. Producer perceptions of organic raspberries are distinct from those concerning non-organic IQF red raspberries, as producers readily recognize the higher costs associated with growing organic foods and the higher prices they command at market.[27]

Price. Organic IQF red raspberries tend to command a price premium over their non-organic counterparts. The President of Certified Pure Ingredients, a grower and supplier of organic IQF red raspberries, testified that he normally receives at least a 20 percent premium over non-organic raspberries.[28] Respondent presented evidence that between April 2000 and March 2001, two Chilean IQF red raspberry processors, *** and ***, received premiums on their organic product of *** and *** percent, respectively.[29]

2. **Conclusion**

We find that organic and non-organic IQF red raspberries constitute a single domestic like product. We base this decision on the fact that the two types of raspberries are identical in physical characteristics and end uses, are substantially interchangeable, and have similar manufacturing facilities, processes, and employees. These similarities outweigh the apparent price premium attached to organically grown IQF red raspberries, the additional cleaning steps involved in the processing of those berries, and some differences in channels of distribution.

D. **Domestic Industry**

The domestic industry is defined as "the producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[30] In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the

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[24] Hearing Tr. at 162 (Jobin).

[25] Hearing Tr. at 92-93 (Rader); Hearing Tr. at 24-25 (Dorn).

[26] Hearing Tr. at 25 (Dorn).

[27] Hearing Tr. at 90 (Dobbins).

[28] Hearing Tr. at 154 (Johnson).

[29] Respondent's Prehearing Br. at 11.

[30] 19 U.S.C. § 1677(4)(A).

like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[31] For the reasons discussed below, we define the domestic industry in this investigation as all domestic processors, grower/processors, and growers of IQF red raspberries.

1. Whether the Domestic Industry Includes Growers

Petitioners maintain, and the respondent did not challenge in the final phase of this investigation, that growers of IQF-quality red raspberries should be included in the domestic industry.[32] Section 771(4)(E) of the Act permits the Commission to include growers of a raw agricultural product in the domestic industry producing the processed product if:

(a) the processed agricultural product is produced from the raw agricultural product,[33] through a single continuous line of production, and

(b) there is a substantial coincidence of economic interest between the growers and producers of the processed product based upon relevant economic factors.[34]

For the reasons set forth below, we find (1) that the processed agricultural product is produced substantially from the raw agricultural product and (2) that there exists a substantial coincidence of economic interest between the growers and producers of IQF red raspberries.

a. Single Continuous Line of Production

Under the first prong of the test, a continuous line of production exists if:

(i) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

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[31] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir.1996).

[32] Petitioners' Prehearing Br. at 6-7; Respondent's Posthearing Br. at A-4 ("The petitioners have insisted that growers be included in the domestic industry definition, and we do not disagree.") Id.

[33] "Raw agricultural product" is defined as any farm or fishery product. 19 U.S.C. § 1677(E)(iv). We define the raw agricultural product as IQF-quality red raspberries given the segmentation among the growers of red raspberries and differences in the cultivation and harvesting of red raspberries according to end use: fresh market, IQF production, or block freezing. Red raspberries are grown commercially in the United States primarily in California, Washington, and Oregon. Red raspberries grown in California are largely destined for the fresh market, whereas over 95 percent of the red raspberries grown in Washington and Oregon are for processing, and about 20 percent of processed red raspberries in those two states are IQF. CR at I-6-7; PR at I–5-6. Raspberries grown for the fresh market are generally Grade A and are harvested prior to ripening. Hearing Tr. at 84 (Rader). IQF-quality red raspberries are also Grade A but are harvested when ripe, and are often harvested using special machines that pick only the ripe berries and preserve them in whole form. Hearing Tr. at 84 (Rader). Red raspberries for block freezing can be Grade B, do not have to be whole, and need not be harvested as carefully or frequently as IQF red raspberries. In contrast, it is more expensive and time-consuming to grow IQF-quality red raspberries because the berries must be Grade A, hand-picked or picked by special machine, and must remain whole. Hearing Tr. at 73-77 (Dobbins and Rader).

[34] 19 U.S.C. § 1677(4)(E)(i).

(ii) the processed agricultural product is produced substantially or completely from the raw product.[35]

When determining whether the raw agricultural product is substantially or completely devoted to the production of the processed product, the Commission generally looks to the percentage of the raw product used in the processed product. In addition, the legislative history states that "substantially or completely devoted" does not necessarily imply a fixed percentage but should be interpreted in light of the circumstances of each investigation.[36] The Commission received data in this investigation from growers and grower/processors in Washington and Oregon that account for the vast majority of U.S. production of IQF red raspberries.[37] Their objective is to grow for the IQF market because it commands a higher price than the block frozen market.[38] In the preliminary phase, we found that 66 percent of all IQF-quality red raspberries grown by the growers and grower/processors that provided data were used to produce IQF red raspberries in 2000.[39] That percentage was 46.6 percent in 2001.[40] Of the red raspberries grown by these growers that are IQF-quality when harvested, 78.8 percent were used in IQF production in 2001. In addition, the growers that are not also processors reported that 75 percent of all the red raspberries they grew in 2001 were devoted to IQF production.[41] Accordingly, we find that the raw agricultural product is substantially devoted to the production of the processed agricultural product.

The requirement that the processed agricultural product be produced substantially or completely from the raw agricultural product in order for there to be a continuous line of production is also met. IQF-quality red raspberries are the main raw material used in producing IQF red raspberries.[42] We therefore find that IQF red raspberries are produced through a single continuous line of production.

b. Substantial Coincidence of Economic Interest

In addressing coincidence of economic interest under the second prong of the test, the Act allows the Commission to consider any factors it deems relevant to the issue.[43] As noted above, the growers and grower/processors that provided data to the Commission account for virtually all IQF production in the United States, and the objective of these growers is to grow for IQF production.[44] The vast majority of IQF red raspberries are processed by growers of red raspberries.[45] The interests of these firms as both growers and processors are closely linked.

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[35] 19 U.S.C. § 1677(4)(E)(ii).

[36] H.R. Rep. 40, Part I, 100th Cong., 1st Sess (1987) (H.R. Rep. 40, Part I) at 121; S. Re. 71 at 109.

[37] CR and PR at III-1.

[38] Hearing Tr. at 73 (Rader).

[39] Preliminary Determination at Tables III-1 and III-2.

[40] CR at I-9; PR at I-8. We note that petitioners also argued that in 2000 and 2001, much of their IQF quality red raspberries had to be sold as non-IQF quality (i.e., for the bulk-frozen or straight pack market) due to market conditions. Petitioners, Prehearing Br. at 33-34.

[41] U.S. producer summation worksheet.

[42] CR and PR at I-5, V-1.

[43] 19 U.S.C. §1677(4)(E)(iii).

[44] CR and PR Table III-1; Hearing Tr. at 73.

[45] Approximately 80 percent of IQF red raspberries were produced (processed) by growers in 2001. Another *** percent were produced by a processor that was owned by a cooperative of growers. CR and PR at Table III-1.

Further, the Act instructs the Commission to "consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product . . . ."[46] When the price of the raw agricultural product fluctuates in consonance with the price of the processed product, such evidence demonstrates a significant coincidence of economic interest. The petitioners' industry witness who operates an IQF raspberry farm testified that he, and other growers like him, grow only for the IQF market, and thus, the price they can receive for their product is directly related to the market price for IQF red raspberries. Evidence on the record supports this testimony as the declining average unit sales value that growers received for their raspberries mirrored the decline in the average unit value of IQF red raspberries in each year of the period of investigation.[47]

In addition, the Act instructs the Commission to determine "whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product."[48] In past Commission decisions, when the cost of the raw product constituted a substantial percentage of the cost of the processed product, we have found that such evidence supports a finding of significant coincidence of economic interests between the growers and processors.[49] The evidence in this case demonstrates that the cost of IQF-quality red raspberries constitutes between 50 and 64 percent of the value of the finished IQF red raspberries.[50] Therefore the value of the raw products comprises a significant percentage of the value of the processed product and supports our finding that there is a substantial coincidence of economic interest between the growers and processors.

Based on the above, we include growers in the domestic industry. We note that excluding growers would still result in an affirmative determination in favor of the domestic producers.[51] The trends and results in the financial performance of the growers and grower/processors over the period are similar,[52] and the grower/processors accounted for over 80 percent of IQF-quality red raspberry production in 2001.[53]

2. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves

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[46] 19 U.S.C. §1677(4)(E)(iii)(I).

[47] CR and PR Tables VI-3 and VI-6. Average unit sales values for raspberries grown by growers were $0.79, $0.51, and $0.51 in 1999, 2000, and 2001, respectively.

[48] 19 U.S.C. §1677(4)(E)(iii)(II).

[49] See Frozen Concentrated Orange Juice From Brazil, Inv. No. 731-TA-326, USITC Pub. 1970 at 15 (April 1987)(Finding that evidence showed that 80 percent of the cost of the processed product could be attributed to the raw agricultural product).

[50] In 1999, the operating expenses for growers of IQF-quality red raspberries comprised 50 percent of the processors' operating expenses. In 2000 and 2001, the figures were 64.3 and 51.3 percent, respectively. We note that these data represent approximations, as several growers and processors failed to respond to Commission questionnaires. CR and PR Tables VI-3 and VI-6.

[51] Vice Chairman Hillman does not join this sentence.

[52] See CR and PR at Tables VI-2, VI-5, and C-4.

[53] CR and PR Table III-2 and Producer Questionnaires.

importers.[54] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[55]

*** of IQF red raspberries, imported subject merchandise from Chile in 1999 and therefore is a related party under the statute.[56] *** accounted for *** percent of U.S. IQF red raspberry production in 1999, and its imports from Chile were equivalent to *** percent of its production that same year.[57] *** did not import subject merchandise in 2000 or 2001. Data in the record indicate that *** financial performance is similar to that of a substantial portion of the domestic producers,[58] and that it does not appear to derive a significant benefit from its importation of subject product.

*** is a processor and a member of the petitioning IQF Red Raspberries Fair Trade Committee, and its interests appear to lie primarily in domestic production, not importation. It reported that it ***.[59] Accordingly, we find that appropriate circumstances do not exist to exclude *** from the domestic industry as a related party.

II. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS THAT ARE SOLD AT LESS THAN FAIR VALUE

In the final phase of an antidumping duty investigation, the Commission determines whether an industry in the United States is materially injured by reason of the subject imports under investigation.[60] In making this determination, the Commission must consider the volume of the subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[61] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[62] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic

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[54] 19 U.S.C. § 1677(4)(B).

[55] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd mem., 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the less than fair value sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd mem., 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Invs. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 at 14 n.81 (Feb. 1997).

[56] CR and PR at IV-3.

[57] CR and PR at IV-3.

[58] CR and PR Table VI-7.

[59] CR and PR at IV-3.

[60] 19 U.S.C. § 1673d(b).

[61] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[62] 19 U.S.C. § 1677(7)(A).

factors that bear on the state of the industry in the United States.[63] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[64]

A. Conditions of Competition

We find several conditions of competition pertinent to the U.S. market for IQF red raspberries.

First, demand for IQF red raspberries depends on the demand for downstream food products that use them as ingredients, along with consumer and institutional demand for retail IQF red raspberries.[65] Both petitioners and respondent indicated that demand for IQF red raspberries has been relatively stable since 1998.[66] The record indicates that apparent U.S. consumption was relatively stable, increasing from 24.5 million pounds in 1999 to 26.0 million pounds in 2000, and then decreasing to 25.9 million pounds in 2001.[67]

Second, the domestic supply of IQF red raspberries increased between 1999 and 2001. U.S. producers' capacity rose from 19.3 million pounds in 1999 to 21.1 million pounds in 2001, a net increase of 9.6 percent.[68] U.S. production rose slightly from 16.8 million pounds in 1999 to 16.9 million pounds in 2001.[69] U.S. producers' capacity utilization, however, fell from 87.2 percent in 1999 to 79.8 percent in 2001.[70]

Third, virtually all imports of IQF red raspberries are from Chile. Of those IQF red raspberries imported from Chile, approximately *** are nonsubject imports. Nonsubject imports from other countries (e.g., Canada, Macedonia, Mexico, and the Netherlands) were present in only limited quantities throughout the period examined.[71]

Fourth, both U.S. and foreign producers have the ability to process other IQF fruit and vegetables in the same facilities in which they produce IQF red raspberries, and have the ability to switch production from one product to another should market conditions warrant.[72] The equipment used for IQF processing, however, cannot be used to produce block frozen red raspberries.

Fifth, U.S. and Chilean IQF-quality fresh red raspberries are harvested in different seasons. U.S. producers harvest IQF-quality fresh red raspberries from late June through early August. In contrast, Chile has two harvests, with the first occurring between November and January, and the second occurring between March and May (with most imports entering from January through June).[73] Respondent argues that the different growing seasons make Chile an attractive alternate supply source of

[63] 19 U.S.C. § 1677(7)(C)(iii).

[64] 19 U.S.C. § 1677(7)(C)(iii).

[65] CR and PR at II-3.

[66] CR at II-4, PR at II-3.

[67] CR and PR Table C-1.

[68] CR and PR Table C-1

[69] CR and PR Table C-1.

[70] CR and PR Table C-1.

[71] CR and PR Table IV-1.

[72] Petition at Exh. 16; CR at I-5-6; PR at I-4.

[73] Between 85 to 90 percent of Chilean product entered the United States from February through June during 1999-2000 and 60 percent during the same months of 2001. CR and PR at IV-1.

IQF red raspberries for some buyers because frozen storage time is reduced.[74] However, IQF red raspberries can be stored for indefinite periods of time and, once in cold storage, may be shipped year round.[75] For this reason, seasonality plays a limited role in the pricing of IQF red raspberries as the industry is characterized by large, year-round cold storage inventories. The domestic industry held *** percent, *** percent, and *** percent of domestic shipment quantities in inventory in 1999, 2000, and 2001, respectively.[76] We note, however, that the cost of cold storage limits the length of time that IQF red raspberries can be stored profitably.[77]

Sixth, the record indicates that there is a high degree of substitutability between imported and domestically-produced IQF red raspberries.[78] In their questionnaire responses, all responding domestic producers and nine of 13 responding importers indicated that the domestic like product and subject imports are used interchangeably.[79] Domestic processors and importers both sell IQF red raspberries to distributors, food processors, and retail stores, and certain importers also purchase domestic product.[80] Some importers indicated that certain purchasers prefer IQF red raspberries from Chile because they are predominately of the Heritage variety and are hand-picked,[81] while others preferred U.S.-produced IQF red raspberries because they are of the Meeker variety and machine-picked.[82] However, nothing in the record of this investigation indicates that purchasers are willing to pay a premium based on either the horticultural variety or harvesting method.[83]

B. Volume of Subject Imports[84]

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[85]

Import data based on official Commerce statistics adjusted to exclude nonsubject imports from Chile as reported in foreign producer questionnaires show that subject imports from Chile decreased from *** million pounds in 1999, to *** million pounds in 2000, and then increased to *** million

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[74] Conf. Tr. at 71 (Button).

[75] CR at I-11 and III-3; PR at I-9 and III-3.

[76] CR and PR Table C-1. Cold storage inventories held by U.S. producers, U.S. importers, and U.S. purchasers were at significant and increasing levels during the period of investigation. They increased from 7.5 million pounds in the first quarter of 1999 to 17.6 million pounds in the fourth quarter of 2001, peaking at 22.1 million pounds in the third quarter of 2001. CR and PR Table IV-4.

[77] Hearing Tr. at 103-104 (Rader). Further, respondent asserts that some buyers believe that over time IQF red raspberries lose quality because of dehydration and crystallization. See respondent's Postconference Br. at Exh.1-7.

[78] CR at II-7; PR at II-5.

[79] CR at II-13; PR at 9.

[80] CR at II-1; PR at II-1.

[81] CR at II-13; PR at II-9.

[82] CR at II-13; PR at II-9.

[83] Conf. Tr. at 97 (Button) and 108 (Dorn), CR at II-6, PR II-4.

[84] Vice Chairman Hillman does not join the rest these views. See Separate and Dissenting Views of Vice Chairman Jennifer A. Hillman.

[85] 19 U.S.C. § 1677(7)(C)(i).

pounds in 2001.[86] The share of the U.S. market held by subject imports followed a similar trend, decreasing from *** percent in 1999, to *** percent in 2000, and then increasing to *** percent in 2001.[87] The domestic producers' share of the U.S. market increased from 59.1 percent in 1999, to 66.0 percent in 2001.[88]

Despite an overall decrease from 1999 to 2001, the volume of subject imports remained significant throughout the period examined both in absolute terms and relative to apparent U.S. consumption. The volume of subject imports ranged from *** million pounds to *** million pounds, and from *** percent to *** percent of market share over the period.[89] Given that this investigation deals with a fungible agricultural product, we find these levels to be particularly significant. Furthermore, when measured as U.S. shipments, reported subject imports from Chile increased from *** million pounds in 1999 to *** million pounds in 2001, an increase of 10.3 percent.[90] When measured as U.S. importers' sales, subject imports increased from 5.3 million pounds in 1999 to 6.0 million pounds in 2001.[91] Thus, although subject imports declined over the period, shipments of imports increased. These differing trends are consistent with an overall build-up in subject import inventory over the period.

We determine that the subject import volume, both in absolute terms and relative to consumption in the United States, is significant.[92]

C. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[93]

As noted earlier, the record indicates that the domestic like product and IQF red raspberries from Chile are highly substitutable.[94] Moreover, the record indicates that price is an important factor in purchasing decisions.[95]

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[86] CR and PR Table C-1.

[87] CR and PR Table C-1.

[88] CR and PR Table C-1.

[89] CR and PR Table C-1.

[90] U.S. importer summation worksheet.

[91] CR and PR Table IV-4.

[92] Our standard reporting period is three years and we focused our attention on the period 1999 to 2001 for which the Commission collected data. Respondent argues that the Commission should examine the volume of subject imports beginning in 1996 rather than 1999, because the volume of all red raspberries imported from Chile declined from 1996 to 2001. Petitioners, on the other hand, advocate examining the period from 1998 to 2001 because the volume of subject imports increased significantly from 1998 to 2001.

[93] 19 U.S.C. § 1677(7)(C)(ii).

[94] CR at II-7-13; PR at II-5-9.

[95] CR at II-8 and V-16 - V-22, PR at II-6 and V-8.

We find that the subject Chilean product was consistently priced lower than the domestic product over the period examined with the lowest prices occurring in 2001.[96] With respect to the four products for which competitive pricing data were reported, subject merchandise undersold the domestic like product in 31 out of 45 quarters observed, with margins of underselling averaging 22.6 percent.[97] With respect to product 1, the record indicates that subject imports undersold the domestic like product in 10 out of 12 quarters observed with margins of underselling averaging 16.3 percent.[98] The underselling margins for product 1 were greatest in the latter half of 1999 and the first half of 2000, a period which preceded a steep decline in domestic prices.[99] We find significant underselling by the subject imports during the period examined.

The prices for Chilean subject products 1, 2, and 3 declined over the period examined.[100] Significantly, the price of Chilean product 1 fell steadily over the period examined, decreasing by 27 percent. Only product 4 failed to follow this trend, as it reached its lowest price in the second quarter of 2001 before rising in the third quarter of that year.[101] Domestic prices for product 1 fell by 25 percent between the first and third quarters of 2000 and stayed depressed for the remainder of the period examined.[102] The average U.S. price dipped below the average subject import price in the third quarter of 2000, falling to $0.98 per pound.[103] The subject import price then dropped quickly to $*** per pound by the first quarter of 2001, keeping the U.S. price at under $1.00 per pound for most of 2001.[104] We note that U.S. producers must sell their product at well over $1.00 per pound to be profitable.[105] The depressing and suppressing effect of lower-priced subject imports at steady and significant volumes did not allow prices for domestic products (most notably product 1) to rise above this threshold for much of the period examined, particularly in 2001. Pricing data for the three other products examined by the Commission also indicated falling prices for the U.S. product from 1999 to 2001, as U.S. prices for products 2, 3, and 4 decreased by 19, 30, and 15 percent, respectively, with the Chilean prices for products 3 and 4 consistently below the U.S. price.[106] In addition, the average unit values of subject imports, as well as of U.S. shipments and net sales, declined from 1999 to 2001, further corroborating the declining price trend in the U.S. market.

Consequently, we find that the record indicates significant underselling and significant depression and suppression of domestic prices by subject imports during the period examined.

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[96] CR and PR Tables V-1-4 and Figures V-2-5.

[97] CR at V-14; PR at V-7.

[98] CR and PR Table V-1 and Figure V-2. For purposes of our price effects analysis, we largely relied on the pricing data collected for product 1 (see Table V-1 and Figure V-2) since this product accounted for approximately 58 percent of reported domestic shipments of IQF raspberries during the period of investigation and represents 69 percent of the pricing data for the United States and 52 percent of the data for Chile.

[99] CR and PR Table V-1.

[100] CR and PR Tables V-1-2-3.

[101] CR and PR Table V-4.

[102] CR and PR Table V-1.

[103] CR and PR Table V-1 and Figure V-2.

[104] CR and PR Table V-1 and Figure V-2.

[105] CR and PR Table VI-6.

[106] CR and PR Figures V-3, V-4, and V-5. Chilean prices for product 2 were generally flat and above the U.S. prices between 1999 and 2001. CR and PR Figure V-3. As noted above, product 1 represents the vast majority of U.S. shipments of subject imports. Product 2, by contrast, represents only 4 percent of U.S. shipments of subject imports.

D. Impact of the Subject Imports

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[107] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry." [108] [109] [110]

From 1999 to 2001, domestic producers reported relatively moderate swings in performance trends, while industry indicators reveal poor performance overall. Consolidated net sales, measured in terms of total revenue, declined 20 percent from $25.6 million in 1999 to $20.4 million in 2001.[111] Although processed fruit shipment data show an increase between 1999 and 2001 from 27.0 million pounds to 29.1 million pounds,[112] the record indicates that the U.S. producers held on to market share by significantly reducing prices. The steady and significant erosion of domestic prices during this period resulted in persistent operating income losses. In 1999 the domestic industry experienced a $948,000

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[107] 19 U.S.C. § 1677(7)(C)(iii). See also, SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885.)

[108] 19 U.S.C. § 1677(7)(C)(iii). See also, SAA at 851 and 885 and Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148.

[109] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of subject imports. 19 U.S.C. § 1677(7)(C)(iii) (V). Commerce determined that the dumping margin for subject imports of IQF red raspberries from Chile was 6.33 percent. See Commerce's Notice of Amended Final Determination, 67 FR 40270, June 12, 2002.

Respondent claims that the data from which Commerce derived its weighted average dumping margin indicate that Fruticola Olmue's only sales at LTFV were of organic raspberries, and that all of its sales of non-organic raspberries were at more than fair value ("MTFV"). For this reason, respondent urges the Commission to look behind Commerce's weighted average findings and determine that all non-organic subject imports are sold at MTFV and thus should be excluded from the Commission's injury analysis. Nothing in the statute or the legislative history authorizes the Commission to compute LTFV margins. Instead, Congress established a specific bifurcated procedure which directs Commerce to determine dumping margins and the Commission to make injury determinations. Nor is there anything in the statute or legislative history that directs the Commission to go behind the specific dumping margins provided by Commerce, under the guise of conducting a more thorough investigation. Moreover, we note that Commerce's weighted average margins factor in sales at MTFV. Thus, the margins take into account the number and volume of sales at MTFV.

[110] Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on the domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996); Anhydrous Sodium Sulfate from Canada, Inv. No. 731-TA-884 (Preliminary), USITC Pub. 3345 (Sept. 2000) at 11 n.63.

[111] CR and PR Table C-4.

[112] We note that financial data are reported on a fiscal basis and are not comparable to shipment data reported on a calendar basis. Nonetheless, we further note that the apparent difference between net sales and net shipments may be attributed to significant quantities of product held over in cold storage after sales are completed and before shipments are made.

operating income profit.[113] Yet in 2000, the domestic industry posted an operating loss of $1,392,000, and in 2001, it posted an operating loss of $552,000.[114] Further, 16 out of 22 domestic producers reported losses in 2000 and 12 of 22 domestic producers reported losses the following year.[115] The domestic industry's capacity utilization decreased from 87.2 percent in 1999 to 79.8 percent in 2001, and the industry held over 50 percent of domestic shipment quantities in inventory throughout the period.[116] As a ratio to net sales, operating losses were 7.2 percent in 2000 and 2.7 percent in 2001.[117] Industry unit costs were relatively stable throughout the period.[118] Total operating expenses did not decline proportionately with reduced sales revenue from 1999 to 2000, resulting in an operating loss which continued into 2001.[119]

We find that the decline in the industry's profitability over the period resulted from falling prices, which, as found above, were due to a significant and steady volume of low-priced subject imports which depressed and suppressed U.S. prices. We also find that the significant import volumes during the period examined forced the domestic industry to hold large quantities of merchandise in storage, thereby compounding the problem caused by the price depressing and suppressing effect of subject imports. While cold storage theoretically allows for inventory to be held indefinitely, the cost of cold storage–approximately $0.01 per pound per month–prohibits long term storage and provides incentive for producers to lower their prices in order to clear inventory.[120] Thus, as domestic prices continued to decline throughout the period examined, domestic producers held IQF red raspberries in cold storage for shorter durations in order to keep costs down. This is reflected in the consistent decline in the absolute and relative quantities of IQF red raspberries held in inventory during the period examined.

In sum, we find that the consistent presence of significant volumes of subject imports at low and declining prices led to the domestic producers' falling prices and the resultant drop in their profitability over the period examined. We therefore find that the subject imports are having a significant adverse impact on the domestic industry.

CONCLUSION

For the foregoing reasons, we determine that an industry in the United States is materially injured by reason of subject imports of IQF red raspberries from Chile that are sold in the United States at less than fair value.

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[113] CR and PR Table C-4.

[114] CR and PR Table C-4.

[115] CR and PR Table VI-1.

[116] CR and PR at Table C-1.

[117] CR and PR Table VI-1.

[118] CR and PR Tables VI-3 and VI-6. Capital expenditures in the industry increased from $1.4 million in 1999 to $2.7 million in 2000, then declined to $1.5 million in 2001. CR and PR Table VI-9. Reported depreciation amounts indicated that most of the reported capital expenditures were likely some form of capitalized maintenance or repair of existing facilities. CR at VI-16, PR at VI-9.

[119] CR and PR at VI-3 and Table C-4.

[120] As discussed supra, holding inventory for long periods is prohibited by cost. Hearing Tr. at 103-104 (Rader).

DISSENTING VIEWS OF VICE CHAIRMAN JENNIFER A. HILLMAN

Based on the record in this final investigation, I determine that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of IQF red raspberries from Chile that the U.S. Department of Commerce ("Commerce") has determined to be sold in the United States at less than fair value ("LTFV").

I join the majority's analysis of domestic like product, industry, and conditions of competition. These views address the issues of volume, price effects, impact, and threat of material injury.

II. NO MATERIAL INJURY BY REASON OF LTFV IMPORTS

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[121] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[122] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[123] In assessing whether the domestic industry is materially injured by reason of subject imports, the Commission considers all relevant economic factors that bear on the state of the industry in the United States.[124] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[125]

A. Conditions of Competition

As mentioned above, I join the majority's views concerning the conditions of competition that are pertinent to my analysis in this investigation.

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[126]

Subject import volume decreased from *** million pounds in 1999 to *** million pounds in 2000, then increased to *** million pounds in 2001, for an overall decrease of 6.6 percent from 1999 to

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[121] 19 U.S.C. § 1673d(b).

[122] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[123] 19 U.S.C. § 1677(7)(A).

[124] 19 U.S.C. § 1677(7)(C)(iii).

[125] Id.

[126] 19 U.S.C. § 1677(7)(C)(i).

2001.[127] The market share of subject imports followed the same pattern. The market share of subject imports fell from *** percent in 1999 to *** percent in 2000, then increased to *** percent in 2001.[128]

I find this pattern of subject import volume to be mixed. The absolute volume and market share of imports during all three years of the period examined could be viewed as significant. However, volume and market share decreased over the period. Moreover, domestic market share increased steadily over the period, from 59.1 percent in 1999, to 62.9 percent in 2000, to 66.0 percent in 2001.[129]

Petitioners claim that the Commission should find the volume of subject imports to be significant because total imports from Chile more than doubled from 1998 (4.2 million pounds) to 1999 (9.7 million pounds).[130] I decline to place much weight on the 1998 data for several reasons. First, 1998 is outside the Commission's three-year period examined.[131] Second, 1998 was an aberrational year, as weather difficulties caused poor harvests in both Chile and the United States.[132] Third, the 1998 data cited by petitioners include both subject imports and non-subject imports from Chile. Fourth, as respondent points out, the annual volumes of imports from Chile in 1996 and 1997 were well above the volumes of imports from Chile during each of the years of the period examined.[133] If one were to consider years prior to the period examined, it is not evident why 1998 would be a better starting point than either 1996 or 1997 in assessing the significance of the volume of subject imports.

C. <u>Price Effects of the Subject Imports</u>

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[134]

The Commission collected pricing data on four non-organic and four organic IQF red raspberry products. No domestic producers provided data on organic products. Product 1 (certain whole IQF non-organic red raspberries sold in bulk containers) accounted for a substantial majority (69 percent) of

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[127] CR and PR at IV-1.

[128] CR and PR at Table C-1.

[129] CR and PR at Table C-1. Respondent AGEPCO argues that the Commission should measure imports based on AGEPCO's own data on exports of IQF red raspberries from Chile to the United States, on grounds that official statistics include non-IQF red raspberries and are therefore overly broad. AGEPCO Posthearing Brief at Appendix, pp.9-10. I note that the Commission does not typically rely on foreign export data to measure subject imports. I also note that the use of AGEPCO's data would show a steeper decline in subject import volume than official statistics over the period examined. *See* CR and PR at Table D-7.

[130] Petitioners' Prehearing Brief at 19. *See* CR and PR at Table D-4.

[131] Although the Commission has on occasion considered periods longer than three years, petitioners did not request that the Commission seek data for 1998 in this investigation.

[132] <u>Individually Quick Frozen Red Raspberries from Chile</u>, Inv. No. 701-TA-416, 731-TA-948 (Preliminary), USITC Pub. 3441 (July 2001) at 9 n.51.

[133] Total volumes of imports of IQF red raspberries from Chile were 13.0 million pounds in 1996 and 11.5 million pounds in 1997, as compared to 9.7 million pounds in 1999. CR and PR at Table D-4.

[134] 19 U.S.C. § 1677(7)(C)(ii).

domestic pricing data, and just over half of subject import pricing data (52 percent).[135] Given the importance of this product both to U.S. producers and to subject imports of Chilean IQF red raspberries, I have placed considerable weight on the pricing data for Product 1. Domestic prices of Product 1 increased starting in the second quarter of 1999, reaching a peak in the first quarter of 2000 that was over 30 percent above first quarter 1999.[136] Domestic prices of Product 1 then returned to the original level in third quarter 2000, remained steady for several quarters, and then fell slightly lower in the second half of 2001. Subject import prices of Product 1 fluctuated within a narrow range for most of the period examined, and then fell in 2001 to a level 25-30 percent lower.

Although Product 1 shows fairly consistent underselling by subject imports, I do not find that the underselling was the reason for domestic prices falling following their initial rise. Rather, in my view it was the growing quantities of domestic shipments of Product 1 that drove prices of that product. Domestic shipments of Product 1 increased from 7.2 million pounds in 1999 to 9.7 million pounds in 2000, an increase of 35 percent. Domestic shipments of Product 1 increased further to 11.1 million pounds in 2001, for an overall increase of 55 percent in two years. By contrast, the volume of subject imports of Product 1 fell from 2.3 million pounds in 1999 to 1.4 million pounds in 2000, before rising to 2.7 million pounds in 2001, for an overall increase of 15 percent. Importantly, the quantity of subject import shipments of Product 1 fell by 38 percent in 2000, the year in which domestic prices of Product 1 fell back to early 1999 levels.[137] In my view, this information corroborates and reinforces the overall declining import volume and market share data described above in the section on Volume of Subject Imports, as well as underscoring the lack of correlation between import volumes and price trends.

Pricing Product 2 (whole IQF non-organic red raspberries sold in retail packs) was the next most significant product in terms of domestic shipments. Domestic prices of Product 2 were flat during 1999 before falling by approximately 15 percent at the beginning of 2000, and by another 6 percent at the beginning of 2001.[138] Subject import prices were flat during most of the period, and then declined slightly starting in fourth quarter 2000. However, subject import prices oversold domestic prices in all quarterly comparisons, by margins greater than 25 percent in most instances. Shipments of subject imports of Product 2 increased somewhat over the period, but remained only a small fraction of domestic shipments of that product. Given the consistent overselling and small volume of imports vis-a-vis domestic product, I conclude that subject imports were not responsible for any domestic price declines of Product 2.

The remaining two products for which domestic pricing data were supplied (Products 3 and 4) show somewhat erratic pricing patterns, but do generally show domestic price declines and underselling by subject imports.[139] However, the volume of domestic shipments of these two products represents only 3.9 percent of domestic pricing data. In my view, this volume is too small to support the conclusion that subject imports depressed domestic prices to a significant degree.[140]

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[135] CR at V-5, PR at V-4. Product 1 represented 58 percent of reported domestic shipments over the period examined. *Compare* CR and PR at Table V-1 *with* CR and PR at Table III-3.

[136] CR and PR at Table V-1.

[137] Petitioners inappropriately seek to augment the volume of subject import shipments of Product 1 by including data of a firm that reported prices of a different product (***) and data of a firm that acted as a trader for another firm whose data are already included (***). *See* Petitioners' Final Comments at 6 n.19.

[138] CR and PR at Table V-2.

[139] CR and PR at Tables V-3-4.

[140] I also note that respondent has asserted that domestic prices for Product 4 (crumbled IQF red raspberries) are affected by the price of straight pack, a non-IQF product that is priced lower than IQF crumbles. It asserts that the two products are sold to industrial users for the same general uses (*e.g.*, purees, juices). AGEPCO Prehearing Brief

(continued...)

I have considered petitioners' argument that the influx of subject imports starting in 1999 led to higher inventory levels that depressed prices.[141] Cold storage stocks of IQF red raspberries in the United States appear to follow a yearly pattern in which they increase substantially in July/August as a result of the U.S. harvest and then are drawn down over the course of the next 12 months. Our data on cold storage stocks run from 1998 through mid-2002.[142] These data show that cold storage stocks were at their lowest level in mid-1999, and then increased substantially as a result of the U.S. harvest in 1999, to a level higher than the same months in 1998. I find this increase in 1999 reflects the natural replenishing of cold storage stocks following the atypical occurrence of a poor 1998 harvest in both the United States and Chile.

Cold storage stocks for the months of July-September in 2000 and 2001 were each higher than the levels in the same months of the immediately preceding year. Because subject imports and domestic product were largely substitutable, it is likely that the presence of subject imports in the U.S. market during each year of the period examined contributed to some degree to the pattern of cold storage stocks observed. However, I find that domestic shipments were the driving force behind the increase in these stocks. U.S. shipments of the products for which pricing data were collected increased more than five times the amount by which shipments of subject imports of those products increased over the period examined.[143]

In addition, I find that other factors further attenuated the role of subject imports in the any price declines experienced by the domestic industry. First, the domestic industry's unit costs fell significantly over the period examined, due in part to improved yields.[144] The unit cost reduction was only slightly less than the decline in the unit value of domestic sales.[145] In a competitive market such as the IQF red raspberries market, one would expect lower costs to be passed on to purchasers at least to some degree. Second, as a result of Commerce's negative antidumping determination concerning two significant Chilean producers, more-than-minor quantities of imports from Chile during the period examined were non-subject imports.[146] These non-subject imports show a mixture of overselling and underselling vis-a-vis subject imports.[147] Thus, at least some of any price impact of imports of IQF red raspberries from Chile must be attributed to non-subject imports.

Finally, I observe that purchasers did not confirm any of the lost sales or lost revenues allegations made by domestic IQF red raspberry producers.[148]

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[140] (...continued)
at 20-21. Tr. at 206 (testimony of Mr. Johnson). There is a close correlation between the trends in domestic prices of Product 4 and straight pack. *See* CR and PR at Figure V-7.

[141] Petitioners' Prehearing Brief at 19-20.

[142] CR and PR at Table III-4.

[143] CR and PR at Table IV-4 (displaying trends in shipments and cold storage stocks, and showing that domestic shipments and subject import shipments increased by 3.4 million pounds and 0.6 million pounds, respectively, from 1999 to 2001).

[144] CR at VI-8 n.14, PR at VI-6 n.14.

[145] CR and PR at Table VI-6 (from 1999 to 2001, unit operating expenses fell by 17 cents, compared to a decline in unit sales value of 21 cents).

[146] CR and PR at Table IV-3 (non-subject imports from Chile held between *** percent and *** percent of the U.S. market during 1999-2001).

[147] CR and PR at Table V-6 and Tables V-1-4. For Product 1, which was by far the highest volume domestic product, the non-subject imports were priced below subject imports in all but one quarterly comparison.

[148] CR and PR at Tables V-7-8.

In sum, while the mere presence of subject imports in the U.S. market at more than *de minimis* quantities may have had some impact on prices, I find that the subject imports did not depress or suppress domestic prices to a significant degree. Although the prices of subject imports typically undersold domestic prices, I do not find this underselling to be significant, as it did not negatively impact domestic prices to a significant degree nor result in significant gains in sales or market share by subject imports.

D. Impact of the Subject Imports

In examining the impact of the subject imports on the domestic industry, the Commission considers all relevant economic factors that bear on the state of the industry in the United States.[149] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[150] [151]

The trade and employment indicators of the domestic industry were either steady or positive when considered over the entire period examined. Domestic capacity decreased from 1999 to 2000, but then rose in 2001 to a level 10 percent above 1999 capacity.[152] Production of IQF red raspberries fell from 1999 to 2000, then returned to the 1999 level in 2001.[153] Domestic shipments rose sharply over the period (by 18.5 percent).[154] Domestic inventories of IQF red raspberries decreased steadily over the period examined, both in absolute terms (by 9.7 percent) and as a share of domestic shipments (by 16.1 percentage points).[155] The number of production and related workers and hours worked showed slight

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[149] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

[150] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 and Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148.

[151] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). Commerce published its final antidumping determination in its investigation of IQF red raspberries from Chile on May 21, 2002. Commerce found the following margins: Comercial Fruticola -- 0.50 (*de minimis)*; Exportadora Frucol -- 0.00; Fruticola Olmue -- 5.98 percent; All others -- 5.98 percent. The latter two margins were subsequently amended to 6.33 percent.

I disagree with AGEPCO's claim that, because Commerce's margin for Fruticola Olmue was based on sales of organic product only, the Commission should consider subject imports from Chile of non-organic product to be fairly traded. *See* AGEPCO Prehearing Brief at 28-29. The statute requires the Commission to determine whether a domestic industry is injured or threatened with injury by reason of imports "with respect to which the administering authority has made an affirmative determination." 19 U.S.C. § 1673d(b)(1). Commerce's affirmative determination covers all imports of IQF red raspberries from Chile other than those of the two companies for which Commerce reached a negative determination.

[152] CR and PR at Table III-3.

[153] CR and PR at Table III-3.

[154] CR and PR at Table III-3.

[155] CR and PR at Table III-3.

increases from 1999 to 2001.[156] Productivity fell in 2000 but then returned to the 1999 level in 2001. None of these indicators suggests that the domestic industry was experiencing injury during the period examined.

By contrast, the financial performance of the domestic industry over the period was weak. Unit sales values fell from $1.28 in 1999 to $1.07 in 2001.[157] As a result, the industry's net sales revenue fell by 18.6 percent from 1999 to 2001.[158] The industry recorded an operating profit in 1999, and then had two years of operating losses in 2000 and 2001. The ratio of industry operating profits to net sales was 1.9 percent in 1999, negative 4.3 percent in 2000, and negative 2.2 percent in 2001.[159] Although the domestic industry was negatively affected by lower unit sales values, as discussed above I find that subject imports were not responsible for the falling prices experienced by the domestic industry over the period examined.

Because I have included growers in the domestic industry, I must also consider the experience of growers of IQF-quality (fresh) red raspberries. The data collected by the Commission concerning IQF-quality red raspberries followed a trend similar to the trend of the data described above concerning IQF (frozen) red raspberries. Growers' harvest, and shipments for processing, decreased from 1999 to 2000, but then rose in 2001 to levels above 1999 levels.[160] Employment indicators remained generally steady or improved from 1999 to 2001.[161] Financial results of growers that are not also processors exhibit trends similar to the trends for IQF red raspberries; namely, an operating profit in 1999, a loss in 2000, and a smaller loss in 2001.[162] While growers, like processors of IQF red raspberries, suffered from a falling unit sales value on their IQF-quality red raspberries, I do not find that subject imports were responsible for any price decline.

Accordingly, I find that the subject imports did not have a significant negative impact on the domestic industry.

III. NO THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[163] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat

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[156] CR and PR at Table III-3.

[157] CR and PR at Table VI-6.

[158] CR and PR at Table VI-5.

[159] CR and PR at Table VI-5. I note that the industry's operating loss in 2001 is explained in large part by ***. Removing the data of *** would yield an overall industry operating profit in 2001 ***. *See* CR and PR at Table VI-7, CR at VI-8 n.14, PR at VI-6 n.14, questionnaire response of *** at p. 6.

[160] CR and PR at Table III-2.

[161] CR and PR at Table III-2.

[162] CR and PR at Table VI-2. I note that growers who are not also processors account for less than 20 percent of IQF-quality red raspberry production. CR and PR at Table III-2 and Producer Questionnaires.

[163] 19 U.S.C. §§ 1673d(b)(1), 1677(7)(F)(ii).

factors "as a whole."[164] In making my determination, I have considered all factors that are relevant to this investigation.[165]

As discussed above, subject imports of IQF red raspberries decreased by 6.6 percent from 1999 to 2001, and fell in market share from *** percent to *** percent. Accordingly, I find that there is no significant rate of increase of the volume or market penetration of subject merchandise indicating the likelihood of substantially increased imports.[166]

Capacity of subject Chilean producers increased modestly over the period examined.[167] While there is arguably substantial available capacity in Chile, such capacity did not result in a substantial increase in exports to the United States over the period examined. Moreover, the amount of the excess capacity fell from *** million pounds in 1999 to *** million pounds in 2001, as the capacity utilization rate of subject Chilean producers increased from *** percent in 1999 to *** percent in 2001.[168]

Chile has a small but growing home market for IQF red raspberries. Most of the Chilean harvest is exported to other markets, principally the countries of the European Union. Petitioners argue that Chile's export opportunities to the EU will be hindered as a result of the EU's elimination of tariffs on imports of IQF red raspberries from Serbia and Poland in December 2000 - January 2001, and the retention of a 20.8 percent tariff on IQF red raspberries from Chile.[169] However, respondent submitted data indicating that exports from Chile to the EU actually increased by *** percent from 2000 to 2001, despite the elimination of tariffs on Serbia and Poland.[170] Accordingly, while it is possible that the EU's action will have some negative impact on Chile's exports to the EU, I do not find that this action indicates that a substantial quantity of IQF red raspberries from Chile will be diverted from the EU market to the United States in the imminent future.

Inventories of IQF red raspberries held by subject Chilean producers and by U.S. importers increased somewhat over the period examined, but did not reach levels that would be indicative of an imminent threat of injury by subject imports.[171] There appears to be little potential for product-shifting with respect to IQF red raspberries.[172]

I found above that subject imports are not currently having negative effects on domestic prices of IQF red raspberries. Nor is there any information to suggest that this situation is likely to change in the

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164 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

165 19 U.S.C. § 1677(7)(F)(i). Factor I is not applicable because Commerce reached a negative countervailing duty determination. Factor VII regarding raw and processed agricultural products is inapplicable in this investigation because the subject merchandise includes a processed agricultural product only. See 19 U.S.C. § 1677(7)(F)(i)(I),(VII).

166 19 U.S.C. § 1677(7)(F)(i)(III).

167 CR and PR at Table VII-1. 19 U.S.C. § 1677(7)(F)(i)(II).

168 CR and PR at Table VII-1. Subject Chilean producers project a modest rise in both capacity and exports to the United States in 2002.

169 Petitioners' Prehearing Brief at 39-41.

170 AGEPCO's Prehearing Brief at 45, Exhibit 6R. The recent conclusion of a free-trade agreement between the EU and Chile suggests that EU duties on IQF red raspberries from Chile may eventually be reduced or eliminated.

171 Foreign producer inventories increased from *** million pounds in 1999 to *** million pounds in 2001. CR and PR at Table VII-1. U.S. importer inventories increased from *** million pounds in 1999 to *** million pounds in 2001. CR and PR at Table VII-3. 19 U.S.C. § 1677(7)(F)(i)(V).

172 19 U.S.C. § 1677(7)(F)(i)(VI).

imminent future. Accordingly, I conclude that subject imports are not entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and find that subject import prices are not likely to increase demand for further imports.[173]

I have considered the current condition of the domestic industry and whether it is vulnerable to injury by subject imports. As described above, the industry's trade and employment indicators were generally positive or steady over the period examined, whereas the industry's financial performance was generally poor. Accordingly, I find that the data presents a mixed picture. However, even if I were to consider the industry to be in a vulnerable state, for the reasons discussed in this section I see no basis to conclude that the subject imports will increase significantly in volume or market share or have significant negative price effects so as to cause material injury in the imminent future.[174]

I further find that subject imports are not having actual or potential negative effects on the existing development and production efforts of the domestic industry.[175] The industry's capital expenditures increased slightly over the period examined.[176]

Finally, I do not find any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of the subject imports.[177]

CONCLUSION

For the foregoing reasons, I determine that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of IQF red raspberries from Chile that are being sold in the United States at less than fair value.

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[173] 19 U.S.C. § 1677(7)(F)(i)(IV).

[174] As discussed above, the industry's operating loss in 2001 was explained in part by ***.

[175] 19 U.S.C. § 1677(7)(F)(i)(VIII).

[176] CR and PR at Table VI-9 (capital expenditures were $1.4 million in 1999, $2.7 million in 2000, and $1.5 million in 2001). The industry reported very small R&D expenses. CR at VI-16, PR at VI-9.

[177] 19 U.S.C. § 1677(7)(F)(i)(IX).

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by the IQF Red Raspberries Fair Trade Committee (IQF Committee),[1] Washington, DC, on May 31, 2001, alleging that an industry in the United States is materially injured or threatened with material injury by reason of less-than-fair-value (LTFV) imports of individually quick frozen (IQF) red raspberries[2] from Chile. The petition also alleged that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of the subject product from Chile. Pursuant to a negative final countervailing duty determination by the Department of Commerce (Commerce),[3] the Commission has terminated its countervailing duty investigation of the subject product (Inv. No. 701-TA-416 (Final)). Information relating to the background of the investigations is provided below:[4]

Effective date	Action	*Federal Register* citation
May 31, 2001	Petition filed with Commerce and the Commission; institution of Commission's investigations	66 FR 30482 (June 6, 2001)
June 28, 2001	Initiation of investigations by Commerce	66 FR 34407 (AD) 66 FR 34423 (CVD)
July 16, 2001	Commission's preliminary determinations	66 FR 38740 (July 25, 2001)
October 16, 2001	Commerce's preliminary negative countervailing duty determination and alignment with final antidumping duty determination	66 FR 52588
December 31, 2001	Commerce's preliminary affirmative antidumping duty determination and postponement of final determination	66 FR 67510
Continued on next page.		

[1] The IQF Committee is an *ad hoc* coalition of 44 growers, eight grower/processors, one coop/processor, and one processor of IQF red raspberries. On February 1, 2002, the IQF Committee of the Washington Red Raspberry Commission was added as a co-petitioner.

[2] The products covered by this investigation are IQF red raspberries from Chile, imports of which are reported under statistical reporting number 0811.20.2020 of the Harmonized Tariff Schedule of the United States (HTS), a provision which includes all frozen raspberries, as well as uncooked, steamed, or boiled raspberries. A complete description of the imported products subject to investigation is presented in the portion of this section of the report entitled *The Product*. Imports of the subject product are subject to an *ad valorem* tariff of 4.5 percent. However, imports from Chile are eligible to enter the United States free of duty under the Generalized System of Preferences (GSP), pursuant to the President's waiver of the competitive need limitation with respect to imports from Chile (63 FR 37162 (July 9, 1998), when GSP is in effect. The preference expired on September 30, 2001, and imports must be entered under special Customs procedures if a later claim under GSP is to be made (66 FR 50248, October 2, 2001).

[3] Commerce analyzed 7 alleged subsidy programs and determined that countervailable subsidies were not being provided to producers or exporters of IQF red raspberries in Chile, because all the producers/exporters that received Commerce's countervailing duty questionnaire had *de minimis* subsidies (67 FR 35961, May 22, 2002).

[4] *Federal Register* notices cited in the tabulation since the Commission's preliminary determinations are presented in app. A.

Effective date	Action	*Federal Register* citation
December 31, 2001	Scheduling of final phase of Commission's investigations	67 FR 4994 (February 1, 2002)
May 21, 2002	Commerce's final affirmative antidumping duty determination	67 FR 35790
May 22, 2002	Commerce's final negative countervailing duty determination	67 FR 35961
May 23, 2002	Commission's public hearing[1]	67 FR 4994 (February 1, 2002)
June 3, 2002	Commission's termination of countervailing duty investigation	67 FR 39438
June 12, 2002	Commerce's amended final antidumping determination	67 FR 40270
June 20, 2002	Commission's vote	NA
June 28, 2002	Commission's determination transmitted to Commerce	NA

[1] A list of witnesses that appeared at the hearing is presented in app. B.

STATUTORY CRITERIA AND ORGANIZATION OF THIS REPORT

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*
>
> . . .
>
> *In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*
>
> . . .

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to . . . (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in [an antidumping investigation], the magnitude of the margin of dumping.

Information on the subject merchandise, margins of dumping, and the domestic like product is presented in *Part I.* Information on conditions of competition and certain economic factors is presented in *Part II. Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. The volume and pricing of imports of the subject merchandise are presented in *Parts IV* and *V*, respectively. *Part VI* presents information on the financial condition of U.S. producers.

The statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury are presented in *Part VII.*

SUMMARY DATA

Summaries of data collected in the investigation are presented in appendix C, including data for organic and nonorganic IQF red raspberries. U.S. industry data are based on questionnaire responses from 11 IQF red raspberry producers and 13 IQF-quality red raspberry growers, accounting for the vast majority of U.S. harvesting and production of IQF red raspberries during 2001. U.S. imports are based on official statistics and foreign producer questionnaires for Chile, and importer questionnaire responses for "other sources."

PREVIOUS INVESTIGATION CONCERNING RED RASPBERRIES

In July 1984, the Washington Red Raspberry Commission, the Red Raspberry Committee of the Oregon Caneberry Commission, the Red Raspberry Committee of the Northwest Food Processors Association, the Red Raspberry Member of the American Frozen Food Institute (AFFI), Rader Farms,[5] Shuksan Frozen Foods, and the Willamette Horticultural Society filed an antidumping duty petition with the Commission and Commerce, alleging that an industry in the United States was materially injured or threatened with material injury by reason of LTFV imports from Canada of remanufacturing-grade, bulk-packed red raspberries.[6] In the ensuing investigation initiated by Commerce and instituted by the

[5] Rader Farms, a grower/processor, is a member of the IQF Committee.

[6] The scope of the investigation consisted of fresh and frozen red raspberries packed in bulk containers suitable for further processing. 50 FR 19768, May 10, 1985. IQF red raspberries were not included within the scope of the investigation.

Commission, Commerce made a final determination that imports of the subject product from Canada were being sold at LTFV and the Commission made a final determination that the U.S. industry was materially injured by reason of LTFV imports of the subject product from Canada, resulting in the imposition of an antidumping duty order on the subject raspberries from Canada.[7] [8] In the final investigation, the Commission defined the like product to include "... only U.S.-produced red raspberries packed in bulk containers, excluding all other types of berries, fresh-market red raspberries, and retail/institutional packed berries."[9] The Commission defined the domestic industry as comprising both the growers and packers of red raspberries packed in bulk, including all growers who also maintained packing facilities, but excluding all production by growers and packers of red raspberries for the fresh market or for retail/institutional packing.[10]

SALES AT LTFV

Commerce has determined that IQF red raspberries from Chile are being sold in the United States at LTFV.[11] The following tabulation provides the amended final weighted-average dumping margins (in *percent ad valorem*) determined by Commerce for companies subject to this investigation:

Company	**Dumping margins (*percent ad valorem*)**
Comercial Fruticola	0.50 (*de minimis*)
Exportadora Frucol	0.00
Fruticola Olmue	6.33
All others	6.33

[7] *Certain Red Raspberries from Canada*, Inv. No. 731-TA-196 (Final), USITC Publication 1707, June 1985.

[8] The antidumping order, which applied to fresh and frozen red raspberries packed in bulk containers and suitable for further processing, from Canada, was revoked by Commerce, effective January 1, 2000, based on no response by the domestic industry to Commerce's notice of initiation of a five-year "sunset" review. 64 FR 9473, February 26, 1999.

[9] *Certain Red Raspberries from Canada*, Inv. No. 731-TA-196 (Final), USITC Publication 1707, June 1985, p. 4.

[10] *Id.*

[11] Notice of final determination, 67 FR 35790 (May 21, 2002); notice of amended final determination, 67 FR 40270 (June 12, 2002). Commerce's period of investigation was April 1, 2000, through March 31, 2001.

THE SUBJECT PRODUCT

Commerce has defined the imported products subject to the scope of its investigation as--[12]

IQF red raspberries, whole or broken, 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 petition excludes fresh red raspberries and block frozen red raspberries (i.e., puree, straight pack, juice stock, and juice concentrate).

Commerce also determined that "dirty crumbles" are within the scope of the investigation. Dirty crumbles are broken IQF red raspberries which have a high level of defects, as well as stems, leaves, and/or mold.[13]

DOMESTIC LIKE PRODUCT

During the preliminary phase of this investigation the Commission found a single domestic like product[14] consisting of "all IQF red raspberries consistent with Commerce's scope."[15] However, the Commission noted that in any final investigation it intended to seek additional information on the issue of whether or not organic IQF red raspberries are a domestic like product separate from nonorganic IQF red raspberries.[16]

Information gathered during the final phase of this investigation concerning the Commission's domestic like product factors, for both imported and domestically-produced IQF red raspberries, is presented below.

Physical Characteristics and Uses

Red raspberries are the fruit of any one of several varieties of plants of the genus Rubus, species Strigosus. Raspberries are classified as bramble fruits, as are blackberries, dewberries, tayberries, boysenberries, loganberries, and marionberries, many of which grow on thorned plants called canes. Raspberries are produced on woody canes and consist of three types - red, black, and purple. The red raspberry is the dominant type of raspberry grown commercially, and is found in the United States mostly in the States of Washington, Oregon, and California. More than 95 percent of the bramble fruit grown in Washington and Oregon is sold for processing, but in California brambles are grown mainly for the fresh market, since shippers use the fresh-market infrastructure developed for strawberries to handle and sell raspberries.

IQF red raspberries accounted for approximately 20 percent of total red raspberries processed in Washington and Oregon during 2001, as indicated in the following tabulation:

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[12] *Id.*

[13] *Id.*

[14] The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price. Pricing information is presented in *Part V* of this report.

[15] See, *Individually Quick Frozen Red Raspberries from Chile*, Invs. Nos. 701-TA-416 and 731-TA-948 (Preliminary), USITC Publication 3441, July 2001, p. 5.

[16] *Id.*

Item	1999	2000	2001	1999-2001	1999-2001
	Quantity (*1,000 pounds*)				*(Percent* change)
Red raspberries utilized:					
Fresh	4,700	5,300	4,850	14,850	3.2
Processed	78,300	80,450	86,100	244,850	10.0
Total	83,000	85,750	90,950	259,700	9.6
IQF-quality	26,925	25,724	29,140	81,789	8.2
IQF	***	***	***	***	***
	Shares (*percent*)				(Percent-*age point* change)
Red raspberries utilized:					
Fresh	5.7	6.2	5.3	5.7	-0.4
Processed	94.3	93.8	94.7	94.3	0.3
Total	100.0	100.0	100.0	100.0	--
IQF-quality/processed	34.4	32.0	33.8	33.4	-0.6
IQF/processed	***	***	***	***	***

Source: Compiled from NASS, USDA, and responses to Commission questionnaires.

The two primary varieties of red raspberry are the Heritage and the Meeker. The Heritage variety, grown in Chile, generally has a higher brix value,[17] which gives it a sweeter taste, and is lighter-colored, smaller, and firmer than the Meeker. The Meeker variety, grown in the United States, generally has better appearance and is larger and darker than the Heritage.[18] Data regarding shares of IQF red raspberry shipments by varieties, types, and processes during 2001 are presented in table I-1.

[17] Standard for measuring the sugar content of a solution at a given temperature.

[18] Information with regard to the interchangeability and customer and producer perceptions of U.S.- and Chilean-produced IQF red raspberries is presented in *Part II* of this report.

Table I-1
IQF red raspberries: Shares of shipments, by varieties, types, and process, 2001

Item	U.S.-produced	Imports from Chile	
		Subject	Nonsubject
	Shares (*percent*)		
Variety:			
Heritage	(1)	***	***
Meeker	79.8	***	***
Other	20.2	***	***
Type:[2]			
Whole	92.6	***	***
Broken	3.3	***	***
Crumbled	4.1	***	***
Process:			
Hand-picked	11.2	100.0	100.0
Machine-picked	88.8	(1)	(1)

[1] Not applicable; none reported.
[2] Shares (in percent) of total reported U.S. sales, based on pricing data (tables V-1-V-6) are as follows:

	U.S.-produced	Subject imports	Nonsubject imports
Whole:	97.2	72.1	55.0
Whole and broken:	0.9	21.4	39.4
Crumbles:	1.9	6.5	5.6

Source: Compiled from data submitted in response to Commission questionnaires.

There are two principal uses for red raspberries: the fresh market and packing. Red raspberries are sold in the fresh produce market and to processors[19] who freeze and package them either for sale to retail consumers or for institutional use, or for use in the manufacture of various downstream products such as jam, yogurt, and juice. The fresh market accounted for approximately 5.7 percent of U.S. production during 1999-2001, and the various frozen pack forms accounted for the remaining 94.3 percent.[20] Uses for red raspberries, as reported by questionnaire respondents who are growers of IQF red raspberries, are presented in the following tabulation:

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[19] Processing may be performed either by the raspberry grower who is also a processor (grower/processor) or by an independent processor. These operations generally include cleaning, washing, inspecting, sorting, culling, and filling the various-sized containers.

[20] *Non-citrus Fruits and Nuts 2001 Preliminary Summary*, USDA/NASS, Fr Nt 1-3 (02)a, January 2002, p. 34.

Item	All red raspberries	IQF-quality red raspberries
	Shares (*percent*)	
Fresh market	***	***
IQF production	46.6	78.8
Puree	28.4	16.0
Straight pack	11.6	3.8
Juice stock	***	***
Juice concentrate	***	***
Other uses	***	***
Unusable	***	***
Total used	100.0	100.0
Source: Compiled from data submitted in response to Commission questionnaires.		

Fresh market red raspberries are generally sold in either half-pint or pint containers, are highly perishable (5 to 7 days), and are sold mainly in retail food stores and roadside stands. Packing red raspberries are graded by processors into either retail grade or remanufacturing grade, depending on the quality of the fruit. Retail grade is called USDA grade A, and IQF red raspberries come from this grade of berry. Within the remanufacturing grade, there are "straight bulk packing" quality (USDA grade B) and juice stock berries. Grades are determined by standards such as color, defects (e.g., mold), and character (softness or hardness). Grade A berries are firm and whole, are clean, and have high appearance quality. Grade B berries are clean but do not have to be perfect in appearance. If the fruit has a higher mold count and contains some leaves, stems, or over-ripened fruit, it may be classified as juice stock. Juice stock accounts for a small share of remanufacturing-grade production.

Red raspberries may be individually quick frozen or frozen in block form. IQF product is more easily used because it does not have to be thawed out or chipped, and is used by consumers and by producers of food products that require whole berries, while block frozen raspberries may be used when the end product does not require the raspberries to be whole. IQF red raspberries are widely available to consumers in supermarkets and other stores and are generally sold in 12-ounce polybags, while block frozen raspberries are not generally available to consumers. IQF berries must be carefully picked, either by machine or by hand, so as to retain their shape in order to be suitable for IQF processing. Picking by hand results in a higher yield because it results in fewer berries being crushed or damaged. Although individual quick freezing has been used for many years, its commercial use became more important in the mid-1980s, particularly with respect to IQF red raspberries frozen without sugar added.

Remanufacturing-grade red raspberries are bulk packed into 28-pound and larger bulk sizes (mainly 400-pound barrels). Most of the remanufacturing-grade, bulk-packed red raspberries are used by the preserve industry to make jams, jellies, preserves, and fruit toppings. Other users of red raspberries include the dairy (for making yogurt), bakery, confectionery, and juice industries.

Organic vs. Nonorganic

During both the preliminary and final phase of this investigation, counsel on behalf of the Asociacion Gremial de Exportadores de Productos Congelados A.G. (AGEPCO) argued that organic IQF red raspberries are different from the conventional product in their physical characteristics and uses in that they must be processed, labeled, and sold under materially different and enhanced controls than the conventional product to conform to the National Organic Rule administered by the USDA, set forth in Title 7, Part 205 of the Code of Federal Regulations and/or applicable state organic standards.[21] Petitioners argued that the two products have the same physical characteristics (i.e., appearance, taste, and texture) and uses.[22]

Production Processes

IQF red raspberries are produced by freezing fresh red raspberries either in a liquid nitrogen bath or mechanically, i.e., by running the berries over very cold air. Either process is capital- and energy-intensive. Because red raspberries are fragile and subject to crumbling during processing, specialized IQF "tunnels" are used to freeze the products. IQF red raspberries may be frozen on equipment intended primarily for IQF strawberries or other IQF fruits and vegetables, according to questionnaire respondents, or they may be processed in tunnels which are custom-designed primarily for IQF red raspberries to minimize damage to the fruit. Although IQF red raspberries will store for indefinite periods of time, the costs of storage can be sufficiently high to discourage processors from holding product in cold storage for extensive lengths of time.

With respect to harvesting, red raspberry plants take 2 years after planting to reach full productive maturity and continue to produce for up to 20 years, although yields are reduced and the plants are frequently replanted after 10 years. In the United States, red raspberry harvesting begins in mid-to-late June of each year and is completed by the end of August.[23] Harvesting may be done by hand or by machine.

Organic vs. Nonorganic

Respondents argued that processors can use common facilities and equipment (i.e., IQF freezing tunnels, storage facilities, and harvest trays), but there is limited use of common production because of tight controls that prohibit commingling. They argued that organic processing requires the cleaning/sanitizing of freezing tunnels with approved cleaners, separate storage sections, and separate containers for frozen products.[24] With respect to organic growing operations, respondents argued that organic growers must adhere to strict planting and cultivating standards that result in lower yields and higher costs of production.[25] Petitioners argued that organic IQF red raspberries are harvested and

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[21] Respondents' prehearing brief, pp. 4-5.

[22] Petitioners' posthearing brief, exh. 1, p. 5.

[23] Harvesting is, in the main, accomplished by temporary hires while processing is usually handled by permanent employees who process a variety of fruit and vegetable products over the course of a year. Chile has two harvests, the first being from November through January and the second being between March and May. Respondents' postconference brief, p. 4. U.S. imports from Chile are concentrated in the months February through June.

[24] Respondents' prehearing brief, p. 10, and hearing transcript, pp. 162-163.

[25] Respondents' prehearing brief, pp. 5-6. Respondents argued that procedures for organic processing prohibit the use of ionizing radiation to kill insects and the use of certain chemicals to wash or clean raw material (*Id*).

processed in the same way with same production lines using the same equipment, are grown on same types of fields, and use the same types of soil, plant varieties, and many cultural practices.[26]

Interchangeability and Customer and Producer Perceptions

In general, respondents argued that producers and consumers perceive differences between organic and nonorganic IQF red raspberries, given the distinct production processes and associated costs, and that organic product is purchased because it is organic, not because it is a red raspberry.[27] Petitioners have argued that in the absence of a common, national standard, organic has different meanings depending on the standards used to certify the product.[28] Additional information with respect to interchangeability and customer and producer perceptions can be found in *Part II* of this report, *Conditions of Competition in the U.S. Market.*

Channels of Distribution

Channels of distribution for domestically produced and imported IQF red raspberries from Chile are presented in the following tabulation:

Item	Distributors	End users
U.S.-produced:		
Organic	***	***
Nonorganic	***	***
Total	12.0	88.0
Subject imports from Chile:		
Organic	***	***
Nonorganic	***	***
Total	49.2	50.8
Source: Compiled from data submitted in response to Commission questionnaires.		

In general, U.S. producers and U.S. importers sold to both distributors and end users, with more than half of shipments from both sources going to end users. In addition, petitioners estimate that approximately 75 percent of domestic IQF red raspberries are sold to the food service/institutional/retail segment, and 25 percent to remanufacturers of food products.[29] With respect to organic product, respondents argued that it moves through a distribution network devoted exclusively to the organic industry; i.e., natural food distributors.[30] Petitioners argued that both organic and nonorganic IQF red raspberries move through the same channels of trade (e.g., retail food stores), and cited industry sources indicating that conventional

[26] Petitioners' posthearing brief, exh. 1, pp. 8-9.

[27] Respondents' prehearing brief, pp. 9-10.

[28] Petitioners' posthearing brief, exh. 1, p. 8.

[29] *Id*, p. 1.

[30] Respondents' prehearing brief, p. 8.

supermarkets account for "49 percent of total retail sales (organic), about the same as natural food stores (48 percent)."[31]

Prices

Information with respect to pricing of specific IQF red raspberry products from Chile and the United States is found in *Part V* of this report, *Pricing and Related Information.* Additional information regarding available average unit values for shipments of certain red raspberries during 2001 is presented in the following tabulation:

Item	U.S. produced	Imports from Chile	
		Subject	Non-subject
	Unit value (*per pound*)		
Red raspberries for:			
Fresh market	$***	(1)	(1)
Packing	***	(1)	(1)
Average	0.82	(1)	(1)
IQF red raspberries:			
Organic	$***	$***	$***
Nonorganic	1.04	***	***
Average	1.05	***	***

[1] Not applicable.

Source: Compiled from data submitted in response to Commission questionnaires.

[31] Petitioners' posthearing brief, p. 8 and exh. 9.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

U.S. producers and importers sell IQF red raspberries to distributors, food processors, and retail stores. Some importers also purchase U.S.-produced IQF red raspberries. Five of the 12 responding importers reported purchasing an average of 2.6 million pounds of IQF red raspberries from U.S. producers per year. The bulk of these purchases are made by ***.[1]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. IQF red raspberries producers are likely to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced IQF red raspberries to the U.S. market. The main contributing factors to the moderate degree of responsiveness of supply are the presence of large inventories and the ability to produce alternate products, moderated by a limited amount of unused capacity and lack of alternate markets.

Industry capacity

U.S. producers' reported capacity utilization for IQF red raspberries decreased from 87.2 percent to 79.8 percent between 1999 and 2001. This level of capacity utilization would indicate that U.S. producers have only a limited amount of unused capacity with which they could increase production of IQF red raspberries in the event of a price change.

Alternative markets

Exports of IQF red raspberries were less than one percent of shipments from 1999 to 2001. These data indicate that U.S. producers cannot divert shipments to or from alternative markets in response to changes in the price of IQF red raspberries.

Inventory levels

U.S. producers' inventories as a percentage of total shipments fluctuated, but were relatively unchanged between 1999 and 2001, decreasing from *** percent of their shipments in 1999 to *** percent in 2000 and declining to *** percent in 2001. These data indicate that U.S. producers have the ability to use inventories as a means of increasing shipments of IQF red raspberries to the U.S. market.

[1] ***.

Production alternatives

U.S. producers may use the equipment used to produce IQF red raspberries, such as the freezing tunnel, for other uses.[2]

Subject Imports

Based on available information, the subject Chilean producers are likely to respond to changes in demand with large changes in the quantity of shipments of IQF red raspberries to the U.S. market. The main contributing factors to the large degree of responsiveness of supply are the existence of alternate markets and inventories and the ability to produce alternate products, moderated by a somewhat limited amount of unused capacity.

Industry capacity

Subject Chilean producers' reported capacity utilization to produce IQF red raspberries increased from *** percent to *** percent between 1999 and 2001. This level of capacity utilization indicates that subject Chilean producers have a somewhat limited amount of unused capacity with which they could increase production of IQF red raspberries in the event of a price change.

Alternative markets

Shipments of subject Chilean IQF red raspberries to the home market, internal consumption, and non-U.S. export markets increased from *** percent of shipments in 1999 to *** percent of shipments in 2001. These data indicate that subject Chilean producers can divert shipments to or from alternative markets in response to changes in the price of IQF red raspberries.

Inventory levels

Subject Chilean producers' inventories decreased from *** percent of their shipments in 1999 to *** percent in 2000, increasing to *** percent in 2001. These data indicate that subject Chilean producers have some ability to use inventories as a means of increasing shipments of IQF red raspberries to the U.S. market.

Production alternatives

Just as U.S. producers can, Chilean producers may use the facilities used to produce IQF red raspberries for other purposes.

U.S. Demand

Based on available information, IQF red raspberry consumers are likely to respond to changes in price with small changes in their purchases of IQF red raspberries. The main contributing factors to the low degree of responsiveness of demand are the limited substitutability of other products for IQF red raspberries; the low-to-moderate cost share of IQF red raspberries in most of their industrial and food

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[2] Lyle Rader, President, Rader Farms, conference transcript, p. 51.

service end uses; and the limited impact of changes in price for end-use products on the price of IQF red raspberries.

Demand Characteristics

Demand for IQF red raspberries depends on the demand for downstream food products that use them as ingredients and also on consumer and institutional demand for retail IQF red raspberries. End uses of IQF red raspberries include direct consumption of thawed IQF red raspberries, baked goods, yogurt, and fruit drinks. However, only one importer and no producers indicated that changes in the price for each end-use product or changes in how IQF red raspberries are used to produce each end-use product has affected the price that they were able to charge for IQF red raspberries since 1999. Six importers and one producer specifically reported that these changes have not affected the price that they were able to charge for IQF red raspberries during that period.

It is unclear whether demand for IQF red raspberries has changed since 1999. Both petitioners and respondents indicated at the staff conference that demand has been relatively unchanged since 1998.[3] However, responses to questionnaires are mixed. Nine of 18 responding producers indicated that demand has been unchanged since 1999, while 3 indicated that it had increased and 3 indicated that demand had fallen. Only 3 of 13 responding importers indicated that demand has been unchanged since 1999, with 5 importers indicating that demand had risen and 1 that demand had fallen. Also, 7 of 11 responding end-user purchasers indicated that demand for their firm's final products incorporating IQF red raspberries had changed since 1999, with 4 purchasers indicating that demand increased and 3 indicating that demand decreased.[4]

Substitute Products

According to producer, importer, and purchaser questionnaire responses, there are relatively few substitutes for IQF red raspberries in their end uses. Nineteen of 21 responding producers, 8 of 12 responding importers,[5] and 17 of 21 responding purchasers indicated that there are no substitutes for IQF red raspberries. One producer, two importers, and one purchaser indicated that other fruits, such as strawberries and blueberries, may be substituted when the price of IQF red raspberries increases. Another importer and three purchasers also claimed that whole and broken or crumbled IQF red raspberries and frozen red raspberry "straight pack"[6] are interchangeable or may be used in the same applications. Only two importers, one producer, and one purchaser indicated that changes in the prices of these substitute products affect the price of IQF red raspberries.[7]

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[3] Lyle Rader, conference transcript, p. 58, and Kenneth Button, Economic Consulting Services, conference transcript, p. 78.

[4] Even if the *demand* at a given price for IQF red raspberries in the U.S. market remains the same or decreases, the apparent consumption (*quantity demanded*) of IQF red raspberries may increase due to an increase in the supply of IQF red raspberries from domestic or foreign sources to the U.S. market.

[5] These eight importers include two who indicated that IQF red raspberries from sources other than Chile may be substitutes.

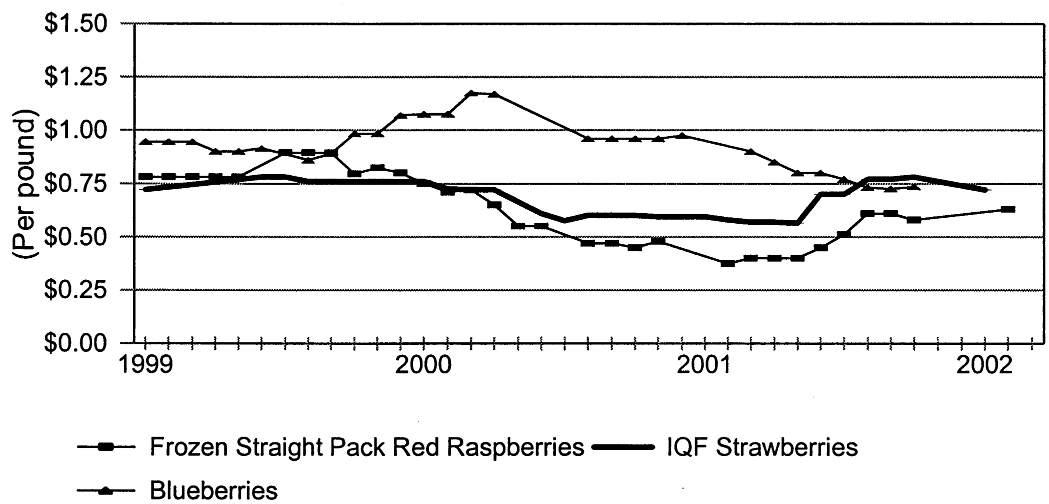
[6] Straight pack is the packaging form that is used for the largest portion of all U.S.-processed red raspberries. Straight pack, a nonsubject product, is used primarily for juice and jam products. Respondents' postconference brief, p. 27.

[7] There was one additional importer who indicated that changes in the price of whole and broken IQF red raspberries can affect the price for grade A IQF red raspberries.

Although petitioners agree that there are no substitutes, respondents state that in retail and food service markets, purchasers have the option of choosing other berry products such as strawberries, blackberries, and similar fruits.[8] Respondents also argue that straight pack frozen red raspberries are excellent substitutes for IQF red raspberry crumbles for industrial users.[9]

As seen in figures II-1 and II-2, prices for possible substitute berries have fluctuated since 1999, in most cases decreasing overall. Between January 1999 and February 2002, the prices of frozen straight pack raspberries (28 lb. f.o.b. northwest), frozen blueberries (30 lb. f.o.b. Michigan), IQF evergreen blackberries (f.o.b. Michigan), and IQF marion blackberries (f.o.b. Michigan) fell by 19.2 percent, 22.2 percent, 26.7 percent, and 11.5 percent respectively.[10] However, during the same period, the price of IQF cherries (f.o.b. Michigan) increased by 14.8 percent and the price of IQF strawberries (f.o.b. California) remained unchanged.[11]

Figure II-1
Berries: Monthly f.o.b. prices of frozen straight pack red raspberries, IQF strawberries, and blueberries, January 1999-February 2002



Source: The Food Institute, April 2002.

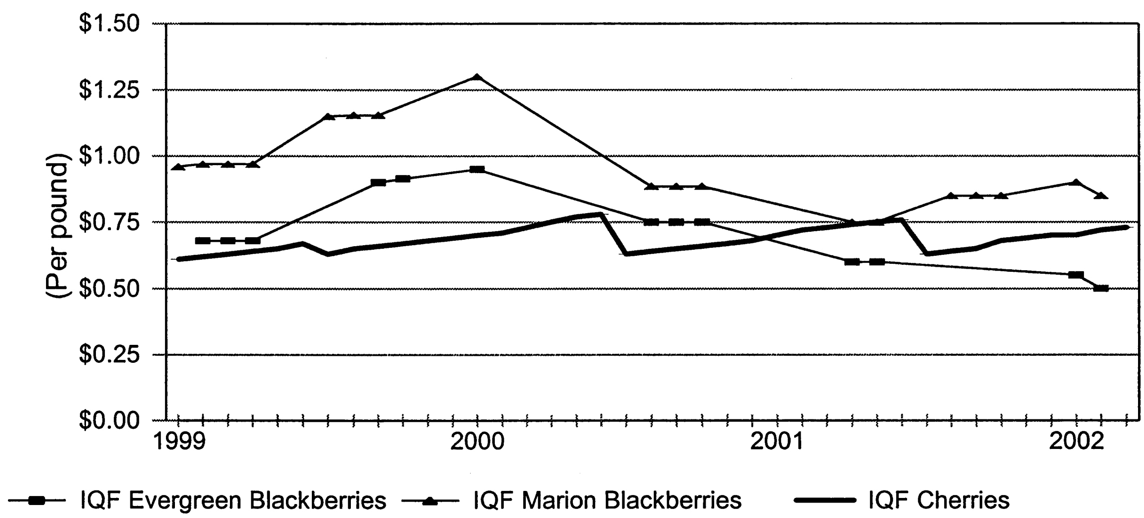
[8] Petitioners' postconference brief, pp. 12-13, and respondents' postconference brief, p. 7.

[9] Respondents' postconference brief, p. 7.

[10] Due to data unavailability, the percentage change in the price of IQF evergreen blackberries is calculated from February 1999 to February 2002 and the percentage change in the price of frozen blueberries is calculated from January 1999 to October 2001.

[11] Due to data unavailability, the percentage change in the price of IQF strawberries is calculated from January 1999 to January 2002.

Figure II-2
Berries: Monthly f.o.b. prices of IQF evergreen blackberries, IQF marion blackberries, and IQF cherries, January 1999-February 2002



Source: The Food Institute, April 2002.

Cost Share

While the proportion of the total cost of IQF red raspberries in their end uses varies by the type of end use, it is usually small to moderate when the raspberries are used as an ingredient and high when sold at retail. The cost share also depends on whether the product uses raspberries as its main ingredient or has a diverse set of ingredients such as other berries.

Importers, producers, and purchasers indicate that the cost share for IQF red raspberries ranges from 5 to 27 percent in mixed berry pies and from 33 to 66 percent for raspberry pie, danish, or other fillings. Importers and purchasers indicate that the cost share in jams, jellies, ice cream, and yogurt ranges from 21 to 80 percent. Producers, importers, and purchasers reported that the end-use cost share of IQF red raspberries sold at retail ranges from 60 to 100 percent.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported IQF red raspberries depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is a high level of substitutability between domestically produced IQF red raspberries and IQF red raspberries imported from Chile and other import sources.

Factors Affecting Purchasing Decisions

Purchasers were asked a variety of questions to determine what factors influence their decisions when buying IQF red raspberries. Information obtained from their responses indicates that while quality and price are both important factors, a majority of responding purchasers indicated that specific qualities or quality in general were the number one factor used in purchasing decisions. All but one purchaser reported quality as a "very important" factor, while no purchasers indicated that price was the number one factor in their purchasing decisions.

As indicated in table II-1, 15 of 22 responding purchasers reported that "quality" or specific quality-related indicators such as composition, meeting specifications, and being organic were their number one factor considered when choosing from whom to purchase IQF red raspberries. As indicated in table II-2, all but one responding purchaser indicated that product quality was a very important factor in the purchase decision for IQF red raspberries.

Table II-1
IQF red raspberries: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability[1]	4	5	5
Composition[2]	3	0	0
Meets specifications[3]	2	1	0
Organic	3	0	0
Prearranged contracts[4]	2	0	3
Price	0	7	10
Quality of product[5]	7	6	1
Other[6]	1	3	3

[1] Includes one response of "current availability" as the number one factor, two responses of "current availability" as the number two factor, and one response of "current availability" as the number three factor.
[2] Includes responses of "whole" and "broken" as the number one factors.
[3] Includes response of "ability to meet spec" as the number one factor and response of "plant audit" as the number two factor.
[4] Includes response of "contracts" as the number one factor and response of "desire long term contracts" as the number three factor.
[5] Includes response of "quality" as the number one factor and responses of "product-quality and consistent availability" and "overall QA" as number two factors.
[6] Consists of response of "HACCP program/GMPs" as number one factor; responses of "convenience," "grade," and "hygenic" as number two factors; and responses of "transit time," "range of suppliers' product line," and "extension of credit" as number three factors.

Source: Compiled from data submitted in response to Commission questionnaires.

Table II-2
IQF red raspberries: Importance of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Product quality	20	1	0
Reliability of supply	19	2	0
Product consistency	18	3	0
Availability	18	2	0
USDA grade	15	4	2
Delivery time	14	7	1
Composition	14	5	0
Discounts offered	10	10	1
Delivery terms	10	9	1
Lowest price	9	11	1
Packaging	9	11	1
U.S. transportation costs	9	8	4
Product range	8	7	4
Technical support/service	7	11	2
Minimum quantity requirements	7	10	4
Transportation network	7	10	4
Organic	3	3	13
Picking method	2	6	13

Source: Compiled from data submitted in response to Commission questionnaires.

Twelve of 21 responding purchasers require their suppliers to become certified or prequalified with respect to the quality or other characteristics of the IQF red raspberries they sell, and 4 of these purchasers had either domestic or foreign producers fail in their attempts to qualify their IQF red raspberries or lose their approved status.

No responding purchaser indicated that price was the number one factor considered in its purchasing decision, and less than one-half the responding purchasers indicated that price was a very important factor in their purchasing decisions. Also, 17 of 23 responding purchasers at most "sometimes" purchase IQF red raspberries that have the lowest price. However, price was mentioned as number two and number three factors in their purchasing decisions by 7 and 10 of the 22 responding purchasers respectively, and all but one responding purchaser indicated that lowest price was at least a somewhat important factor in their purchasing decisions.

Also, 14 of 22 responding purchasers indicated that availability was one of the top three factors in their purchasing decisions and all but a few purchasers indicated that availability, reliability of supply, and product consistency were very important factors used in the purchasing decision for IQF red raspberries.

Eleven of 23 responding purchasers indicated that they are aware of the varieties of IQF red raspberries that they purchase. Seven of 10 food processors (including one retailer/food processor) were aware of the variety while only 4 of 13 distributors and retailers were aware of the variety of the red raspberries they purchased. While two food processors indicated that they prefer the Williamette or Meeker varieties, one distributor preferred the Heritage variety, and another distributor preferred either the Heritage or Meeker varieties; only one firm (one of the food processors) indicated that it was willing to pay a premium for a variety. Also, one distributor indicated that its customers dictate varieties to be purchased, and four food processors and one distributor indicated that they have no preference for particular varieties.

Only nine of 23 responding purchasers indicated that they are aware whether the IQF red raspberries they purchase are hand-picked or machine-picked. Seven of 10 food processors (including one retailer/food processor) are aware of the method of picking, while only 2 of 13 distributors and retailers are aware of the method of picking. Six of the 9 purchasers who are aware of the method of picking (five food processors and one retailer/distributor) indicated that they have no preference for the method of picking; five of these six purchasers emphasized that they do not care about the method of picking if the raspberries are of the desired quality. One food processor indicated that all of the IQF red raspberries it purchased were machine-picked. No purchaser indicated that it was willing to pay a premium for hand-picked or machine-picked IQF red raspberries.

Petitioners argue that domestic and Chilean IQF raspberries are highly substitutable and compete almost exclusively on the basis of price.[12] However, Chilean respondents argue that purchase decisions depend on factors such as horticultural variety, freshness, consistency in physical characteristics, and diversification of supply.[13]

Chilean respondents note that although IQF red raspberries are frozen specifically to reduce their perishability, some U.S. buyers believe that over time IQF red raspberries lose quality because of berry dehydration and crystallization.[14] They also argue that since purchasers are normally responsible for the cost of cold storage inventories, they seek to minimize the time between purchase and use of the IQF product.[15] Petitioners argue that if freshness were a motivating factor in purchasers' decision-making, purchasers would purchase U.S.-produced IQF red raspberries in the summer and fall (when the U.S. crop is available) and imports from Chile in the winter and spring.[16]

Chilean respondents state that purchase decisions may also be affected by a purchaser's particular need for a specific horticultural variety of red raspberries such as the Heritage and Meeker varieties.[17] Petitioners state that the Heritage and Meeker varieties are interchangeable for all end-use applications and that although a few U.S. purchasers may state a mild preference for one variety over another, they are unaware of any purchaser which specifies only Heritage on its product specifications sheet.[18] Chilean respondents also note that purchasers may want a particular product form such as IQF whole and broken or organic IQF red raspberries.[19]

Chilean respondents report that a number of consumers require IQF red raspberries with good and consistent physical character in terms of shape, firmness, and freedom from extraneous vegetable

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[12] Petitioners' postconference brief, p. 1.

[13] Kenneth Button, conference transcript, pp. 71-74.

[14] *Id*, p. 71.

[15] *Id*.

[16] Petitioners' postconference brief, p. 11.

[17] Respondents' postconference brief, p. 2.

[18] Petitioners' postconference brief, p. 9.

[19] Respondents' postconference brief, pp. 2, 3, and 10.

matter that comes more easily with hand-picking rather than machine harvesting.[20] However, they also indicate that they do not know if hand-picked IQF red raspberries sell at a premium to machine-picked ones.[21]

Chilean respondents also note that purchasers have responded to various types of supply risks and costs by diversifying their sources of supply.[22] Petitioners argue that if purchasers were truly motivated by risk reduction, they would need to be able to use the Heritage and Meeker varieties interchangeably since Heritage IQF red raspberries are only available from Chile.[23]

Comparisons of Domestic Products and Chilean Imports

In their questionnaire responses, all responding domestic producers and nine of 13 responding importers indicated that U.S.-produced and Chilean imports of IQF red raspberries are used interchangeably.[24] Some importers said that there are often differences in varieties, quality, packaging, color, and acidity level. Some importers indicate that purchasers also prefer Chilean IQF red raspberries because they are predominantly hand-picked, while others preferred U.S.-produced IQF red raspberries because they are machine-picked. Two importers also mentioned that some purchasers prefer the Heritage variety that is available from Chile.

Twenty of 21 responding producers, but only five of 14 responding importers, indicated that there were no differences in product characteristics or sales conditions between U.S.-produced IQF red raspberries and IQF red raspberries imported from Chile that are a significant factor in their firm's sales of IQF red raspberries. Some importers indicated that differences in the timing of the Chilean crop, transport destinations, and darkness of the IQF red raspberries are significant factors in sales.

As seen in table II-3, 10 of 11 responding purchasers felt that U.S.-produced IQF red raspberries and IQF red raspberries imported from Chile were comparable in product consistency and reliability of supply, two factors which most purchasers felt were very important in their purchasing decisions. For the two other purchasing factors which were among the most frequently reported as very important, 8 of 11 responding purchasers felt that U.S.-produced IQF red raspberries were comparable in product quality and 6 of 11 responding purchasers felt they were comparable in availability.

Comparisons of Domestic Products and Nonsubject Imports[25]

In their questionnaire responses, all responding domestic producers and 10 of 12 responding importers indicated that U.S.-produced and nonsubject imports of IQF red raspberries are used interchangeably.[26] Some importers indicated that interchangeability was limited by the fact that European IQF red raspberries are predominantly hand-picked and by the availability of different varieties of IQF red raspberries.

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[20] Kenneth Button, conference transcript, p. 72.

[21] *Id*, p. 97.

[22] Respondents' postconference brief, pp. 2-3.

[23] Petitioners' postconference brief, pp. 10-11.

[24] This includes two importers which answered both yes and no.

[25] Nonsubject imports here refers only refers to non-Chilean imports. Questionnaire respondents were only asked to compare domestic product with nonsubject product from countries other than Chile.

[26] This includes two importers which answered both yes and no.

Table II-3
IQF red raspberries: Comparisons between U.S.-produced and Chilean products, as reported by U.S. purchasers

Factor	Number of firms reporting		
	U.S. superior	Comparable	U.S. inferior
U.S. transportation costs	0	11	0
Delivery terms	0	10	1
Product consistency	0	10	1
Reliability of supply	0	10	1
Product range	0	9	1
Composition	0	9	2
Packaging	0	9	2
USDA grade	1	9	1
Transportation network	1	8	1
Picking method	0	6	2
Organic	1	4	1
Product quality	1	8	2
Delivery time	3	7	1
Availability	3	6	2
Discounts offered	1	6	4
Technical support/service	4	5	1
Minimum quantity requirements	5	4	1
Lowest price[1]	1	3	6

[1] A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price generally lower than the Chilean price.

Source: Compiled from data submitted in response to Commission questionnaires.

All responding producers and seven of 13 responding importers indicated that there were no differences in product characteristics or sales conditions between U.S.-produced IQF red raspberries and IQF red raspberries imported from nonsubject countries that are a significant factor in their firm's sales of IQF red raspberries. One importer indicated that its customers preferred domestic IQF red raspberries.

Comparisons of Subject Imports and Nonsubject Imports[27]

In their questionnaire responses, all the responding domestic producers and seven of 11 responding importers indicated that imported Chilean product and nonsubject imports of IQF red raspberries are used interchangeably.[28]

All responding producers and six of 14 responding importers indicated that there were no differences in product characteristics or sales conditions between Chilean IQF red raspberries and IQF red raspberries imported from nonsubject countries that are a significant factor in their firm's sales of IQF red raspberries. Some importers indicated that their customers prefer the Chilean varieties, quality, service, and product range.

ELASTICITY ESTIMATES

U.S. Supply Elasticity[29]

The domestic supply elasticity for IQF red raspberries measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of IQF red raspberries. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced IQF red raspberries.

Petitioners claim that since domestic producers have a significant amount of unused capacity and hold large inventories, a domestic supply elasticity in the range of 5 to 7 is appropriate, higher than the range of 3 to 5 suggested in the prehearing report.[30] However, the reported 79.8 percent capacity utilization allows for some but a limited amount of unused capacity. Consideration of these and other factors earlier indicates that the U.S. industry is likely to be able to make moderate increases or decreases in shipments to the U.S. market and that an estimate in the range of 3 to 5 is suggested.

Chilean Supply Elasticity

The Chilean supply elasticity for IQF red raspberries measures the sensitivity of the quantity supplied by Chilean producers to changes in the U.S. market price of IQF red raspberries. The elasticity of Chilean supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for Chilean-produced IQF red raspberries.

Petitioners indicate that Chilean producers have a significant amount of unused capacity, produce multiple IQF fruit products, have higher inventories as a percentage of total shipments, have a large presence in foreign markets, and have the incentive to divert shipments from Europe and that there are 30 Chilean producers who could export to the U.S. who presently do not. Because of this, petitioners contend that a domestic supply elasticity in the range of 10 to 15 is appropriate, higher than the range of 5 to 7 suggested in the prehearing report.[31] However, similar with domestic supply, the reported *** percent capacity utilization for 2001 allows for some but a limited amount of unused capacity.

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[27] Nonsubject imports here refers only refers to non-Chilean imports. Questionnaire respondents were only asked to compare Chilean product with nonsubject product from countries other than Chile.

[28] This includes one importer which answered both yes and no.

[29] A supply function is not defined in the case of a non-competitive market.

[30] Petitioners' prehearing brief, exh. 3, p. 1.

[31] *Id.*

Consideration of these and other factors earlier indicates that the Chilean industry is likely to be able to make large increases or decreases in shipments to the U.S. market and that an estimate in the range of 5 to 10 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for IQF red raspberries measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of IQF red raspberries. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the IQF red raspberries in the production of any downstream products. Petitioners claim that demand for IQF red raspberries is price inelastic, while respondents claim that the elasticity of demand is price elastic at a "moderate positive value."[32] Petitioners claim that a demand elasticity in the range of -0.25 to -0.50 is appropriate, lower than the range of -0.50 to -0.75 suggested in the prehearing report.[33] In consideration of this and the other available information discussed earlier, the aggregate demand for IQF red raspberries is likely to be inelastic and a range of -0.50 to -0.75 is suggested.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[34] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.).

Petitioners claim that a substitution elasticity in the range of 5 to 10 is appropriate, higher than the range of 3 to 5 suggested in the prehearing report. They state that in the investigation on greenhouse tomatoes from Canada, staff estimated the substitution elasticity in the range of 5 to 10 notwithstanding evidence that at different points during the year, different suppliers may be preferred over others, and that 10 of 22 importers cited differences in product characteristics such as size, quality, availability, time of year, and freshness.[35] Although most evidence indicates high substitutability between domestic and Chilean IQF red raspberries, some evidence suggests that there are limits to this substitutability. For example, 9 of 14 importers cited differences in product characteristics between domestic and Chilean IQF red raspberries. Considering this and other information earlier, the elasticity of substitution between U.S.-produced IQF red raspberries and imported IQF red raspberries is likely to be in the range of 3 to 5.

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[32] Petitioners' prehearing brief, p. 12, and respondents' postconference brief, p. 7.

[33] Petitioners' prehearing brief, exh. 3, p. 2.

[34] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

[35] Petitioners' prehearing brief, exh. 3, p. 1.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

Information on U.S. producers' capacity, production, shipments, inventories, and employment relating to IQF red raspberries is presented in this section of the report, and is based on the questionnaire responses of 11 firms (9 grower/processors and 2 processors) that accounted for the vast majority of U.S. production of IQF red raspberries during 2001.

In investigations involving a processed agricultural product, section 771(4)(E) of the Act permits the Commission to consider growers of a raw agricultural input part of the domestic industry producing the processed agricultural product if:

(a) the processed agricultural product is produced from the raw agricultural product,[1] through a single continuous line of production,[2] and

(b) there is a substantial coincidence of economic interest between the growers and producers of the processed product based upon relevant economic factors.[3]

Available information regarding 13 additional U.S. growers' IQF-quality red raspberry operations is also presented in this section. Information regarding responding firms' locations and positions on the petition is presented in table III-1.

U.S. GROWERS AND GROWER/PROCESSORS

The petition in this investigation listed 44 growers, eight grower/processors, one coop/processor, and one processor/packer of IQF red raspberries.[4] All of these firms are located in the States of Oregon and Washington and they account for nearly all of the IQF raspberries produced in the United States. As noted earlier in the report, red raspberries grown in Oregon and Washington are sold almost exclusively for packing and freezing, while red raspberries grown in California are sold almost exclusively for the fresh market. Table III-2 presents information with respect to the growing operations for all red raspberries of the 13 growers, and 11 grower/processors and processors of IQF red raspberries who provided information on their growing operations; all of them indicated their support for the petition. In 2001, the 11 grower/processors are estimated to account for the vast majority of IQF red raspberry production and acreage harvested. Nearly all of the grower/processors and growers responding to the questionnaire grow other varieties of berries including strawberries, blueberries, and/or marionberries.

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[1] "Raw agricultural product" is defined as any farm or fishery product (19 U.S.C. § 1677(4)(E)(iv)).

[2] The statute provides that the processed product shall be considered to be processed from a raw product through a single continuous line of production if: (a) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product and (b) the processed agricultural product is produced substantially or completely from the raw product (19 U.S.C. § 1677(4)(E)(ii)).

[3] In addressing coincidence of economic interest, the Commission may consider price, added market value, or other economic interrelationships. Further: (a) if price is taken into account, the Commission shall consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product and (b) if added market value is taken into account, the Commission shall consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product. (19 U.S.C. § 1677(4)(E)(iii)).

[4] Growers that did not respond to the Commission's questionnaires tend to be smaller operations and are estimated to account for approximately 10 percent of total IQF-quality red raspberry production (petition, exh. 2).

Table III-1
All red raspberries and IQF red raspberries: U.S. growers, grower/processors, and processor/ packers, position on petition, location, and shares of reported production and amount harvested, 2001

Firm	Position	Production location	Shares (in *percent*)	
			IQF production	Amount harvested
Grower/processors and processor/packers:				
Columbia Fruit	Petitioner	Woodland, WA	***	***
Curt Maberry	Petitioner	Lynden, WA	***	***
Enfield	Petitioner	Lynden, WA	***	***
Firestone Packing	Petitioner	Vancouver, WA	***	***
Maberry Packing	Petitioner	Lynden, WA	***	***
Mike & Jean's	Petitioner	Mt. Vernon, WA	***	***
North Fork[1]	Support	Mt. Vernon, WA	***	***
Rader	Petitioner	Lynden, WA	***	***
RainSweet	Petitioner	Salem, OR	***	***
Scenic Fruit	Petitioner	Gresham, OR	***	***
Townsend	Petitioner	Fairview, OR	***	***
Subtotal			96.5	84.6
Growers:[3]				
Bahler Farms	Support	Gervais, OR	***	***
Bear Creek Farms	Support	Gresham, OR	***	***
Columbia Farms	Petitioner	Portland, OR	***	***
David Burns	Support	Gresham, OR	***	***
Dobbins Berry Farm	Support	Woodland, WA	***	***
George Hoffman Farms	Support	Ridgefield, WA	***	***
Parson Berry Farm	Support	Portland, OR	***	***
Silverstar Farms	Support	Battle Ground, WA	***	***
Thoeny Farms	Support	Woodland, WA	***	***
Tim Straub	Support	Ridgefield, WA	***	***
Tsugawa Farms	Petitioner	Woodland, WA	***	***
Van Laeken Farms	Support	Ridgefield, WA	***	***
Wendell Kreder	Support	Jefferson, OR	***	***
Subtotal			3.5	15.4
Total			100.0	100.0

Footnotes on next page.

Table III-1--*Continued*
All red raspberries and IQF red raspberries: U.S. growers, grower/processors, and processor/packers, position on petition, location, and shares of reported production and amount harvested, 2001

Firm	Position	Production location	Shares (in *percent*)	
			IQF production	Amount harvested

[1] North Fork was a grower/processor of both organic and nonorganic product, and ***.
[2] Not applicable.
[3] In addition to the growers listed, the Commission received indication of support for the petition from 8 additional growers in Oregon and Washington: A&A Berry Farm, George Culp, Heckel Farms, Nguyen Berry Farm, Nick's Acres, Pickin 'N' Pluckin, Postage Stamp Farm, and Updike Berry Farm.

Source: Compiled from responses to Commission questionnaires.

Data provided by the nine grower/processors, one coop/processor (RainSweet), and one processor/packer (Scenic Fruit) with respect to their IQF red raspberry acreage, harvest, yield, production capacity, production, capacity utilization, shipments, inventories, and employment-related indicators are provided in table III-3. USDA data regarding U.S. stocks of IQF red raspberries in cold storage are presented in table III-4. It should be noted that given the June-August harvest period for red raspberries and the necessity to process them immediately, there is no production during the first calendar quarter of the year; however, once in cold storage, the product may be shipped throughout the year.

Changes in Operations

Since January 1, 1999, U.S. grower/processors and processor/packers of IQF red raspberries reported expansion to freeze all berries (***), nitrogen supply shortages in July 2000 affecting IQF production (***), curtailed purchases of fruit from other growers in 2001 (***), and reduced production shifts thereby reducing production and employment in 2001 (***). Since January 1, 1999, U.S. growers reported reduced winter acreage (***), foregone equipment purchases (***), and a switch to fresh berries (***). After the 2000 crop, *** reportedly ceased all raspberry growing operations (*** acres).

Table III-2
IQF-quality red raspberries: Reported U.S. acreage, harvest, yield, sales, and employment of growers of IQF red raspberries, 1999-2001

Item	Calendar year		
	1999	2000	2001
Acreage harvested (*acres*)	3,268	3,224	3,346
Amount harvested (*1,000 pounds*)	28,423	26,923	30,968
Average yield (*pounds per acre*)	8,698	8,351	9,256
Sold as fresh market fruit:			
Quantity (*1,000 pounds*)	***	***	***
Value (*1,000 dollars*)	***	***	***
Unit value (*per pound*)	***	***	***
Packed and sold:[1]			
Quantity (*1,000 pounds*)	26,925	25,724	29,140
Value (*1,000 dollars*)	22,713	17,588	22,714
Unit value (*per pound*)	$0.84	$0.68	$0.78
Full-time employment:			
Production and related workers (PRWs)	244	247	260
Hours worked by PRWs (*1,000 hours*)	326	337	344
Wages paid to PRWs (*1,000 dollars*)	3,518	3,685	3,677
Hourly wages	$10.79	$10.93	$10.69
Part-time employment:			
PRWs	1,974	1,805	1,959
Hours worked by PRWs (*1,000 hours*)	550	531	558
Wages paid to PRWs (*1,000 dollars*)	3,954	3,819	4,265
Hourly wages	$7.18	$7.19	$7.64
Productivity (*pounds produced per hour*)	31.8	30.6	33.8
Unit labor costs (*per pound*)	$0.28	$0.29	$0.26

[1] Related and unrelated.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-3
IQF red raspberries: Reported U.S. acreage, harvest, yield, production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment,[1] 1999-2001

Item	Calendar year		
	1999	2000	2001
Acreage harvested (*acres*)	2,496	2,463	2,631
Amount harvested (*1,000 pounds*)	15,789	15,179	16,012
Average yield (*pounds per acre*)	6,326	6,163	6,086
Capacity (*1,000 pounds*)	19,285	18,184	21,138
Production (*1,000 pounds*)	16,824	15,818	16,865
Capacity utilization (*percent*)	87.2	87.0	79.8
U.S. shipments: Quantity (*1,000 pounds*)	14,452	16,354	17,130
Value (*1,000 dollars*)	18,926	19,199	17,915
Unit value (*per pound*)	$1.31	$1.17	$1.05
Exports: Quantity (*1,000 pounds*)	***	***	***
Value (*1,000 dollars*)	***	***	***
Unit value (*per pound*)	***	***	***
Total shipments:[2] Quantity (*1,000 pounds*)	***		
Value (*1,000 dollars*)	***	***	***
Unit value (*per pound*)	***	***	***
Inventories (*1,000 pounds*)	9,783	9,160	8,834
Ratio of inventories to total shipments (*percent*)	***	***	***
Production and related workers (PRWs)	1,129	1,133	1,193
Hours worked by PRWs (*1,000 hours*)	383	400	387
Wages paid to PRWs (*1,000 dollars*)	3,081	3,470	3,540
Hourly wages	$8.04	$8.67	$9.15
Productivity (*pounds produced per hour*)	43.7	39.2	43.4
Unit labor costs (*per pound*)	$0.18	$0.22	$0.21

[1] Employment data include both full-time and part-time employees.
[2] Shipment data do not reconcile with data reported for total sales in table VI-5. The data are not comparable because of differences in coverage and calendar-year versus fiscal-year reporting (grower/processors whose fiscal year ended between March 31 and May 31 accounted for more than 70 percent of production during 2001).

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-4
IQF red raspberries: U.S. stocks in cold storage, by months, January 1998-April 2002

Month	1998	1999	2000	2001	2002
	Quantity (*1,000 pounds*)				
January	10,543	9,184	14,745	14,568	15,710
February	10,149	8,373	12,837	12,758	13,948
March	9,132	7,497	13,284	12,185	11,994
April	7,808	7,139	12,657	11,332	10,005
May	6,938	5,758	10,310	10,047	([1])
June	8,402	5,504	10,835	10,747	([1])
July	15,409	17,157	20,637	25,627	([1])
August	14,158	19,889	20,712	24,272	([1])
September	12,378	18,907	19,313	22,093	([1])
October	13,409	18,007	17,998	21,513	([1])
November	12,429	17,285	17,272	19,193	([1])
December	10,958	16,367	16,212	17,611	([1])

[1] Not available.

Note.--Data represent information from U.S. operators of public and private cold-storage facilities and include inventories of U.S. producers, importers, and purchasers.

Source: Various *Cold Storage Summaries*, NASS, USDA.

PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Approximately 20 firms imported IQF red raspberries from Chile in 2001. Fourteen of those importers, accounting for nearly 80 percent of imports from Chile during 2001, provided usable information. Responding importers are located in ***. In the majority of cases, their customers numbered between five and 10 and, in a few instances, they reported only a single client. Given the two Chilean harvests, which essentially run from November to May, most imports are entered from February through June, with April having been the busiest month for import activity during 1999-2001. Between 85 to 90 percent of Chilean product was entered from February through June during 1999-2000 and 60 percent during 2001. Imports of organic IQF red raspberries from Chile accounted for *** percent of total imports from Chile during 1999-2001.[1]

U.S. IMPORTS

Table IV-1 presents data on U.S. imports of IQF red raspberries[2] based on foreign producer questionnaire responses for nonsubject sources, official Commerce statistics for total imports from Chile, and importer questionnaire responses for other sources.[3] Canada, Macedonia, Mexico, and the Netherlands were reported as other sources in questionnaires.[4] [5] Import data may be overstated to the extent that frozen red raspberries, other than IQF red raspberries, may be included in official import statistics.

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[1] Separate data for organic and nonorganic IQF red raspberries regarding imports, apparent consumption, and market shares are presented in tables D-1-2 and D-5-6, app. D.

[2] Data regarding monthly and annual imports of IQF red raspberries from Chile are presented in tables D-3-4, app. D.

[3] Total U.S. imports of IQF red raspberries from Chile are based on official Commerce statistics, nonsubject imports from Chile are based on foreign producer questionnaire responses (quantity) and importer questionnaire responses (value calculated from unit values), and subject imports are the difference between official statistics and nonsubject imports. Additional data regarding the alternative methodologies for calculation of subject imports, including arguments of parties, are presented in table D-7, app. D.

[4] According to testimony at the conference, some of the Eastern European product is a larger berry (than Chilean) and more similar in size to the U.S. product. Karen Holzburg, KH International, conference transcript, p. 83.

[5] Official Commerce statistics report significant quantities of imports of frozen red raspberries from Canada under the subject HTS number; however, there were few imports of IQF red raspberries from Canada reported in response to Commission questionnaires. ***.

Table IV-1
IQF red raspberries: U.S. imports, by sources, 1999-2001

Source	Calendar year		
	1999	2000	2001
	Quantity (*1,000 pounds*)		
Chile (subject)	***	***	***
Chile (nonsubject)	***	***	***
Other sources	305	228	122
Subtotal, nonsubject	***	***	***
Total	10,017	9,648	8,810
	Value (*1,000 dollars*)[1]		
Chile (subject)	***	***	***
Chile (nonsubject)	***	***	***
Other sources	362	228	140
Subtotal, nonsubject	***	***	***
Total	8,709	9,189	7,079
	Unit value (*per pound*)[1]		
Chile (subject)	$***	$***	$***
Chile (nonsubject)	***	***	***
Other sources	1.19	1.00	1.15
Subtotal, nonsubject	***	***	***
Total	0.87	0.95	0.80
	Share of quantity (*percent*)		
Chile (subject)	***	***	***
Chile (nonsubject)	***	***	***
Other sources	3.0	2.4	1.4
Subtotal, nonsubject	***	***	***
Total	100.0	100.0	100.0
	Share of value (*percent*)		
Chile (subject)	***	***	***
Chile (nonsubject)	***	***	***
Other sources	4.2	2.5	2.0
Subtotal, nonsubject	***	***	***
Total	100.0	100.0	100.0

[1] Landed, duty-paid.

Note 1.--For Chile (nonsubject): quantity reflects exports to the United States reported in foreign producer questionnaires (organic plus nonorganic); corresponding value data were derived from unit values of imports calculated from importer questionnaires.

Note 2.--For Chile (subject): quantity and value reflect official import statistics minus nonsubject Chile (organic plus nonorganic).

Source: Compiled from official Commerce statistics and Commission questionnaires.

Imports by Domestic Producers

*** was the only U.S. producer to report imports of IQF red raspberries from Chile during the period examined. In 1999, *** imported *** pounds of the subject product from Chile, which accounted for *** percent of total imports from Chile during the year. As a share of U.S. production of IQF red raspberries, *** production accounted for *** percent, and its imports from Chile were equivalent to *** percent of its production in 1999. Insofar as its reason for importing, *** stated: "***."

*** reported purchases of imports of IQF red raspberries from Chile during the period examined "in order to maintain business with certain customers who require low prices." Such purchases amounted to *** pounds and were equal to *** percent of the firm's total IQF red raspberry production during 1999, 2000, and 2001, respectively.

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption and market shares are presented in table IV-2.

U.S. MARKET SHARES

Data concerning U.S. market shares are presented in table IV-3.

Quarterly Market Activity

Figure IV-1 and table IV-4 provide market information relating to the interplay of U.S. sales and inventories of IQF red raspberries on a quarterly basis during 1999-2001.

Figure IV-1
IQF red raspberries: U.S. producers' sales, U.S. importers' subject and nonsubject Chilean import sales, and U.S. inventories, by quarters, 1999-2001

* * * * * * *

Table IV-2
IQF red raspberries: U.S. producers' U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 1999-2001

Item	Calendar year		
	1999	2000	2001
	Quantity (*1,000 pounds*)		
U.S. producers' U.S. shipments	14,452	16,354	17,130
U.S. imports from-- Chile (subject)	***	***	***
Chile (nonsubject)	***	***	***
Other sources	305	228	122
Subtotal, nonsubject	***	***	***
Total	10,017	9,648	8,810
Apparent U.S. consumption	24,469	26,002	25,940
	Value (*1,000 dollars*)		
U.S. producers' U.S. shipments	18,926	19,199	17,915
U.S. imports from-- Chile (subject)	***	***	***
Chile (nonsubject)	***	***	***
Other sources	362	228	140
Subtotal, nonsubject	***	***	***
Total	8,709	9,189	7,079
Apparent U.S. consumption	27,636	28,388	24,994

Note 1.--For Chile (nonsubject): quantity reflects exports to the United States reported in foreign producer questionnaires (organic plus nonorganic); corresponding value data were derived from unit values of imports calculated from importer questionnaires.

Note 2.--For Chile (subject): quantity and value reflect official import statistics minus nonsubject Chile (organic plus nonorganic).

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table IV-3
IQF red raspberries: Apparent U.S. consumption and market shares, 1999-2001

Item	Calendar year		
	1999	**2000**	**2001**
	Quantity (*1,000 pounds*)		
Apparent consumption	24,469	26,002	25,940
	Value (*1,000 dollars*)		
Apparent consumption	27,636	28,388	24,994
	Share of quantity (*percent*)		
U.S. producers' U.S. shipments	59.1	62.9	66.0
U.S. imports from-- Chile (subject)	***	***	***
Chile (nonsubject)	***	***	***
Other sources	1.2	0.9	0.5
Subtotal, nonsubject	***	***	***
Total	40.9	37.1	34.0
	Share of value (*percent*)		
U.S. producers' U.S. shipments	68.5	67.6	71.7
U.S. imports from-- Chile (subject)	***	***	***
Chile (nonsubject)	***	***	***
Other sources	1.3	0.8	0.6
Subtotal, nonsubject	***	***	***
Total	31.5	32.4	28.3

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

Table IV-4
IQF red raspberries: U.S. producers' sales, U.S. importers' import sales, and cold-storage inventories, by quarters, January-March 1999-October-December 2001

Quarter	U.S. product	Subject imports	Nonsubject imports	Inventories
	Quantity (*1,000 pounds*)			
1999:				
Jan.-Mar.	2,848	***	***	7,497
Apr.-June	2,300	***	***	5,504
July-Sept.	4,868	***	***	18,907
Oct.-Dec.	2,612	***	***	16,367
2000:				
Jan.-Mar.	4,388	***	***	13,284
Apr.-June	3,062	***	***	10,835
July-Sept.	4,104	***	***	19,313
Oct.-Dec.	3,190	***	***	16,212
2001:				
Jan.-Mar.	3,759	***	***	12,185
Apr.-June	3,399	***	***	10,747
July-Sept.	6,004	***	***	22,093
Oct.-Dec.	2,895	***	***	17,611

Source: Tables V-1-6 and USDA, NASS *Cold Storage* data (table III-4).

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Red raspberries are the main raw material for producing IQF red raspberries, comprising a large share of the cost of IQF red raspberries. The price received by growers of IQF red raspberries fell by 36 percent between 1999 and 2001, decreasing from $0.80 per pound in 1999 to $0.50 per pound in 2000 and increasing slightly to $0.51 per pound in 2001. Similarly, prices for processed red raspberries produced in Washington and Oregon both fell between 1999 and 2001 overall, by 32 and 35 percent respectively.[1]

Transportation Costs to the U.S. Market

Transportation costs for IQF red raspberries from Chile to the United States in 2001 (excluding U.S. inland costs) are estimated to be approximately 13.7 percent of the total cost of IQF red raspberries. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

U.S. Inland Transportation Costs

U.S. inland transportation costs for IQF red raspberries comprise a small portion of the cost of the U.S. product and a moderate portion of the cost for most imported product. Producers report that transportation costs make up about 3 percent of the total cost of IQF red raspberries on average, while importers report that transportation costs make up about 6 percent of total cost.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chilean peso depreciated 29.3 percent relative to the U.S. dollar from January 1999 to December 2001 (figure V-1). The real value of the Chilean peso depreciated 13.3 percent vis-a-vis the U.S. dollar in that time period.

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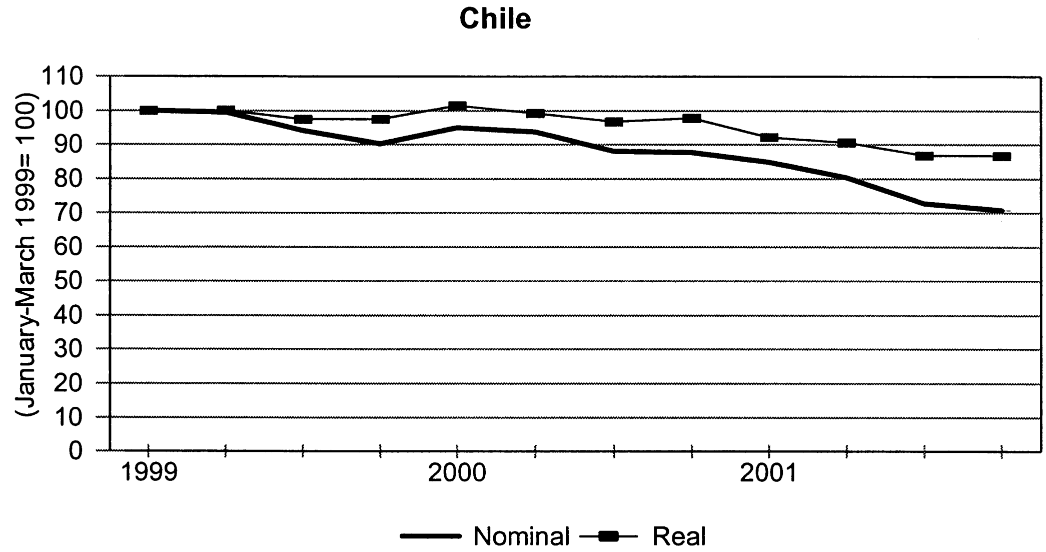
[1] The grower price for processed red raspberries in Washington fell from $0.66 per pound in 1999 to $0.31 per pound in 2000, then increased to $0.45 per pound in 2001. In Oregon, the grower price for processed red raspberries fell from $0.69 per pound in 1999 to $0.47 per pound in 2000 and further to $0.45 per pound in 2001. However, the grower price for fresh red raspberries (which make up less than 10 percent of the total harvest) increased by 22 percent between 1999 and 2001 in both Washington and Oregon. In 2001, Washington's red raspberry harvest was about 3-and-a-half times bigger than Oregon's. Berry Production 2001, Oregon Agricultural Service.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates of the Chilean peso relative to the U.S. dollar, by quarters, January 1999 to December 2001



Source: International Monetary Fund, *International Financial Statistics*, March 2002.

PRICING PRACTICES

Pricing Methods

Producers and importers reported using both transaction-by-transaction negotiation, contracts for multiple shipments, or a combination of these methods. Although producers and importers made both contract and spot sales of IQF red raspberries, contract sales occur more frequently with both.

Contracts are typically negotiated annually with annual shipments, although some importers reported negotiating contracts for shorter periods. Most producers and all importers indicated that both quantity and price are fixed in their contracts. Most producers and importers reported having no minimum shipment size. However, two importers and one producer indicated that they require minimum shipments of 40,000 pounds, two importers reported that the minimum shipment was container size, and one producer and one importer that the minimum shipment size depended on the customer.

Most producers sell IQF red raspberries on an f.o.b. (usually warehouse) basis, but importers sell on both f.o.b. and delivered bases. While 10 of 15 producers reported that the purchaser usually arranges for transportation, only three of 12 importers reported that this was the case. Most producers and a majority of importers reported shipping nationwide. A few importers ship mostly to either the Northeast or West Coast.

On June 29, 2001, staff contacted trial attorney *** of the U.S. Department of Justice's Antitrust Division, who confirmed that there was an open investigation of allegations of anticompetitive practices by the U.S. red raspberry industry located primarily in the Northwest, in Washington State. He said that no public filings were made in the investigation and was unable to provide any further details. In a follow up conversation with staff on June 6, 2002, *** said that the case was dropped by the Department of Justice.

Sales Terms and Discounts

Many producers offer quantity discounts and some offer cash discounts and discounts on payment terms. Discounts were less prevalent among importers, although some importers offered quantity discounts, cash discounts, discounts on payment terms, and various promotional allowances and discounts.

PRICE DATA

The Commission requested U.S. producers and importers of IQF red raspberries to provide quarterly data for the total quantity and value of IQF red raspberries that were shipped to unrelated customers in the U.S. market. Data were requested for the period January 1999 to December 2001. The products for which pricing data were requested are as follows:

***Product 1*.–Whole IQF red raspberries sold in bulk containers, *i.e.,* in 20-pound or 10-kilogram boxes, each containing either one polybag liner or four 2.5 kilogram (5-pound) polybags, not organic, USDA grade A**

***Product 2*.–Whole IQF red raspberries sold in retail packs, *i.e.,* in 4.08-kilogram (9-pound) boxes, each containing 12 12-ounce retail packages, not organic, USDA grade A**

***Product 3*.–Whole and broken IQF red raspberries, sold in 20-pound or 10-kilogram boxes, each containing either one polybag liner or four 2.5 kilogram (5-pound) polybags, not organic**

***Product 4*.–Crumbled IQF red raspberries, sold in 20-pound or 10-kilogram boxes, each containing either one polybag liner or four 2.5 kilogram (5-pound) polybags, not organic**

***Product 5*.–Whole IQF red raspberries sold in bulk containers, *i.e.,* in 20-pound or 10-kilogram boxes, each containing either one polybag liner or four 2.5 kilogram (5-pound) polybags, organic, USDA grade A**

***Product 6*.–Whole IQF red raspberries sold in retail packs, *i.e.,* in 4.08-kilogram (9-pound) boxes, each containing 12 12-ounce retail packages, organic, USDA grade A**

***Product 7*.–Whole and broken IQF red raspberries, sold in 20-pound or 10-kilogram boxes, each containing either one polybag liner or four 2.5 kilogram (5-pound) polybags, organic**

***Product 8*.–Crumbled IQF red raspberries, sold in 20-pound or 10-kilogram boxes, each containing either one polybag liner or four 2.5 kilogram (5-pound) polybags, organic**

Eleven U.S. producers and 7 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[2] The prices for products

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[2] Not all pricing data that were submitted in questionnaire responses were used in calculating the weighted-average selling prices. There were no reported pricing data for products 5-8 from domestic producers and no reported pricing data for product 6 from Chilean sources. Other pricing data not used to calculate weighted-average selling prices included pricing data from ***.

1-8 are reported below (tables V-1 through V-5 and figures V-2 through V-5).[3] Pricing data reported by these firms accounted for approximately 89 percent of U.S. producers' shipments of IQF red raspberries and 82 percent of U.S. shipments of subject imports from Chile in 2001.

Price Trends

Price trends for both U.S.-produced IQF red raspberries and subject imported IQF red raspberries from Chile were mixed from 1999 to 2001. The bulk of the pricing data for the United States (69 percent) and the majority for Chile (52 percent) were for product 1.

The weighted-average sales price of U.S.-produced product 1 moved sporadically, falling overall by 1 percent between the first quarter of 1999 and the last quarter of 2001, while the weighted-average sales price of subject Chilean product 1 fell more steadily during the same period, decreasing by *** percent. The weighted-average sales price of U.S.-produced product 1 increased by 33 percent between the first quarter of 1999 and the first quarter of 2000, but then fell by 24 percent between the first quarter of 2000 and the first quarter of 2001 and by 1 percent between the first quarter of 2001 and the last quarter of 2001. The weighted-average sales price of subject Chilean product 1 decreased by *** percent between the first quarter of 1999 and the first quarter of 2000, fell by *** percent between the first quarter of 2000 and the first quarter of 2001, and increased by *** percent between the first quarter of 2001 and the last quarter of 2001.

While prices for the U.S.-produced products 2, 3, and 4 fell overall, prices for subject Chilean products 2, 3, and 4 fell by less or slightly increased over similar periods. The weighted-average sales prices for U.S.-produced products 2, 3, and 4 decreased by about *** percent, *** percent, and *** percent, respectively, during the period for which data were collected, while the prices for the corresponding subject Chilean products 2 and 3 fell by *** percent and *** percent, respectively, and the price for subject Chilean product 4 increased by about *** percent.[4] [5] Prices for subject Chilean products 5, 7, and 8 increased by *** percent, *** percent, and *** percent, respectively, during the period for which data were collected.[6] Also, prices for nonsubject Chilean products 1-4 fell by *** percent, *** percent, *** percent, and *** percent, respectively, during the period for which data were collected.[7]

[3] The Chilean prices are only for subject sources. Pricing data for nonsubject Chilean products are in table V-6.

[4] Pricing data for imported subject Chilean product 2 were available only from the third quarter of 1999 to the last quarter of 2001 and for product 4 from the first quarter of 1999 to the third quarter of 2001. By comparison, during these periods prices for U.S.-produced products 2 and 4 fell by *** percent and increased by *** percent, respectively.

[5] Correlations between prices for domestic products 1, 2, 3, and 4 and their corresponding subject Chilean pricing products were 0.57, 0.68, 0.50, and 0.52, respectively. The p-values which indicate at what level of significance (usually assumed to be 0.05 or less) these correlation coefficients would be statistically significant are 0.05, 0.03, 0.10, and 0.10 respectively. As petitioners point out, even if statistically significant, these correlations do not necessarily imply causation and these price trends may track one another for reasons having nothing to do with each other's prices, such as macroeconomic trends or prices of other substitute or downstream goods. Petitioners' prehearing brief, exh. 3, p. 2, footnote 1.

[6] Pricing data for imported subject Chilean products 7 and 8 were available only from the fourth quarter of 1999 to the third quarter of 2001.

[7] Pricing data for imported nonsubject Chilean products 1, 2, and 3 were available only from the first quarter of 1999 to the third quarter of 2001 and for imported nonsubject Chilean product 4 from the first quarter of 1999 to the second quarter of 2001.

Table V-1
IQF red raspberries: Weighted-average f.o.b. prices and quantities of domestic and imported subject Chilean product 1[1] and margins of underselling/(overselling), by quarters, January 1999-December 2001

Period	United States		Chile		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
1999:					
Jan.-Mar.	$0.99	1,336,295	$***	***	***
Apr.-June	1.13	915,690	***	***	***
July-Sept.	1.28	3,383,985	***	***	***
Oct.-Dec.	1.30	1,517,590	***	***	***
2000:					
Jan.-Mar.	1.31	3,039,541	***	***	***
Apr.-June	1.25	1,723,528	***	***	***
July-Sept.	0.98	2,709,849	***	***	***
Oct.-Dec.	1.00	2,215,652	***	***	***
2001:					
Jan.-Mar.	0.99	2,131,992	***	***	***
Apr.-June	1.01	2,425,711	***	***	***
July-Sept.	0.95	5,019,745	***	***	***
Oct.-Dec.	0.98	1,517,604	***	***	***

[1] Whole IQF red raspberries sold in bulk containers, *i.e.,* in 20-pound or 10-kilogram boxes, each containing either one polybag liner or four 2.5 kilogram (5-pound) polybags, not organic, USDA grade A.

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-2
IQF red raspberries: Weighted-average f.o.b. prices and quantities of domestic and imported subject Chilean product 2 and margins of underselling/(overselling), by quarters, January 1999-December 2001

* * * * * * *

Table V-3
IQF red raspberries: Weighted-average f.o.b. prices and quantities of domestic and imported subject Chilean product 3 and margins of underselling/(overselling), by quarters, January 1999-December 2001

* * * * * * *

Table V-4
IQF red raspberries: Weighted-average f.o.b. prices and quantities of domestic and imported subject Chilean product 4 and margins of underselling/(overselling), by quarters, January 1999-December 2001

* * * * * * *

Table V-5
IQF red raspberries: Weighted-average f.o.b. prices and quantities of imported subject Chilean products 5, 7, and 8, by quarters, January 1999-December 2001

* * * * * * *

Table V-6
IQF red raspberries: Weighted-average f.o.b. prices and quantities of imported nonsubject Chilean products 1, 2, 3, and 4, by quarters, January 1999-December 2001

* * * * * * *

Figure V-2
IQF red raspberries: Weighted-average f.o.b. prices of domestic and imported subject Chilean product 1, by quarters, January 1999-December 2001

* * * * * * *

Figure V-3
IQF red raspberries: Weighted-average f.o.b. prices of domestic and imported subject Chilean product 2, by quarters, January 1999-December 2001

* * * * * * *

Figure V-4
IQF red raspberries: Weighted-average f.o.b. prices of domestic and imported subject Chilean product 3, by quarters, January 1999-December 2001

* * * * * * *

Figure V-5
IQF red raspberries: Weighted-average f.o.b. prices of domestic and imported subject Chilean product 4, by quarters, January 1999-December 2001

* * * * * * *

Price Comparisons

Overall there were 45 instances where prices for domestic IQF red raspberries and imported subject Chilean IQF red raspberries could be compared. Of these 45 comparisons, there were 31 instances (or about 69 percent) where the subject imported product was priced below the domestic product. Margins of underselling averaged 22.6 percent, ranging from 1.8 percent to 52.1 percent. In the remaining 14 instances, the subject imported product was priced above the comparable domestic product; margins of overselling averaged 19.3 percent, ranging from 5.7 percent to 31.8 percent.

As discussed in *Part II*, respondents argue that for retail and institutional food service consumption of IQF red raspberries, purchasers have the option of choosing other berry products such as strawberries, blackberries, and similar fruits and that a reduction in price of IQF red raspberries may cause some consumers to switch from the consumption of alternative products to IQF red raspberries. Figure V-6 compares the prices of U.S.-produced product 1, which can be used for food service or retail sale, and U.S.-produced product 2, which is a retail product, to the prices of IQF strawberries and two varieties of IQF blackberries. Correlations between the price of U.S.-produced product 1 and the prices of IQF strawberries and IQF evergreen and marion varieties of blackberries were 0.37, 0.86, and 0.90 respectively, while the correlations between the price of U.S.-produced product 2 and the prices of these three berries were 0.51, 0.24, and 0.43, respectively.[8]

Figure V-6
Berries: Weighted-average f.o.b. prices of domestic IQF red raspberry products 1 and 2, IQF strawberries, IQF evergreen blackberries, and IQF marion blackberries, by quarters, January 1999-December 2001

* * * * * * *

As discussed in *Part II*, respondents also argue that "straight pack" frozen red raspberries are an excellent substitute for IQF red raspberry crumbles for industrial users. Figure V-7 compares the prices of U.S.-produced products 3 (whole and broken) and 4 (crumbles) to the price of frozen (not IQF) red raspberries, also known as straight pack. Correlations between the prices of U.S.-produced products 3 and 4 and the price of frozen red raspberries were 0.23 and 0.94, respectively.[9]

Figure V-7
Red raspberries: Weighted-average f.o.b. prices of domestic IQF red raspberry products 3 and 4 and frozen straight pack red raspberries, by quarters, January 1999-December 2001

* * * * * * *

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[8] The p-values (which indicate at what assumed level of significance these correlation coefficients would be statistically significant) are 0.26, 0.01, and less than 0.001 respectively for product 1 and 0.11, 0.57, and 0.25 for product 2, respectively. As petitioners point out, even if statistically significant, these correlations do not necessarily imply causation and these price trends may track one another for reasons having nothing to do with each other's prices, such as macroeconomic trends or prices of other substitute or downstream goods. Petitioners' prehearing brief, exh. 3, p. 2, footnote 1.

[9] The p-values (which indicate at what assumed level of significance these correlation coefficients would be statistically significant) are 0.47 and less than 0.0001, respectively. As petitioners point out, even if statistically significant, these correlations do not necessarily imply causation and these price trends may track one another for reasons having nothing to do with each other's prices, such as macroeconomic trends or prices of other substitute or downstream goods. Petitioners' prehearing brief, exh. 3, p. 2, footnote 1.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of IQF red raspberries to report any instances of lost sales or lost revenues they experienced due to competition from imports of IQF red raspberries from Chile during January 1998 to December 2001. Of the 17 responding U.S. producers, 12 reported that they had to either reduce prices or roll back announced price increases. The 18 lost sales allegations totaled more than $*** million[10] and involved more than *** million pounds of IQF red raspberries, and there were also two lost revenue allegations worth $*** that involved *** pounds of IQF red raspberries.[11] Staff contacted 13 purchasers and a summary of the information obtained follows (tables V-7 and V-8).[12]

Table V-7
IQF red raspberries: U.S. producers' lost sales allegations

* * * * * * *

Table V-8
IQF red raspberries: U.S. producers' lost revenue allegations

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***.[13]

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***.[14]

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***.[15]

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[10] In one allegation the U.S. rejected price was not reported, so the value of this allegation is not included in this total, but is included in the total weight of allegations.

[11] These do not include lost revenue and lost sales allegations submitted in questionnaire responses by petitioning producers that should have been included in the petition.

[12] These lost sales and lost revenue allegations and responses did not differentiate between subject and nonsubject Chilean imports.

[13] ***.

[14] ***.

[15] Respondents' postconference brief, exhibit 5.

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Producer Categories

For purposes of this section of the report, financial results are divided into two primary categories: IQF-quality red raspberries and IQF red raspberries.[1] Growers generally provided financial results on the sale of IQF-quality red raspberries, while grower/processors and processors reported revenue and costs associated with the sale and/or toll processing of IQF red raspberries.[2] [3]

Product-Specific Financial Results

While the scope of this investigation is IQF red raspberries, the responding firms, in many cases, grow and/or process other items. As a result, most U.S. growers, grower/processors, and processors allocated costs and expenses in order to provide an estimate of their financial results related to IQF-quality red raspberries and IQF red raspberries, respectively.[4]

Accounting Methods and Reporting Periods

Most growers, as well as a little over half of the processors, reported their financial results on a cash and/or income tax basis of accounting.[5] The rest reported on an accrual basis.

The majority of growers reported financial results on a calendar-year basis, as did a little less than half of the processors. The rest reported financial results for fiscal years (FY) ending in March, April, May, and October.[6] Commission staff verified the questionnaire response of Rader Farms, Inc. on

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[1] The following respondent categories provided usable financial information: 10 growers of IQF-quality red raspberries, 10 grower/processors of IQF red raspberries, and 2 processors of IQF red raspberries. As identified by firm in table VI-7, *** are stand-alone processors, while the remaining firms are classified as grower/processors. Collectively, the respondents in this section of the report represent the majority of U.S. IQF and IQF-quality red raspberry production during the period examined.

[2] As indicated in a previous section of this report, IQF-quality red raspberries are red raspberries which have been graded for IQF processing. As such, IQF-quality red raspberries are the primary raw material in the production of IQF red raspberries. The Commission's questionnaire also requested that respondents identify financial results related to organic and nonorganic IQF-quality red raspberries. ***. ***. ***.

[3] Tolling revenue is not presented here because ***.

[4] Not all respondents attempted to estimate/isolate their operations on IQF or IQF-quality red raspberries. ***.

[5] Despite the material presence of inventories, the IRS generally allows financial results of farming operations to be reported using a cash basis of accounting. Since fixed assets and prepaid expenses are still capitalized and expensed over the period for which benefits are derived, this method is best described as a modified cash basis of accounting.

[6] ***. Because the harvest of IQF-quality red raspberries takes place in the summer, a primary objective of the financial section of the questionnaire was to gather data that reflect the three most recently completed harvests, i.e., 1999, 2000, and 2001. As indicated above, for some respondents the summer harvest 2001 was included in fiscal periods that were not completed at the time the Commission's questionnaire was due. With the exception of ***, respondents in this position either estimated their FY 2002 financial results or provided year-to-date financial information. ***.

May 9 and 10, 2002. As appropriate, revisions to that company's questionnaire response are reflected in the final staff report.

As noted previously, Washington growers, including grower/processors, received payments from the Washington State Department of Agriculture in 2001. The financial results presented here reflect these payments, as allocated to IQF red raspberries, in "other income."[7]

OPERATIONS ON IQF RED RASPBERRIES

Consolidated Growers' and Processors' Operations on IQF Red Raspberries

Table VI-1 presents the combined operations of IQF-quality red raspberries and IQF red raspberries, i.e., growers , grower/processors, and processors.[8]

The consolidated financial results reflect an overall decline in sales revenue in 2000 due to a combination of lower volume and lower average unit revenue in both the grower and processor categories. Because total operating expenses did not decline proportionately with the reduction in sales revenue, an operating loss resulted in 2000.

In 2001, the reduced operating loss was due to a continued decline in average operating expenses compared to the previous period. Average unit revenue compared to 2000 remained approximately the same for growers and was lower for grower/processors and processors.

Net losses were generated throughout the period. In conjunction with a smaller operating loss, however, the 2001 net loss was smaller than that in the previous period.

IQF-Quality Red Raspberries, Growers' Operations

Table VI-2 presents the operations of 10 growers reporting their financial results related to IQF-quality red raspberries.[9] Results on an average-per-pound basis are presented in table VI-3. A variance analysis is presented in table VI-4 and is derived from information reported in table VI-2.[10]

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[7] The income statement format used in the Commission's questionnaire divides financial results into two primary categories: operating income (before interest expenses) and net income (operating income adjusted for interest expenses, and other income/expenses). For grower/processors and growers, operating income is intended to reflect the matching of revenue from operations (i.e., the sale of IQF and IQF-quality red raspberries, respectively) against the expenses (direct and indirect) necessary to generate those revenues. ***.

[8] Based on the submitted information, it appears reasonable to conclude that all (or virtually all) of the volume of IQF-quality red raspberries reported to the Commission is reflected in the financial results reported by processors of IQF red raspberries.

[9] Because the financial results reported by some respondents (growers and grower/processors) were not limited to IQF or IQF-quality red raspberries, respectively, a portion of the reported revenue and operating expenses reflects products outside the scope of this investigation. ***. Finally, because cash-basis accounting presents a less precise matching of revenue and costs, calculated values such as average unit operating expenses may be less meaningful than if accrual accounting predominated.

[10] The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. The analysis is most effective when the product involved is homogeneous and product mix does not vary. As indicated previously, the ability of respondents to isolate revenue and costs to IQF or IQF-quality red raspberries varied. Some respondents also reported what they characterized as the forced sale of IQF-quality red raspberries as lower value non-IQF-quality red raspberries.

Table VI-1
Consolidated results of U.S. growers' and processors' operations on IQF and IQF-quality red raspberries, annual periods reflecting summer harvests 1999-2001

Item	Annual period reflecting summer harvest		
	1999	2000	2001
	Value (*$1,000*)		
Total sales	25,564	19,309	20,445
Operating expenses	24,616	20,701	20,998
Operating income or (loss)	948	(1,392)	(552)
Net other income and expenses	1,089	994	882
Net income or (loss)	(141)	(2,386)	(1,434)
Depreciation/amortization	1,691	1,709	1,528
Cash flow	1,551	(677)	93
	Ratio to net sales (*percent*)		
Operating expenses	96.3	107.2	102.7
Operating income or (loss)	3.7	(7.2)	(2.7)
Net other income and expenses	4.3	5.1	4.3
Net income or (loss)	(0.6)	(12.4)	(7.0)
	Number of firms reporting		
Operating losses	6	16	12
Data	22	22	22

Note.–Depreciation was estimated by the ITC accountant for several of the growers and grower/processors. Volume is not presented here because this table reflects the combination of financial results of growers of IQF-quality red raspberries and grower/processors and processors of IQF red raspberries. While the objective of this table is to present the overall profitability of both groups, eliminations and adjustments corresponding to a traditional consolidation of financial statements are not included.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-2
IQF-quality red raspberries: Results of U.S. growers' operations, annual periods reflecting summer harvests 1999-2001

Item	Annual period reflecting summer harvest		
	1999	2000	2001
	Quantity (*1,000 pounds*)		
Total sales	3,186	2,610	3,312
	Value (*$1,000*)		
Total sales	2,533	1,320	1,699
Operating expenses	2,022	1,943	1,843
Operating income or (loss)	511	(623)	(144)
Net other income and expenses	(6)	11	6
Net income or (loss)	516	(634)	(150)
Depreciation/amortization	173	127	109
Cash flow	689	(507)	(42)
	Ratio to net sales (*percent*)		
Operating expenses	79.8	147.2	108.5
Operating income or (loss)	20.2	(47.2)	(8.5)
Net other income and expenses	(0.2)	0.9	0.4
Net income or (loss)	20.4	(48.0)	(8.8)
	Number of firms reporting		
Operating losses	0	8	6
Data	10	10	10

Note.–In order to more accurately estimate cash flow from operations, depreciation was estimated by the ITC accountant for ***. Volume was also estimated for *** by using the average unit value of growers reporting volume. ***.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-3
IQF-quality red raspberries: Results of U.S. growers' operations (*per pound*), annual periods reflecting summer harvests 1999-2001

Item	Annual period reflecting summer harvest		
	1999	2000	2001
	Unit value (*per pound*)		
Sales	$0.79	$0.51	$0.51
Operating expenses	0.63	0.74	0.56
Operating income or (loss)	0.16	(0.24)	(0.04)

Note.–***. For the group as whole, per-pound net income or (loss) when rounded is generally the same as per-pound operating income or (loss).

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-4
IQF-quality red raspberries: Variance analysis of U.S. growers' operations, annual periods reflecting summer harvests 1999-2001

Item	Summer harvest		
	1999-2001	1999-2000	2000-2001
	Value (*$1,000*)		
Revenue:			
Price/value variance	(933)	(754)	23
Volume variance	100	(458)	355
Total revenue variance	(834)	(1,212)	378
Operating expenses:			
Expense variance	259	(287)	623
Volume variance	(80)	366	(523)
Total operating expense variance	179	79	100
Operating income variance	(655)	(1,133)	479
Summarized as:			
Price variance	(933)	(754)	23
Net cost/expense variance	259	(287)	623
Net volume variance	20	(92)	(167)

Note.--Unfavorable variances are shown in parentheses; all others are favorable.

Source: Compiled from data submitted in response to Commission questionnaires.

While there were some exceptions, the majority of growers reported a similar pattern during the period examined. In 2000, a sharp reduction in sales revenue was caused (for the most part) by lower average unit sales values. While operating expenses in 2000 declined somewhat in conjunction with lower volume, the reduction did not offset the overall decline in revenue. As a result, most growers reported operating losses or lower operating income in 2000 compared to 1999.

In 2001, growers generally reported increases in revenue due primarily to higher sales volume and small recoveries of average unit sales value.[11] Additionally, average unit operating expenses were lower than in either of the preceding periods.[12] Notwithstanding these positive factors, the group collectively continued to report operating losses in 2001.

Growers reported overall net income and positive cash flow in 1999 along with relatively strong profitability margins. In contrast, the remainder of the period reflected poor financial performance (most notably in 2000) with net losses and negative cash flow.

IQF Red Raspberries, Grower/Processors and Processors' Operations

Table VI-5 presents the operations of 10 grower/processors and 2 processors reporting their financial results related to IQF red raspberries. Results on an average-per-pound basis and by firm are presented in table VI-6 and table VI-7, respectively. A variance analysis is presented in table VI-8 and is derived from information reported in table VI-5.[13]

As with growers, revenue reported by processors declined sharply in 2000 due to lower average unit sales revenue and volume. In the absence of a corresponding decline in operating expenses, an operating loss was incurred in 2000. In the following year, the reduction in overall operating losses was due to reduced operating expenses which were offset partially by a continued decline in average unit sales value.[14] [15]

Unlike the growers, who reported positive net income in 1999, grower/processors and processors collectively failed to generate a net profit throughout the period examined.

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[11] ***.

[12] As discussed in a previous section of this report, average yields improved somewhat in 2001 compared to 2000. This appears to explain, at least in part, the improvement in average unit operating expenses at the end of the period examined for both growers and grower/processors.

[13] As indicated in footnotes 9 and 10, the financial results and variance analysis are affected by the presence of items other than IQF red raspberries, as well as the method of accounting used by respondents.

[14] As noted previously, the reduction in overall operating expenses in 2001 appears to be due, at least in part, to improved yields for IQF-quality red raspberries. ***.

[15] ***.

Table VI-5
IQF red raspberries: Results of U.S. grower/processors' and processors' operations, annual periods reflecting summer harvests 1999-2001

Item	Annual period reflecting summer harvest		
	1999	2000	2001
	Quantity (*1,000 pounds*)		
Total sales	17,925	16,367	17,583
	Value (*$1,000*)		
Total sales	23,032	17,988	18,747
Operating expenses	22,594	18,758	19,155
Operating income or (loss)	437	(770)	(408)
Net other income and expenses	1,094	983	836
Net income or (loss)	(657)	(1,752)	(1,244)
Depreciation/amortization	1,519	1,582	1,419
Cash flow	862	(170)	175
	Ratio to net sales (*percent*)		
Operating expenses	98.1	104.3	102.2
Operating income or (loss)	1.9	(4.3)	(2.2)
Net other income and expenses	4.8	5.5	4.5
Net income or (loss)	(2.9)	(9.7)	(6.6)
	Number of firms reporting		
Operating losses	6	8	6
Data	12	12	12

Note.–Volume was estimated by the ITC accountant for *** (all periods). In order to more accurately estimate cash flow from operations, depreciation was estimated by the ITC accountant for *** (all periods). ***.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-6
IQF red raspberries: Results of grower/processors' and processors' operations (*per pound*), annual periods reflecting summer harvests 1999-2001

Item	Annual period reflecting summer harvest		
	1999	2000	2001
	Unit value (*per pound*)		
Sales	$1.28	$1.10	$1.07
Operating expenses	1.26	1.15	1.09
Operating income or (loss)	0.02	(0.05)	(0.02)
Net income or (loss)	(0.04)	(0.11)	(0.07)

Note.–***.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VI-7
IQF red raspberries: Results of grower/processors' and processors' operations, by firms, annual periods reflecting summer harvests 1999-2001

* * * * * * *

Table VI-8
IQF red raspberries: Variance analysis of grower/processors' and processors' operations, annual periods reflecting summer harvests 1999-2001

Item	Summer harvest		
	1999-2001	1999-2000	2000-2001
	Value (*$1,000*)		
Revenue:			
Price/value variance	(3,845)	(3,041)	(578)
Volume variance	(440)	(2,002)	1,336
Total revenue variance	(4,285)	(5,043)	759
Operating expenses:			
Expense variance	3,008	1,872	996
Volume variance	432	1,964	(1,394)
Total operating expense variance	3,439	3,837	(397)
Operating income variance	(845)	(1,207)	361
Summarized as:			
Price variance	(3,845)	(3,041)	(578)
Net cost/expense variance	3,008	1,872	996
Net volume variance	(8)	(38)	(57)

Note.--Unfavorable variances are shown in parentheses; all others are favorable.

Source: Compiled from data submitted in response to Commission questionnaires.

INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES, AND R&D EXPENSES

The responding firms' data on capital expenditures and the value of their property, plant, and equipment are shown in table VI-9 for IQF red raspberries. With the exception of ***, all of the processors whose financial results were reported earlier are included.[16] Growers are not presented because the majority of this group did not report complete information.[17]

***. While not identifying specific amounts, *** indicated that a significant amount of time that could be characterized as R&D was spent researching replacement IQF equipment. The remaining respondents did not indicate whether R&D-related expenses were incurred.

No single processor accounted for a major portion of total reported capital expenditures. On a company-specific basis, capital expenditures were generally within the range of reported depreciation expenses.[18]

Table VI-9
IQF red raspberries: Capital expenditures and overall value of property, plant, and equipment for grower/processors and processors, annual periods reflecting summer harvests 1999-2001

Item	Annual periods reflecting summer harvest		
	1999	2000	2001
Capital expenditures	Value (*$1,000*)		
Total capital expenditures	1,375	2,650	1,512
Fixed assets:			
Total original cost	27,343	29,587	27,368
Total book value	13,762	14,326	16,446

Note.--Because the majority of stand-alone growers were unable to provide meaningful information, this table presents data for processors only.

Source: Compiled from data submitted in response to Commission questionnaires.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of IQF red raspberries from Chile on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix E.

[16] ***.

[17] The limited information that was reported by growers appears to represent plant and equipment. ***. Despite follow-up requests, the majority of growers were unable to provide this information.

[18] ***.

PART VII: THREAT CONSIDERATIONS

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that--

> *In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors[1]--*
>
> *(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
>
> *(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
>
> *(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
>
> *(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
>
> *(V) inventories of the subject merchandise,*
>
> *(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,*
>
> *(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw*

---

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider [these factors] . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information on the volume and pricing of imports of the subject merchandise is presented in *Parts IV and V,* and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in appendix E. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN CHILE[3]

The petition identified 46 Chilean producers and/or exporters of IQF red raspberries. Of that group, 15 firms were noted as accounting for nearly all exports to the United States, with 7 firms accounting for most of those exports. The Asociacion Gremial de Exportadores de Productos Congelados A.G. (AGEPCO) provided questionnaire responses from those 7 firms, whose exports accounted for 76 percent of Chilean product entered into the United States in 2001.[4] Collectively, the firms estimate that they accounted for 80 percent of Chilean IQF red raspberry growing and/or processing in 2001. Three of the firms identified themselves as grower/processors, two as processors, and two as exporters. Four of the firms indicated that they deal in a variety of IQF fruit products in addition to red raspberries.

Information regarding coverage of exports of the subject product from Chile during 2001 is presented below:

[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

[3] IQF red raspberries exported from Chile are not subject to antidumping findings or remedies in any WTO-member countries.

[4] Among them, the 7 questionnaire respondents listed a total of *** U.S. customers, all of whom responded to importer questionnaires in this investigation. Only ***.

Item	Quantity (*1,000 pounds*)	Share of total (*percent*)
Exports to the U.S. from-- Subject firms (5)	***	***
Nonsubject firms (2)	***	***
Subtotal, reported	6,641	76.4
Unreported[1]	2,047	23.6
Total imports[2]	8,688	100.0

[1] Reported exports are less than U.S. imports of the Chilean product (table IV-1). Reported export data are understated to the extent that not all producers/exporters in Chile responded to the Commission's questionnaire; and import data may be overstated to the extent that frozen red raspberries, other than IQF red raspberries, may be included in official import statistics (petition, p. 6 and exh. 7; and respondents' posthearing brief, app. A, p. 9).
[2] Based on official Commerce statistics.

Data concerning subject Chilean production capacity, production, exports, and inventories of IQF red raspberries are presented in table VII-1 (additional tables containing separate data for organic and nonorganic subject operations in Chile are presented in appendix F). From 1999 to 2001, reported subject Chilean production of IQF red raspberries rose by 21 percent to *** million pounds. Capacity utilization increased from *** percent during 1999 to *** percent during 2001. The home market for IQF red raspberries in Chile was small and accounted for *** percent of total shipments by reporting producers/exporters during the period examined. The share of exports to the United States decreased from *** percent during 1999 to *** percent during 2001, and is projected to increase to *** during 2002. The European Union (EU), collectively, has traditionally been Chile's largest export market, accounting for more than 50 percent of export shipments from 1998 to 2000,[5] and the United States is the principal individual country market.

Table VII-1
IQF red raspberries (subject sources): Reported Chilean production capacity, production, shipments, and inventories, 1999-2001, and projected 2002

* * * * * * *

[5] Petitioners argued that the Chilean presence in the EU market is likely to be diminished due to the EU abolishing the 20.8 percent *ad valorem* import tariff (action taken on December 1, 2000) on frozen red raspberries from Serbia, and eliminating the tariffs on imports from Poland (January 2001) (petitioners' prehearing brief, p. 39). Respondents argued that, since the EU tariff eliminations for Poland and Serbia, Chilean exports to the EU have increased by *** percent in 2001 compared to 2000, and the Chilean industry will ship greater volumes to the EU in the future as a result of the creation (in April 2002) of the Chile-EU free trade area (respondents' prehearing brief, p. 45). Petitioners argued that the Chile-EU free trade pact contemplated a seven-year phase out of tariffs so that there is the continued presence of significant trade barriers in the EU (petitioners' posthearing brief, p. 14).

With respect to the organic IQF red raspberry product of subject foreign producers, data compiled from responses to the Commission's questionnaires indicate that such exports to the United States ranged from *** percent of total imports from Chile during 1999-2001. Data regarding organic IQF red raspberry shares of selected data are presented in table VII-2 (*see also* appendix F).

Table VII-2
IQF red raspberries (organic): Shares of reported subject Chilean production capacity, production, shipments, and inventories accounted for by IQF organic product, 1999-2001, and projected 2002

* * * * * * *

U.S. IMPORTERS' INVENTORIES

U.S. importers' inventories of IQF red raspberries are presented in table VII-3. U.S. importers have reported that they do not buy the subject product from Chile on speculation and, therefore, do not generally maintain inventories.[6]

Table VII-3
IQF red raspberries: U.S. importers' inventories of imports from Chile, 1999-2001

* * * * * * *

U.S. IMPORTERS' CURRENT ORDERS

U.S. importers were asked whether they imported or arranged for the importation of IQF red raspberries from Chile for delivery after December 31, 2001. Seven importers responded to the question, indicating that collective importations from Chile for delivery between January and November 2002 amounted to 4.8 million pounds. During 2002, total exports from Chile to the United States are projected to amount to 7.3 million pounds; subject sources will account for *** million pounds, and nonsubject sources will account for *** million pounds (*see* tables VII-1 and F-3).

[6] June 3, 2002, staff interviews with ***.

APPENDIX A

FEDERAL REGISTER NOTICES

Beach District (Port District), grantee of FTZ 135, Palm Beach County, Florida, and the Palm Beach County Department of Airports, grantee of FTZ 209, Palm Beach County, Florida, mutually requesting that the grant of authority for FTZ 209 be reissued to the Port District. Upon review, the Board finding that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request and recognizes the Port of Palm Beach District as the grantee of Foreign Trade Zone 209. The Board also redesignates FTZ 209 as part of FTZ 135.

The approval is subject to the FTZ Act and the FTZ Board's regulations, including § 400.28.

Signed at Washington, DC, this 7th day of August 2001.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–20672 Filed 8–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1185]

Expansion of Foreign-Trade Zone 149, Freeport, Texas, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones (FTZ) Board (the Board) adopts the following Order:

Whereas, the Brazos River Harbor Navigation District, grantee of Foreign-Trade Zone 149, submitted an application to the Board for authority to expand FTZ 149-Site 6 at the Brazoria County Airport/Industrial Park; to include three new sites in Pearland (Brazoria/Harris Counties) at the Northern Industrial Complex (Site 7), the Southern Industrial Complex (Site 8), and the Bybee-Sterling Complex (Site 9); and, to include a new site in Alvin (Brazoria County) at the Santa Fe Industrial Park (Site 10), adjacent to the Freeport Customs port of entry (FTZ Docket 14–2000; filed 4/14/00);

Whereas, notice inviting public comment was given in the **Federal Register** (65 FR 24446, 4/26/00) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 149 is approved, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the Board's standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 7th day of August 2001.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 01–20673 Filed 8–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: August 16, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Michele Mire, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4474 or (202) 482–4711, respectively.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On January 31, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China, covering the period December 1, 1999 through November 30, 2000. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 66 FR 8378. The preliminary results are currently due no later than September 2, 2001.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the preliminary results by 90 days until no later than December 1, 2001. *See* Decision Memorandum from Holly A. Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the Department's main building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: August 6, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 01–20671 Filed 8–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–337–807]

Individually Quick Frozen Red Raspberries From Chile: Postponement of Time Limit for Preliminary Determination of Countervailing Duty Investigation

EFFECTIVE DATE: August 16, 2001.

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

FOR FURTHER INFORMATION CONTACT: Craig Matney, Office of AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–1778.

Postponement of Preliminary Determination:

On June 28, 2001, the Department initiated the countervailing duty investigation of individually quick frozen red raspberries from Chile. *See Notice of Initiation of Countervailing Duty Investigation: Individually Quick Frozen Red Raspberries From Chile,* 66 FR 34423 (June 28, 2001). The preliminary determination currently must be issued by August 24, 2001.

On August 3, 2001, the petitioners submitted a written request pursuant to 19 CFR 351.205(e) for a postponement of the preliminary determination in accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended ("the Act"). The petitioners requested a 45 day postponement (*i.e.*, until October 8, 2001) in order to allow time for the petitioners to submit comments on the respondents' questionnaire response and to allow time for the Department to issue supplemental questionnaires.

The Department finds no compelling reason to deny the request. Therefore, we are postponing the preliminary determination until no later than October 8, 2001.

This notice of postponement is published pursuant to section 703(c)(2) of the Act.

Dated: August 9, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–20670 Filed 8–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081301B]

Proposed Information Collection; Comment Request; Southeast Region Bycatch Reduction Device Certification Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before October 15, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to James R. Nance, Ph.D., F/SEC5, National Marine Fisheries Service, 4700 Avenue U, Galveston, TX 77551 (phone 409–766–3507).

SUPPLEMENTARY INFORMATION:

I. Abstract

Bycatch Reduction Devices (BRDs) are used in shrimp trawls in the Exclusive Economic Zone to reduce the bycatch of other species. Only BRDs certified by the National Oceanic and Atmospheric Administration (NOAA) can be used. Persons seeking to get certification from NOAA for BRDs must submit information showing that testing proves the effectiveness of the equipment.

II. Method of Collection

The information is submitted by paper form.

III. Data

OMB Number: 0648–0345.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 45.

Estimated Time Per Response: 140 minutes for an application for pre-certification testing or for certification testing, 20 minutes for a Station Sheet (Gulf of Mexico), 50 minutes for a station sheet bycatch reduction device evaluation form (South Atlantic), 20 minutes for a Condition and Fate form, 30 minutes for a gear form (South Atlantic), 20 minutes for a gear specification form (Gulf of Mexico), 20 minutes for a length frequency form (Gulf of Mexico), 50 minutes for a length frequency form (South Atlantic), 5 hours for a species characterization form, 20 minutes for a BRD specification form (Gulf of Mexico), 20 minutes for a vessel information form (Gulf of Mexico), and 30 minutes for a vessel information form (South Atlantic).

Estimated Total Annual Burden Hours: 5,679.

Estimated Total Annual Cost to Public: $338,000.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 9, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–20654 Filed 8–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081001A]

Endangered Species; Permits

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

ACTION: Issuance of permit #1324 and modification #2 to permit 1201.

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has issued permit 1324 to Dr. Nancy Thompson, of NMFS-Southeast Fisheries Science Center (1324) and modification #2 to permit 1201 to Dr. Thane Wibbels, of University of Alabama at Birmingham.

ADDRESSES: The permits, applications and related documents are available for review in the indicated office, by appointment:

Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).

received no comments on this issue, for the reasons stated in the *Preliminary Results*, and based on the facts on the record, we find Walsin to be the successor to Walsin CarTech for purposes of this proceeding, and for the application of the antidumping law.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the "Issues and Decision Memorandum" (Decision Memorandum), dated October 10, 2001, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this review and the corresponding recommendations in the public Decision Memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that the following weighted-average percentage margin exists for the period September 1, 1999, through August 31, 2000:

Manufacturer/exporter	Margin (percent)
Walsin Lihwa Corporation	4.75

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by the quantity sold used to calculate those margins for each importer.[2] Where the resulting importer-specific per-unit duty assessment rate is above de minimis, we will direct Customs to assess that rate uniformly on each of that importer's entries during the review period.

Since we have determined that Walsin is the successor to Walsin CarTech for purposes of applying the antidumping duty law, we will further instruct the U.S. Customs Service to assign Walsin CarTech's antidumping company identification number to Walsin.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of SSWR from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed firm will be the rate shown above; (2) for previously reviewed or investigated companies not listed above (except for Walsin CarTech[3]), 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 original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 8.29 percent. This rate is the "All Others" rate from the LTFV investigation.

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

Notification to Importers

This notice also serves as a final 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 doubled antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i) (1) of the Act.

Dated: October 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memo

1. Interest Expense Calculation: Use of Consolidated Financial Statement
2. Interest Expense Calculation: Inclusion of Interest Expense Related to Investments
3. Interest Expense Calculation: Offsetting Total Interest Expenses with Capital Gains

[FR Doc. 01–25975 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–DS–P

[2] In the *Preliminary Results*, we incorrectly stated that we calculated each importers' duty assessment rate by dividing the total dumping margins for the reviewed sales by their total entered value for each importer, while in fact, we calculated an assessment rate using the total quantity sold in the denominator of this calculation because Walsin did not report the entered value of its sales.

[3] Since we have determined that Walsin is the successor to Walsin CarTech for purposes of applying the antidumping duty law, Walsin CarTech will no longer have its own company-specific cash deposit rate.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–337–807]

Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: IQF Red Raspberries From Chile

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

SUMMARY: The Department of Commerce (the "Department") preliminarily determines that countervailable subsidies are not being provided to producers or exporters of individually quick frozen ("IQF") red raspberries in Chile.

EFFECTIVE DATE: October 16, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Matney or Andrew Covington, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1778 and (202) 482–3534, respectively.

Petitioners

The petition in this investigation was filed by the IQF Red Raspberries Fair Trade Committee ("Committee") and its members (collectively referred to hereinafter as "the petitioners"). The Committee is an ad hoc association of growers and processors of IQF red raspberries. All of the members of the Committee are producers of IQF red raspberries.

Case History

On June 28, 2001 the Department published in the **Federal Register** the notice initiating this investigation (*Initiation of Countervailing Duty Investigation: IQF Red Raspberries from Chile*, 66 FR 34423, June 28, 2001) ("*Initiation Notice*"). Since the Initiation Notice, the following events have occurred.

On July 9, 2001, we issued a countervailing duty questionnaire to the Government of Chile ("GOC"). Due to the large number of producers and exporters of IQF red raspberries in Chile, we decided to limit the number of responding companies to the three producers/exporters with the largest volumes of exports to the United States during the period of investigation (see July 5, 2001, memorandum entitled "Respondent Selection"). We issued countervailing duty questionnaires to these three companies, Comercial Fruticola S.A. ("Comfrut"); Exportadora Frucol Ltda. ("Frucol"); and Fruticola Olmue S.A. ("Olmue"), also on July 9.

On August 3, 2001, the petitioners requested that the Department extend the deadline for the preliminary determination in this investigation. Pursuant to section 351.205(f)(1) of our regulations, the Department extended this deadline until October 9, 2001 (66 FR 42994, August 16, 2001).

The Department received the GOC and company questionnaire responses on August 20, 2001. The Department issued supplemental questionnaires to the GOC and the three companies on September 17, 2001, and received responses to those questionnaires on September 24, 2001.

On October 3, 2001, we received a request from the petitioners, pursuant to section 351.210(b)(4)(i) of our regulations, to postpone the final determination in this investigation to coincide with the final determination in the companion antidumping duty investigation of IQF red raspberries from Chile. Accordingly, we are aligning the final determinations in these investigations.

Scope of Investigation

The products covered by this petition are imports of IQF red raspberries, whole or broken, 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 petition excludes fresh red raspberries and block frozen red raspberries (i.e., puree, straight pack, juice stock, and juice concentrate).

Comment on Scope

In the *Initiation Notice*, we invited comments on the scope of this proceeding (*see* 66 FR at 34423). In the companion antidumping duty investigation, parties filed comments regarding inclusion in the scope of so-called "dirty crumbles." Dirty crumbles are broken IQF red raspberries which have a high level of defects, as well as stems, leaves, and mold.

In order to maintain a consistent scope in the antidumping and countervailing duty proceedings, we have placed those comments and our decision memorandum in the file of this proceeding (*see* September 26, 2001 Memorandum to the File re: Scope). We determined that dirty crumbles are within the scope of the proceedings on IQF red raspberries from Chile.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the "Act"). All citations to our regulations refer to 19 CFR part 351 (April 2001).

Injury Test

Because Chile is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Chile materially injure, or threaten material injury to, a U.S. industry. On July 25, 2001, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Chile of the subject merchandise (66 FR 38740, July 25, 2001).

Period of Investigation ("POI")

The period for which we are measuring subsidies is calendar year 2000.

Subsidies Valuation Information

Benchmarks for Loans: To calculate the countervailable benefit from loans, we have used U.S. dollar borrowing rates in Chile, as submitted by the GOC. We have used dollar rates, in accordance with section 351.505(a)(2)(i) of our regulations, because the loans and interest in question were denominated in U.S. dollars.

Allocation Period: In accordance with section 351.524(d)(2)(i) of our regulations, we have used a 12-year allocation period based on the Internal Revenue Service's 1977 Class Life Depreciation Range System. None of the responding companies disputed this allocation period.

Attribution of Subsidies: Section 351.525(a)(6) of our regulations directs that the Department will attribute subsidies received by certain affiliated companies to the combined sales of those companies. Based on our review of the responses, we find that "cross ownership" exists with respect to certain companies, as described below, and have attributed subsidies accordingly.

Comfrut: Comfrut has responded on behalf of itself and two affiliated companies, Frutas y Hortalizas Del Sur ("Frusur") and Agricosa S.A. ("Agricosa"). Based on the proprietary details of the relationships between these companies, we preliminarily determine that cross ownership exists with respect to these companies and that subsidies received by the three companies are properly attributed to the combined sales of the three companies. We further determine that cross ownership exists with respect to certain other companies affiliated with one or more of these companies and that those companies did not receive subsidies that were transferred to Comfrut, Frusur, or Agricosa. For a full discussion of these issues, *see* October 9, 2001 Proprietary Memorandum to the File, entitled "Attribution of Subsidies in CVD Investigation of IQF Red Raspberries from Chile."

Frucol: Frucol has responded on behalf of itself and Sociedad Agricola Machicura ("Agricola Machicura"). Based on the proprietary details of the relationships between these companies, we preliminarily determine that cross ownership exists with respect to these companies and that subsidies received by both are properly attributed to the combined sales of the two companies. We further determine that cross ownership exists with respect to certain other companies affiliated with Frucol and/or Agricola Machicura, and that those companies did not receive subsidies that were transferred to Frucol or Agricola Machicura. For a full discussion of these issues, *see* October 9, 2001 Proprietary Memorandum to the File, entitled "Attribution of Subsidies in CVD Investigation of IQF Red Raspberries from Chile."

Olmue: Olmue has responded on behalf of itself and Tecnofrio Cautin S.A. ("Tecnofrio Cautin"). Based on the proprietary details of the relationships between these companies, we preliminarily determine that cross ownership exists with respect to these companies and that subsidies received by both are properly attributed to the combined sales of the two companies. However, Olmue reported that Tecnofrio Cautin did not operate during the POI and did not use any of the programs during the POI. Therefore, we have based our calculations only on Olmue's subsidies and sales. We further determine that cross ownership exists with respect to certain other companies affiliated with Olmue and Tecnofrio Cautin, and that those companies did not receive subsidies that were transferred to Olmue or Tecnofrio Cautin. For a full discussion of these issues, *see* October 9, 2001 Proprietary Memorandum to the File, entitled "Attribution of Subsidies in CVD Investigation of IQF Red Raspberries from Chile."

Analysis of Programs: Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Program Preliminarily Determined To Be Countervailable

Law No. 18,634 (Deferrals, Credits and Waivers for Capital Goods Purchases)

Law Number 18,634 of August 5, 1987, established a three-pronged program related to purchases of capital equipment and subsequent export of products produced with that equipment. Under the first prong, referred to as the "duty deferral prong," both exporters and non-exporters are allowed to defer paying duties on designated capital goods that are imported. During the deferral period, the amount of duties owed is treated as a loan on which the producer is required to pay interest. Under the second prong of the program, referred to as the "fiscal credit prong," both exporters and non-exporters can apply for a fiscal credit when they purchase the same designated capital goods from domestic suppliers. The fiscal credit also functions as a loan on which the producer is required to pay interest.

Under the third prong of the program, referred to as "the waiver prong," the deferred duties and fiscal credits, and the accrued interest can be waived. Eligibility for the waivers and the amounts of the waivers are dependent upon exportation. In November 1998, the waiver portion of Law 18,634 was eliminated. However, producers that had applied to receive benefits under Law 18,634 prior to that time continue to be eligible for waivers based on those applications.

In *Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Determination: Fresh Atlantic Salmon from Chile* (62 FR 61803, November 19, 1997) ("*Salmon—Preliminary Determination*"), we analyzed the different prongs of Law 18,634 separately. We determined that the duty deferral prong was not specific within the meaning of section 771(5A) and, therefore, did not confer a countervailable benefit. Regarding the second prong, the fiscal credit for purchases of capital equipment produced in Chile, we found specificity and a countervailable subsidy. Our specificity determination was based on the requirement that the producer purchase the capital equipment from domestic sources (*see* section 771(5A)(C) of the Act). Finally, we found that the waiver prong of Law 18,634 provided a countervailable subsidy. The waivers were specific by virtue of being contingent upon exportation (*see* section 771(5A)(B) of the Act), and the benefit was a grant in the amount of the waiver.

In *Final Negative Countervailing Duty Determination: Fresh Atlantic Salmon from Chile* (63 FR 31437, June 9, 1998) ("*Salmon—Final Determination*"), we applied a different analysis to Law 18,634. Instead of analyzing the individual prongs, we examined the program in its entirety.

We determined that all benefits provided under Law 18,634, when viewed this way, constituted export subsidies because "their overarching purpose ... is to promote exports" (63 FR at 31442).

For purposes of the preliminary determination in this proceeding, we are following the analytical framework used in *Salmon—Preliminary Determination*. This framework is most consistent with section 351.514(a) of our regulations, which states:

> * * * the Secretary will consider a subsidy to be contingent upon export performance if the provision of the subsidy is, in law or in fact, tied to actual or anticipated exportation or export earnings, alone or as one of two or more conditions.

Because the subsidies provided under the waiver prong differ from the subsidies provided under the other prongs of Law 18,634 and the eligibility criteria vary under the different prongs, we preliminarily determine that the duty deferrals and fiscal credits are not contingent upon exportation or anticipated exportation. We note, however, that even if we were to apply the analytical framework used in *Salmon—Final Determination*, it would not change our negative preliminary determination in this proceeding.

Duty Deferrals: A Chilean producer who imports capital equipment designated in Decree No. 506 (June 17, 1999) can apply to the Chilean Customs Service for a duty deferral. Payment of the deferred amount is staged, with equal installments due in the third, fifth and seventh years after importation. In addition to paying the deferred amount, the producer also pays interest at a rate set by the Central Bank of Chile.

We preliminarily determine that the duty deferral prong of Law 18,634 is not specific within the meaning of section 771(5)(A) of the Act. Duty deferrals are contingent neither upon exportation nor use of domestic goods as a matter of law, and Law 18,634 does not limit the industries in Chile that can receive duty deferrals. Moreover, information submitted by the GOC indicates that duty deferrals are used by a wide variety of industries in Chile, and that the industry producing the subject merchandise does not receive a predominant or disproportionate share of the deferrals. Therefore, we preliminarily determine that the duty deferral prong under Law 18,634 does not confer a countervailable benefit.

Fiscal Credits: Under this prong, companies purchasing domestically produced capital equipment designated in Decree No. 506 can borrow up to 73 percent of the amount of customs duties that would have been paid on the capital goods if they had been imported. The repayment of this fiscal credit, plus interest, is made according to the same schedule described above for duty deferrals.

We preliminarily determine that the fiscal credit prong of Law 18,634 is specific within the meaning of section 771(5A)(C) of the Act because receipt of the credit is contingent upon the use of domestic goods. We also preliminarily determine that the fiscal credit is a direct transfer of funds (*see* section 771(5)(D)(i) of the Act) that provides a benefit in the amount of the difference between the interest the company pays on the fiscal credit and the interest the company would pay for a comparable commercial loan (*see* section 771(5)(E)(ii) of the Act). Therefore, we preliminarily determine that the fiscal credit prong of Law 18,634 confers a countervailable subsidy.

Olmue had fiscal credits outstanding during the POI.

To calculate the benefit of these credits to Olmue, we treated the fiscal credits outstanding during the POI as long-term loans taken out at the time of importation. We used the benchmark rate described above in the "*Benchmarks for Loans*" section as the measure of what the recipient would have paid for comparable commercial loans.

Applying the loan methodology described in section 351.505(c)(2) of our regulations, we calculated the interest savings received by Olmue in the POI. With one exception, the capital equipment for which Olmue received fiscal credits was used for all products produced by the company. Thus, we have divided the interest savings from these fiscal credits by Olmue's total sales. The one exception involved capital equipment used exclusively to produce non-subject merchandise. Therefore, we have not included the interest savings on this fiscal credit in the calculation of Olmue's benefit.

On this basis, we preliminarily determine that the subsidy under the fiscal credit prong of Law 18,634 is 0.00 percent ad valorem for Olmue.

The GOC stated in its response that the fiscal credit prong of Law 18,634 is not an import substitution program. Instead, according to the GOC, this prong of the program is intended to encourage capital investment in Chile and to avoid a preference for imported capital goods resulting from the duty deferral prong.

We will consider this claim further for our final determination, but note that we addressed a similar claim by the GOC in *Salmon—Final Determination* (66 FR at 31442). In the salmon case, the GOC argued that the Department should look at the duty deferral and fiscal credit prongs of Law 18,634 as a single program. We disagreed, stating that to do so would amount to "picking and choosing which elements of the law should be combined in order to achieve the result that the loans to purchasers of domestic equipment are not specific" (*see id.*).

Waivers: Chilean producers that received duty deferrals and fiscal credits under Law 18,634 can have the duties and credits waived if the producers export merchandise manufactured with the capital equipment covered by the deferral or credit. Comfrut and Frucol received waivers during the POI.

We preliminarily determine that the waiver prong of Law 18,634 is specific within the meaning of section 771(5A)(B) of the Act because receipt of the waivers is contingent upon exportation. We also preliminarily determine that the waiver is a direct transfer of funds (*see* section 771(5)(D)(i) of the Act) that provides a benefit in the amount of the duty or fiscal credit waived (*see* section 351.508(a) of our regulations). Therefore, we preliminarily determine that the waiver prong of Law 18,634 confers a countervailable subsidy.

Consistent with *Salmon—Preliminary Determination* (unchanged in final), we have treated the waivers as recurring benefits (*see* 62 FR at 61805, and section 351.524(c)(1) of our regulations). Consequently, we have summed the waivers received in the POI and divided these by the appropriate export sales (all exports, all frozen exports, or raspberry exports) for both recipients. For certain waivers received by Comfrut, we lacked the correct sales information. We intend to request this information for our final determination.

On this basis, we preliminarily determine that the subsidy under the waiver prong of Law 18,634 is 0.17 percent ad valorem for Comfrut and 0.64 percent ad valorem for Frucol.

II. Program Preliminarily Determined Not To Confer a Subsidy During the POI

Fund for the Promotion of Agricultural Exports/ProChile Export Promotion Assistance

Chile's Fund for the Promotion of Agricultural Exports (FPEA) co-finances up to 50 percent of the cost of export promotion activities. Companies can seek assistance from the FPEA for conducting market surveys and for projects that help the companies enter and remain in particular markets. The types of expenses that the FPEA will co-finance include: advertising and promotion, office space rental, studies, and operating expenses at trade fairs.

Between 1995 and 1998, the FPEA operated under the direction of a committee including officials from the Ministry of Agriculture, ProChile (Chile's Export Promotion Bureau), and agricultural associations. Day-to-day operations were centralized at ProChile.

Beginning in 1999, the National Contest for Export Promotion ("Contest") was developed in order to allocate export promotion resources as effectively as possible. The Contest is open to persons exporting (or seeking to export) agricultural products, whether fresh, frozen or at different stages of processing. Once the plans are submitted, they are reviewed and ranked by ProChile, and the best are accepted.

None of the responding companies participated directly in export promotion programs co-financed by the FPEA through ProChile. However, two frozen food trade associations which include the responding companies among their members did participate in projects which were co-financed by the FPEA through ProChile. The first project, in 1998, supported the first meeting of the International Berries Association. The second project, also in 1998, supported publicity for a variety of IQF fruits and vegetables in Europe, Latin America, and North America. The third project, in 1999, supported the travel of three officials (not from the responding companies) to the second meeting of the International Berries Association.

Under section 351.514(b) of our regulations, government activities to promote exports do not confer a benefit if the activities consist of general informational activities that do not promote particular products over others. Based on the information in the GOC's response, we preliminarily determine that the projects which were co-financed by the FPEA through ProChile promoted specific products. Therefore, we preliminarily determine that this assistance does not fall within the exception provided by section 351.514(b) of our regulations.

Instead, we preliminarily determine that the co-financing provided by the FPEA through ProChile confers a countervailable subsidy within the meaning of section 771(5) of the Act. The co-financing is specific within the meaning of section 771(5A)(B) of the Act because its receipt is tied to the anticipated exportation of merchandise covered by the project. Also, the co-financing is a direct transfer of funds from the GOC (*see* section 771(5)(D)(i) of the Act) providing a benefit in the amount granted (*see* section 351.504(a) of our regulations).

We are treating this assistance as "non-recurring" based on the factors identified in section 351.524(c)(2) of our regulations. In particular, each project funded by the FPEA/ProChile requires a separate application and approval, and the projects represent one-time events. This is consistent with our treatment of export assistance provided by ProChile in *Salmon—Preliminary Determination* (62 FR at 61804–5) (unchanged in final).

To calculate the countervailable subsidy, we used the allocation methodology described in section 351.524(b) of our regulations. Because the amounts approved in 1998 and 1999 were less than 0.5 percent of the value of appropriate exports in those years, we expensed the benefits in the years of receipt (*see* section 351.524(b)(2) of our regulations). We selected, as the "appropriate" exports, total berry exports from Chile for the two grants relating to meetings of the International Berries Association. For the grant related to IQF fruits and vegetables, we used total exports of IQF fruits and vegetables from Chile to Latin America, Europe and the United States. Based on the descriptions of these projects in the responses, there is no indication that benefits were limited only to the exports of the member companies of the trade associations that received the funding.

Because all benefits received under this program were expensed in years prior to the POI, we find no countervailable subsidy to the subject merchandise.

III. Program Preliminarily Determined To Be Not Countervailable

Supplier Development Program

The Supplier Development Program, which is administered by the Corporacion de Fomento de la Produccion ("CORFO"), was created in 1998. The purpose of the Supplier Development Program is to encourage the creation and consolidation of relationships between large companies and the small companies that supply them or sub-contract from them.

Under this program, CORFO co-finances a two-phase project. In the first stage, the diagnostic stage, CORFO will fund up to 60 percent of the cost of analyzing the strengths and weaknesses of the supplier companies, and developing a plan for improvement. In the second phase, CORFO will fund up to 60 percent in the first year and 50 percent in subsequent years of the cost of carrying out the improvement plan. The maximum duration of the development phase is three years for non-agricultural producers and four years for agricultural producers. Despite the difference in the duration of support for agricultural and non-agricultural users, the ceiling for the amount CORFO can contribute to both groups is the same.

We preliminarily determine that the Supplier Development Program is not specific within the meaning of section 771(5)(A) of the Act. The provision of co-financing by CORFO for these projects is neither contingent upon exportation nor upon the use of domestic goods as a matter of law, and the laws or regulations of the program do not limit the industries in Chile that can apply for or receive the co-financing. Moreover, information submitted by GOC indicates that co-financing under the Supplier Development Program is used by a wide variety of industries in Chile, and that the industry producing the subject merchandise does not receive a predominant or disproportionate share of the deferrals. Therefore, we preliminarily determine that the Supplier Development Program does not confer a countervailable benefit.

IV. Program Preliminarily Determined To Have Been Eliminated

CORFO Export Credit Insurance Premium Assistance

According to the GOC's response, this program was terminated on January 19, 1998. In anticipation of the termination, CORFO's Credit Allocation Committee stopped granting contracts for this insurance in October 1997. Since the contracts had a one-year duration, all payments under the program would have been made by October 1998.

V. Programs Preliminarily Determined Not To Have Been Used

CORFO Export Credit Financing

Law No. 18576 (Export Credit Limits)

Law No. 18480 (Simplified Duty Drawback)

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(A)(i) of the Act, we have calculated individual rates for Comfrut, Frucol, and Olmue. We preliminarily determine that the net countervailable subsidy rate for each of these manufacturer/exporters is de minimis. Because all the producers/exporters that received our countervailing duty questionnaire had de minimis subsidies, we preliminarily determine that producers/exporters of IQF red raspberries in Chile did not receive countervailable subsidies (*see section 703(b)(4) of the Act*). Accordingly, we are not ordering suspension of liquidation of entries of IQF red raspberries from Chile.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration. If our final determination is affirmative, the ITC will make its final determination within 75 days after the Department makes its final determination.

Public Comment

In accordance with section 351.310 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

The hearing in this proceeding, if requested, is tentatively scheduled for November 21, 2001. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

If a hearing is held, parties must submit case briefs and the hearing will be limited to issues raised in the case briefs. Even if a hearing is not requested, parties may submit case briefs presenting arguments relevant to the final determination. Six copies of the business proprietary version and six copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than 30 days from the date of publication of this preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments, not to exceed five pages, and a table of statutes, regulations, and cases cited. Rebuttal briefs must be submitted to the Assistant Secretary no later than 4 days from the date of filing of the case briefs. Again, six copies of the business proprietary version and six copies of the non-proprietary version of rebuttal briefs must be filed. Written arguments should be submitted in accordance with section 351.309 of our regulations and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: October 9, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–25974 Filed 10–15–01; 8:45 am]

BILLING CODE 3510–DS–P

unified database so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic-policy formulators depend heavily upon the SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided these kinds of data on a continuing basis since 1983 permitting levels of economic well-being and changes in these levels to be measured over time.

The 2001 Panel is currently scheduled for three years and will include nine waves of interviewing beginning February 2001. Approximately 50,000 households will be selected for the 2001 Panel, of which 37,500 are expected to be interviewed. We estimate that each household will contain 2.1 people, yielding 78,750 interviews in Wave 1 and subsequent waves. Interviews take 30 minutes on average. Three waves of interviewing will occur in the 2001 SIPP Panel during FY 2002. The total annual burden for the 2001 Panel SIPP interviews would be 118,125 hours in FY 2002.

The topical modules for the 2001 Panel Wave 5 collect information about:

- School Enrollment and Financing.
- Child Support Agreements.
- Support for Non-Household Members.
- Adult Disability.
- Child Disability.
- Employer—Provided Health Benefits.

Wave 5 interviews will be conducted from June 2002 through September 2002.

A 10-minute reinterview of 2,500 people is conducted at each wave to ensure accuracy of responses. Reinterviews would require an additional 1,253 burden hours in FY 2002.

An additional 2,100 burden hours is requested in order to continue the SIPP Methods Panel testing. The test targets SIPP items and sections that require thorough and rigorous testing in order to improve the quality of core data.

II. Method of Collection

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every few years with each panel having durations of one to four years. All household members 15 years old or over are interviewed using regular proxy-respondent rules. During the 2001 Panel, respondents are interviewed a total of nine times (nine waves) at 4-month intervals making the SIPP a longitudinal survey. Sample people (all household members present at the time of the first interview) who move within the country and reasonably close to a SIPP primary sampling unit will be followed and interviewed at their new address. Individuals 15 years old or over who enter the household after Wave 1 will be interviewed; however, if these individuals move, they are not followed unless they happen to move along with a Wave 1 sample individual.

III. Data

OMB Number: 0607–0875.

Form Number: SIPP/CAPI Automated Instrument.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 78,750 people per wave.

Estimated Time Per Response: 30 minutes per person, on average.

Estimated Total Annual Burden Hours: 121,478.

Estimated Total Annual Cost: The only cost to respondents is their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for the Office of Management and Budget approval of this information collection. They also will become a matter of public record.

Dated: October 18, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–26736 Filed 10–23–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–806]

Notice of Postponement of Preliminary Antidumping Duty Determination: IQF Red Raspberries From Chile

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

SUMMARY: The Department of Commerce is extending the time limit for the preliminary determination in the antidumping duty investigation on individually quick frozen red raspberries from Chile.

EFFECTIVE DATE: October 24, 2001.

FOR FURTHER INFORMATION CONTACT: Cole Kyle (202) 482–1503 or Annika O'Hara (202) 482–3798; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

Postponement of Preliminary Determinations

On June 6, 2001, the Department published the initiation of the antidumping duty investigation of imports of individually quick frozen (IQF) red raspberries from Chile. The notice of initiation stated that we would make our preliminary determination for these antidumping duty investigation no later than 140 days after the date of issuance of the initiation (*i.e.*, November 7, 2001). *See Notice of Initiation of Antidumping Duty Investigations: IQF Red Raspberries from Chile*, 66 FR 34407 (June 28, 2001).

On October 12, 2001, the petitioners[1] made a timely request pursuant to 19 CFR 351.205(e) for a 35-day postponement of the preliminary determination until December 12, 2001. The petitioners requested a postponement of the preliminary determination because of the need for additional time to submit comments regarding the respondents'

[1] The petitioners are the IQF Red Raspberries Fair Trade Committee and its members.

supplemental questionnaire responses and for the Department to analyze the respondents' data and seek additional data, if necessary, prior to the issuance of the preliminary determination.

For the reasons identified by the petitioners, and because there are no compelling reasons to deny the request, we are postponing the preliminary determination under section 733(c)(1) of the Act. We will make our preliminary determination no later than December 12, 2001.

This notice is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: October 18, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–26788 Filed 10–23–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–867]

Notice of Amended Preliminary Antidumping Duty Determination of Sales at Less Than Fair Value: Automotive Replacement Glass Windshields From the People's Republic of China

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

ACTION: Amended preliminary antidumping duty determination of sales at less than fair value.

EFFECTIVE DATE: October 24, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1102.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations for the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Scope of the Investigation

The products covered by this investigation are automotive replacement glass ("ARG") windshields, and parts thereof, whether clear or tinted, whether coated or not, and whether or not they include antennas, ceramics, mirror buttons or VIN notches, and whether or not they are encapsulated. ARG windshields are laminated safety glass (*i.e.*, two layers of (typically float) glass with a sheet of clear or tinted plastic in between (usually polyvinyl butyral)), which are produced and sold for use by automotive glass installation shops to replace windshields in automotive vehicles (*i.e.*, passengers cars, light trucks, vans, sport utility vehicles, etc.) that are cracked, broken or otherwise damaged.

ARG windshields subject to this investigation are currently classifiable under subheading 7007.21.10.10 of the Harmonized Tariff Schedules of the United States (HTSUS). Specifically excluded from the scope of this investigation are laminated automotive windshields sold for use in original assembly of vehicles. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

As discussed in our notice of initiation, the scope of this investigation poses unique problems of administration. For the final determination, we continue to invite parties to provide information on physical characteristics which would allow U.S. Customs officials to distinguish between ARG windshields, and windshields for new automobiles. We also invite comments on procedures for administering any order which may result from this investigation on the basis of end use. Finally, information on the record shows that all windshields imported from the PRC during the POI were ARG windshields; consequently, we note that even if the scope of this order were to cover all windshields, the Department would have all the information necessary to make a final determination.

Amendment of Preliminary Determination

On September 10, 2001, the Department of Commerce ("the Department") preliminary determined that ARG windshields from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735(a) of the Tariff Act. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from the People's Republic of China,* 66 FR 48233 (September 19, 2001).

On September 21, 2001, respondent, Fuyao Glass Industry Group Company, Ltd. ("FYG") and petitioners timely filed allegations that the Department made ministerial errors in the final determination.

The Department is amending the preliminary determination in the antidumping investigation of ARG windshields from the PRC only for FYG.

Significant Ministerial Error

A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or de minimis and a weighted-average dumping margin of greater than de minimis or vice versa. *See* 19 CFR 351.224(g).

FYG's Allegations of Ministerial Errors by the Department

Comment 1: FYG argues that the Department incorrectly calculated constructed export price ("CEP") profit. FYG argues that the CEP profit ratio, calculated by the Department, should be multiplied by U.S. selling expenses to derive CEP profit. FYG points out that the Department incorrectly multiplied the CEP profit ratio by gross unit price. FYG cites section 772(d)(3) of the Act and *DOC Policy Memo 97/1* in arguing that the CEP profit ratio must be multiplied by U.S. Selling expenses, not gross unit price.

Department's Position: We are with FYG. The Department's practice is to multiply the CEP profit ratio by U.S. selling expenses. The Department will change the calculation for the final determination by multiplying the CEP profit rate by U.S. selling expenses. The correction of this error in combination with the correction of the other errors would result in a margin of 3.04 percent. This is more than five percentage points different from and more than 25 percent of the weighted-average dumping margin calculated in the preliminary determination (9.79%). Accordingly, the error alleged by respondent is a significant ministerial error within the meaning of 19 CFR 351.224(g)(1).

Comment 2: FYG alleges that the Department double counted molding. FYG argues that the Department deducted an amount from U.S. price to

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–806]

Notice of Postponement of Preliminary Antidumping Duty Determination: IQF Red Raspberries From Chile

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

SUMMARY: The Department of Commerce is extending the time limit for the preliminary determination in the antidumping duty investigation on individually quick frozen red raspberries from Chile.

EFFECTIVE DATE: December 18, 2001.

FOR FURTHER INFORMATION CONTACT: Cole Kyle (202) 482–1503 or Annika O'Hara (202) 482–3798; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

Postponement of Preliminary Determinations

On June 6, 2001, the Department published the initiation of the antidumping duty investigation of imports of individually quick frozen (IQF) red raspberries from Chile. The notice of initiation stated that we would make our preliminary determination for this antidumping duty investigation no later than 140 days after the date of issuance of the initiation (*i.e.*, November 7, 2001). *See Notice of Initiation of Antidumping Duty Investigations: IQF Red Raspberries from Chile,* 66 FR 34407 (June 28, 2001). At the petitioners' [1] request, the Department postponed the preliminary determination to December 12, 2001. *See Notice of Postponement of Preliminary Antidumping Duty Determination: IQF Red Raspberries from Chile,* 66 FR 53775 (October 24, 2001).

The Department is further postponing the preliminary determination in this investigation pursuant to section 351.205(b)(2) of the regulations and section 733 (c)(1)(B)(i)(II) of the Act. This further postponement is necessary to provide additional time for the Department to consider novel cost issues involved in this case. Because of this extraordinary complication, we are postponing the preliminary determination until no later than December 20, 2001.

This notice is published pursuant to sections 733(c) and 777(i) of the Act.

[1] The petitioners are the IQF Red Raspberries Fair Trade Committee and its members.

Dated: December 12, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–31163 Filed 12–17–01; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bangladesh

December 12, 2001.

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

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

EFFECTIVE DATE: December 19, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being adjusted for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69910, published on November 21, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 12, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on December 19, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	469,994 dozen.
335	157,989 dozen.
341	3,285,686 dozen
635	513,819 dozen.
847	426,670 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–31093 Filed 12–17–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Man-Made Fiber Textiles Produced or Manufactured in Romania

December 12, 2001.

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

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

time for the Department to conduct its verifications, issue verification reports, and establish a briefing and hearing schedule that would allow the petitioner a full opportunity to review and comment on the issues in this investigation. On December 5, 2001, respondent Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd. ("Feili Group") asked the Department to reject petitioner's request on the grounds that the preliminary determination was affirmative. On December 10, 2001, respondent Shin Crest Pte. Ltd. ("Shin Crest") requested that the Department postpone the final determination and extend the period that the provisional measures may remain in effect from four months to not more than six months.

In accordance with section 735(a)(2)(A) and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) Shin Crest accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the postponement request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination in the **Federal Register**. We are also extending the provisional measures, from four months to six months, in accordance with 19 CFR 351.210(e)(2). Therefore, the final determination would now be due on April 17, 2002. Suspension of liquidation will be extended accordingly.

This notice is published in accordance with section 735(a)(2) of the Act.

Dated: December 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–32115 Filed 12–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–806]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: IQF Red Raspberries From Chile

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

ACTION: Notice of preliminary determination of sales at less than fair value and postponement of final determination.

SUMMARY: We preliminarily determine that individually quick frozen ("IQF") red raspberries from Chile are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended. The estimated dumping margins are shown in the "Suspension of Liquidation" section of this notice.

Interested parties are invited to comment on this preliminary determination (*see* the "Public Comment" section of this notice).

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Annika O'Hara, Cole Kyle, or Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3798, (202) 482–1503, or (202) 482–4207, respectively.

SUPPLEMENTARY INFORMATION:

The 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. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department") regulations are to 19 CFR Part 351 (April 2001).

Background

Since the initiation of this investigation (*see Initiation of Antidumping Duty Investigation: IQF Red Raspberries from Chile,* 66 FR 34407 (June 28, 2001) ("*Initiation Notice*")), the following events have occurred:

On July 9 and 10, 2001, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes. Interested parties filed comments from July 18, 2001 through August 3, 2001.

On July 16, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of IQF red raspberries from Chile are materially injuring the United States industry (66 FR 38740 (July 25, 2001)).

On July 19, 2001, we selected the three largest producers/exporters of IQF red raspberries from Chile as the mandatory respondents in this proceeding. *See* Memorandum to Susan Kuhbach from Annika O'Hara entitled "Respondent Selection" which is on file in the Central Records Unit ("CRU") in room B–099 of the main Department building.

We issued antidumping questionnaires to Comercial Fruticola ("Comfrut"), Exportadora Frucol ("Frucol"), and Fruticola Olmue ("Olmue") on August 3, 2001. We received responses to Section A of the questionnaire on August 31, 2001 and responses to Sections B, C, and D on September 25, 2001. We issued supplemental questionnaires between October 16 and November 30, 2001, to which we received responses in November and December 2001. We received comments from the petitioners on each of the respondents' questionnaire responses. Subsequently, we received comments from the respondents on the petitioners' comments concerning the respondents' questionnaire responses.

On October 12, 2001, the petitioners made a timely request to postpone the preliminary determination pursuant to 19 CFR 351.205(e). On October 18, 2001, we postponed the preliminary determination until no later than December 12, 2001. *See Notice of Postponement of Preliminary Antidumping Duty Determination: IQF Red Raspberries from Chile,* 66 FR 53775 (October 24, 2001).

On December 12, 2001, the Department further postponed the preliminary determination in this investigation pursuant to section 351.205(b)(2) of the regulations and section 733 (c)(1)(B)(i)(II) of the Act due to several novel costs issues involved in this investigation. *See Notice of Postponement of Preliminary Antidumping Duty Determination: IQF Red Raspberries from Chile,* 66 FR 65177 (December 18, 2001).

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2)(A) of the Act, on December 12, 2001, Comfrut, Frucol, and Olmue, requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**, and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) Comfrut, Frucol, and Olmue account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of the Investigation

The products covered by this investigation 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 investigation excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under 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 investigation is dispositive.

Comments on the Scope

On August 30, 2001, the respondents filed a letter with the Department seeking confirmation that frozen raspberries known as "dirty crumbles" are not covered by the scope of this investigation. On September 12, 2001, the petitioners submitted a letter opposing the respondents' interpretation of the scope. The parties' arguments are summarized in a September 26, 2001, memorandum to Susan Kuhbach from the Team, in which the Department determined that "dirty crumbles" are included in the scope of this investigation. This memorandum is on file in the CRU.

Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of IQF red raspberries from Chile to the United States were made at less than fair value ("LTFV"), we compared the export price ("EP") to the normal value, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs to NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in the comparison market during the POI that fit the description in the "Scope of the Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales of identical merchandise in the comparison market made in the ordinary course of trade, where possible. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. To determine the appropriate product comparisons, we considered the following physical characteristics of the products in order of importance: grade; variety; form; cultivation method; and additives.

Export Price

For all respondents, we calculated EP, in accordance with section 772(a) of the Act, because the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States, or to an unaffiliated purchaser for exportation to the United States. We based EP on the packed ex-factory, C&F, FOB, or delivered price to the unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses, including inland freight, warehousing, marine insurance, brokerage and handling, and international freight, in accordance with section 772(c)(2)(A) of the Act, where appropriate. We increased EP, where appropriate, for duty drawback in accordance with section 772(c)(1)(B) of the Act.

Normal Value

A. Home Market Viability

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.

Comfrut, Frucol, and Olmue reported that their home market sales of IQF red raspberries during the POI were less than five percent of their sales of IQF red raspberries in the United States. Therefore, none of the three respondents had a viable home market for purposes of calculating normal value. Comfrut and Frucol reported that the United Kingdom was their largest viable third country market, and Olmue reported that France was its largest viable third country market. Accordingly, Comfrut and Frucol reported their sales to the United Kingdom and Olmue reported its sales to France for purposes of calculating normal value.

B. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found at the initiation of this investigation that there were reasonable grounds to believe or suspect that the respondents' sales of the subject merchandise in their respective comparison markets were made at prices below their cost of production ("COP"). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation (*see Initiation Notice*, 66 FR 34409).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication of the foreign like product, plus an amount for general and administrative expenses ("G&A"), interest expenses, and comparison market packing costs (*see* the "Test of Comparison Market Sales Prices" section below for treatment of comparison market selling expenses). We relied on the COP data submitted by the respondents, except where noted below:

Comfrut:

a. We revised Comfrut's interest expense to include the current portion of the net loss on monetary correction.

b. We revised Comfrut's affiliated processor's reported costs for two items. First, we revised the affiliate's interest expense to include the current portion of the net loss on monetary correction. Second, we weight-averaged the affiliated processor's revised COP. We then increased Comfrut's costs to include the higher of the transfer price or cost of the major input, processing services. *See* December 20, 2001, Calculation Memorandum for Comfrut, for further information.

Frucol:

a. We increased the per-unit conversion costs using the correct total quantity of raspberries processed. Also, we increased the total cost of manufacturing to include all of the affiliated processor's expenses shown on its tax return. We used the tax return as the basis of costs for the affiliated processor because it does not prepare any financial statements.

b. We revised the combined general and administrative ("G&A") expenses to include land rent associated with the processing plant and general expenses.

We increased the cost of goods sold used in the denominator of the rate calculation to include the additional expenses shown on the affiliated processor's tax return.

c. We revised the combined interest expense to include the current portion of the net loss on monetary correction. We increased the cost of goods sold used in the denominator of the rate calculation to include the additional expenses shown on the affiliated processor's tax return.

See Memorandum from Aleta Habeeb to Neal Halper, Director Office of Accounting, dated December 19, 2001, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination."

Olmue:

We revised Olmue's interest expense to include the current portion of the net loss on monetary correction. *See* December 20, 2001, Calculation Memorandum for Olmue for further information.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the comparison market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, billing adjustments, commissions, warranty expenses, and other direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(1), where less than 20 percent of a respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances 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 are at prices less than the COP, we determine that the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that for each respondent, for certain specific products, more than 20 percent of the comparison market sales were at prices less than the COP and thus the below-cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1).

For Comfrut and Olmue's U.S. sales of subject merchandise for which there were no comparable comparison market sales in the ordinary course of trade (*e.g.*, sales that passed the cost test), we compared those sales to constructed value ("CV"), in accordance with section 773(a)(4) of the Act.

C. Calculation of 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 Comfrut and Olmue, when sales of comparison products could not be found, either because there were no sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on CV.

In accordance with section 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the subject merchandise, plus amounts for selling expenses, G&A, including interest, profit and U.S. packing costs. We made the same adjustments to the CV costs as described in the "Calculation of COP" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

D. 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) 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"),[1] including selling functions,[2] 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 home market or third country prices [3]), we consider the starting prices before any adjustments. *See Micron Technology, Inc.* v. *United States*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001) (affirming this methodology).

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 show that the difference in LOT affects price comparability, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

Comfrut and Frucol have reported that they sell to distributors in both the comparison market and in the United States. Olmue has reported that it sells to trading companies and end users in the comparison market and to trading companies and distributors in the United States. Each respondent has reported a single channel of distribution and a single level of trade in each market, and has not requested a level of trade adjustment. We examined the information reported by the respondents regarding their marketing processes for

[1] The marketing process in the United States and comparison markets 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 the narrative responses of each respondent to properly determine where in the chain of distribution the sale appears to occur.

[2] 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 this preliminary determination, 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. Other selling functions unique to specific companies were considered, as appropriate.

[3] 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.

making the reported home market and U.S. sales, including the type and level of selling activities performed and customer categories. *See* December 19 and 20, 2001, Calculation Memorandum for Comfrut, Frucol, and Olmue for further information. As Comfrut, Frucol, and Olmue have reported, we found a single level of trade in the United States, and a single, identical level of trade in the comparison market. Thus, it was unnecessary to make any LOT adjustment for comparison of EP and third country prices.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-factory or delivered prices to unaffiliated customers in the comparison market. We made adjustments to the starting price for interest revenue and billing adjustments, where appropriate. We made deductions for movement expenses, including inland freight, warehousing, brokerage and handling expenses, and international freight, under section 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses, commissions, warranties, and other direct selling expenses, where appropriate.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted comparison market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

F. Calculation of Normal Value Based on Constructed Value

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We made adjustments to CV for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. In addition, we added U.S. packing costs.

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 reported by the Dow Jones.[4]

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our preliminary determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise (except for entries of Comfrut or Frucol because these companies have *de minimis* and zero margins, respectively) that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Comercial Fruticola	0.31 (*de minimis*)
Exportadora Frucol	0.00
Fruticola Olmue	5.54
All Others	5.54

Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all-others rate margins which are zero or *de minimis*.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities relied upon, 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 public 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 an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 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 to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

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

Dated: December 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–32112 Filed 12–28–01; 8:45 am]

BILLING CODE 3510–DS–P

[4] We normally make 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. In this case, where costs and expenses were reported in Chilean pesos, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales as reported by the Dow Jones because the Federal Reserve Bank does not track the Chilean peso-to-dollar exchange rate.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–834]

Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Notice of Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

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

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Meeting of the Klamath River Basin Fisheries Task Force

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public. The purpose of the meeting is to continue providing recommendations from the affected interests to the Department of the Interior on implementation of their program to restore anadromous fisheries, including salmon and steelhead, of the Klamath River in California and Oregon.

DATES: The Klamath River Basin Fisheries Task Force (Task Force) will meet from 9 a.m. to 5 p.m. on February 6, 2002, and from 8 a.m. to 5 p.m. on February 7, 2002.

ADDRESSES: The meeting will be held at the Ship Ashore Resort, 12370 Highway 101 North, Smith River, CA.

FOR FURTHER INFORMATION CONTACT: Phil Detrich, Project Leader, U.S. Fish and Wildlife Service, 1829 South Oregon Street, Yreka, California 96097, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: January 25, 2002.

Miel R. Corbett,

Acting California/Nevada Operations Manager, California/Nevada Office, Fish and Wildlife Service.

[FR Doc. 02–2457 Filed 1–31–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park, Bar Harbor, ME; Acadia National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, February 4, 2002.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, of his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at park Headquarters, McFarland Hill, Bar Harbor, Maine, at 1 P.M. to consider the following agenda:

1. Review and approval of minutes from the meeting held September 10, 2001
2. Committee reports:
—Land Conservation
  A. Proposed Milliken conservation easement, Long Cove, Indian Point, Bar Harbor
  B. Proposed Rhoads conservation easement, Birch Island, Vinalhaven
—Park Use
—Science
3. Old business
4. Superintendent's report
5. Public comments
6. Proposed agenda for next Commission meeting, June 3, 2002

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: January 11, 2001.

Len Bobinchock,

Acting Superintendent, Acadia National Park.

[FR Doc. 02–2483 Filed 1–31–02; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–416 (Final) and 731–TA–948 (Final)]

Individually Quick Frozen Red Raspberries From Chile

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–416 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–948 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from Chile of individually quick frozen ("IQF") red raspberries, provided for in subheading 0811.20.20 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server, *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that such products are being sold in the

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as individually quick frozen 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. Excluded from the imported products subject to these investigations are fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). (Commerce made a negative preliminary determination concerning whether certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Chile of IQF red raspberries.) The investigations were requested in a petition filed on May 31, 2001, by the IQF Red Raspberry Fair Trade Committee, Washington, DC.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on May 9, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on May 23, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 13, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 15, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is May 16, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 31, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before May 31, 2002. On June 13, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 17, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 28, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–2461 Filed 1–31–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–415 (Final) and 731–TA–933–9341 (Final)]

Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–415 (Final) under § 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–933–934 (Final) under § 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and imports from India, and less-than-fair-value imports from India and Taiwan, of polyethylene terephthalate film, sheet, and strip (PET film), provided for in subheading 3920.62.00 of the Harmonnized Tariff Schedule of the United States.[1]

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as all guages of raw, pretreated, or primed PET film, whether extruded or coextruded. Continued

tower in Lincoln County, South Dakota. The proposed Virgil Fodness 230 kV Substation will be located in the southwest corner of the Southeast Quarter (SE1/4) of Section two, Township 99 North, Range 51 West in Lincoln County. The overall height of the communication tower with antenna will be 285 feet. The tower will be a self-supporting type with red obstruction lighting. The existing 230 kV transmission line will be rerouted and it will need the addition of four steel poles. The height of the poles will vary between 95 feet and 145 feet. The facility will require 20 acres to construct. It will make it possible for EREPC to provide transmission and transformation service to meet the increasing power requirements of its member distribution system. RUS may provide financial assistance to EREPC for this project. RUS has concluded that the impacts of the proposed project would not be significant and the proposed action is not a major federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary. RUS, in accordance with its environmental policies and procedures, required that EREPC prepare an Environmental Report reflecting the potential impacts of the proposed facilities. The Environmental Analysis, which includes input from federal, state, and local agencies, has been reviewed and accepted as RUS' Environmental Assessment (EA) for the project in accordance with 7 CFR 1794.41. EREPC published notices of the availability of the EA and solicited public comments per 7 CFR 1794.42. The 30-day comment period on the EA for the proposed project ended May 6, 2002. No comments were received on the EA.

Based on the EA, RUS has concluded that the proposed action will not have a significant effect on various resources, including important farmland, floodplains, wetlands, cultural resources, threatened and endangered species and their critical habitat, air and water quality, and noise. RUS has also determined that there would be no negative impacts of the proposed project on minority communities and low-income communities as a result of the construction of the project.

The EA is available for public review at the RUS or the headquarters of EREPC at the addresses provided in this notice and at the following location: Lincoln County Courthouse, County Auditor's Office, 100 East Fifth Street, Canton, South Dakota 57013.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02-12639 Filed 5-20-02; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-827]

Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Stolz at (202) 482-4474, Michele Mire at (202) 482-4711, or Crystal Crittenden at (202) 482-0989, AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Time Limits:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On January 31, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China (PRC), covering the period December 1, 1999 through November 30, 2000 (66 FR 8378). On December 4, 2001, the Department published an extension of time limit for the preliminary results. On January 17, 2002, we published the preliminary results of review (67 FR 2402). In our notice of preliminary results, we stated our intention to issue the final results of this review no later than 120 days from the date of publication of the preliminary results.

Extension of Time Limit for Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore the Department is extending the time limit for completion of the final results until no later than July 16, 2002. See Memorandum from Holly A. Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B-099 of the main Commerce building.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: May 8, 2002.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 02-12724 Filed 5-20-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-337-806]

Notice of Final Determination of Sales at Less Than Fair Value: IQF Red Raspberries from Chile

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

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: The Department of Commerce has conducted an antidumping duty investigation of IQF red raspberries from Chile. We determine that individually quick frozen ("IQF") red raspberries from Chile are being sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended. On December 31, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of IQF red raspberries from Chile. Based on the results of verification and our analysis of the comments received, we have made changes in the margin

calculations. Therefore, this final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled **Continuation of Suspension of Liquidation.**

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Cole Kyle or Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1503, or (202) 482–4207, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to 19 CFR Part 351 (April 2001).

Case History

Since the publication of the preliminary determination in this investigation (*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 (December 31, 2001) ("*Preliminary Determination*")), the following events have occurred:

On January 9, 2002, the petitioners and the respondents submitted ministerial error allegations regarding the Department's preliminary margin calculations. For a detailed discussion of the allegations and the Department's analysis, *see*Memorandum to Richard W. Moreland, "Ministerial Errors in the Preliminary Determination in the Antidumping Duty Investigation of Individually Quick Frozen (IQF) Red Raspberries from Chile" ("*Ministerial Errors Memo*") dated January 15, 2002, which is on file in the Import Administration's Central Records Unit ("CRU"), Room B–099 of the main Department of Commerce building.

In January and February 2002, we conducted verifications of the questionnaire responses submitted by Comercial Fruticola ("Comfrut"), Exportadora Frucol ("Frucol"), and Fruticola Olmue ("Olmue") (collectively, "the respondents"). We issued verification reports in March and April 2002. *See* "Verification" section of this notice for further discussion.

The petitioners and respondents filed case and rebuttal briefs, respectively, on April 15 and April 18, 2002. At the request of the petitioners, the Department held a public hearing on April 22, 2002.

Scope of Investigation

The products covered by this investigation 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 investigation excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under section 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 investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of IQF red raspberries from Chile to the United States were made at less than fair value, we compared export price ("EP") to normal value ("NV"). Our calculations follow the methodologies described in the *Preliminary Determination*, except as noted below and in each individual respondent's calculation memorandum, dated May 15, 2002, which are on file in the Department's CRU.

Export Price

For sales to the United States, we used EP as defined in section 772(a) of the Act. We calculated EP based on the same methodologies described in the Preliminary Determination, with the following exceptions:

Comfrut

We corrected certain ministerial errors from the preliminary determination (*see* the January 15, 2002 *Ministerial Errors Memo*). We revised reported amounts, where appropriate, with respect to international freight, shipping date, and direct selling expenses based on information obtained at verification. We also revised the reported amounts for warehousing expenses, indirect selling expenses, and inventory carrying costs. For further information, *see* the May 15, 2002 calculation memorandum for Comfrut ("*Comfrut Calculation Memorandum*") and the March 22, 2002 sales verification report for Comfrut ("*Comfrut Sales Verification Report*").

Frucol

We corrected certain ministerial errors from the preliminary determination (*see* the *Ministerial Errors Memo*). We revised reported amounts, where appropriate, with respect to payment date, inland freight, indirect selling expenses, credit expenses, gross unit price, and brokerage expenses based on information collected at verification. We also revised the reported amounts for packing and direct selling expenses. For further information, *see* the May 15, 2002 calculation memorandum for Frucol ("*Frucol Calculation Memorandum*") and the March 7, 2002 sales verification report for Frucol ("*Frucol Sales Verification Report*").

Olmue

We corrected certain ministerial errors from the preliminary determination (*see* the *Ministerial Errors Memo*). We revised reported amounts for international freight, gross unit price, and direct selling expenses for several sales based on information obtained at verification. We also revised the reported amount for indirect selling expenses and inventory carrying costs. For further information, *see* the May 15, 2002 calculation memorandum for Olmue ("*Olmue Calculation Memorandum*") and the April 3, 2002 sales verification report for Olmue ("*Olmue Sales Verification Report*").

Normal Value

We used the same methodology as that described in the preliminary determination to determine the cost of production ("COP"), whether comparison market sales were at prices below the COP, and the NV, with the following exceptions:

1. Cost of Production Analysis

Comfrut

We made adjustments to Comfrut's costs based on verification findings (*see Comfrut Calculation Memorandum* and the March 6, 2002 cost verification report for Comfrut). We are not making the major input adjustment made in the preliminary determination. For further information, *see* the *Comfrut Calculation Memorandum.*

Frucol

We have calculated a single, weighted-average cost of fresh raspberries for Frucol. For the reasons discussed in our response to Comment 1 in the May 15, 2002 *Issues and Decision Memorandum for the Antidumping Duty Investigation of IQF Red Raspberries from Chile; Final Determination*("*Decision Memorandum*"), we have used market prices for the berries grown by Frucol and, for the reasons discussed in response to Comment 3 in the *Decision Memorandum*, we have used the higher of market or transfer prices for the berries purchased by Frucol's affiliated supplier. Also, based on our findings at verification, we made revisions to Frucol's interest expense and total cost of manufacturing, including, direct labor, SG&A, variable overhead, and fixed overhead. *See* the *Frucol Calculation Memorandum*, the April 2, 2002 cost verification report for Frucol ("*Frucol's Cost Verification Report*") and Comments 1, 2, 4, 5, and 6 of the *Decision Memorandum*).

Olmue

Based on our findings at verification, we made revisions to Olmue's total cost of manufacturing, including raw materials, direct labor, variable overhead, and fixed overhead. See the Olmue Calculation Memorandum and the Olmue Cost Verification Report.

2. Calculation of NV

Comfrut

We revised the reported amounts for billing adjustments and credit expenses for certain sales based on information obtained at verification. We also revised the reported amounts for warehousing expenses, indirect selling expenses, and inventory carrying costs. For further information, *see* the *Comfrut Calculation Memorandum* and the *Comfrut Sales Verification Report*.

Frucol

We corrected certain ministerial errors from the preliminary determination (*see* the *Ministerial Errors Memo*). Based on information collected at verification, we revised the reported form, control number, commissions, and customer code for certain sales. We also revised the reported amounts for packing and direct selling expenses. For further information, *see* the *Frucol Calculation Memorandum* and the *Frucol Sales Verification Report* at Exhibit S–1.

Olmue

We revised reported amounts for gross unit price, brokerage and handling, and direct selling expenses for several sales based on information obtained at verification. We also revised the reported amounts for indirect selling expenses and inventory carrying costs. For further information, see the *Olmue Calculation Memorandum* and the *Olmue Sales Verification Report* at Exhibit S–1.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act in the same manner as in the preliminary determination.

Verification

As provided in section 782(i)(1) of the Act, we verified the information submitted by all responding companies during January and February 2002. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of IQF red raspberries from Chile (except for entries from Comercial Fruticola and Exportadora Frucol) that are entered, or withdrawn from warehouse, for consumption on or after December 31, 2001, the date of publication of the *Preliminary Determination* in the Federal Register. Comercial Fruticola and Exportadora Frucol have de minimis and zero margins, respectively, and will be excluded from the antidumping duty order, if issued. Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as appropriate, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Comercial Fruticola	0.50 percent (de minimis)
Exportadora Frucol	0.00 percent
Fruticola Olmue	5.98 percent
All Others	5.98 percent

Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all others rate margins which are zero or *de minimis*.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 15, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX

List of Comments in the Issues and Decision Memorandum

Frucol

*Comment 1:*COP Methodology
Comment 2: Production Quantities
Comment 3: Frucol's Purchases of Fresh Raspberries
Comment 4: Extraordinary Costs
Comment 5: Unreconciled Differences
Comment 6: General and Administrative Expense Ratio

Comment 7: Third Country Sales
Comment 8: Billing Adjustment

Comfrut

Comment 9: Direct Material Costs
Comment 10: Raw Material Costs

Olmue

Comment 11: COM
Comment 12: Sales to Third Country
Comment 13: CV Profit Rate

[FR Doc. 02–12725 Filed 5–20–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010302E]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Hazard Investigations in Washington State

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals by harassment incidental to collecting marine seismic reflection data to investigate the earthquake hazard in the Straits of Georgia region of Washington State by the U.S. Geological Survey (USGS) during May, 2002.

DATES: This authorization is effective from April 30, 2002, through September 30, 2002.

ADDRESSES: A copy of the application and an Environmental Assessment (EA) may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, ext 128.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines "harassment" as:

> any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

In May, 2002, the USGS, in cooperation with the Geological Survey of Canada and the University of Victoria, will collect marine seismic reflection data to investigate the earthquake hazards in the Straits of Georgia. For approximately 2 to 4 days this research will be in U.S. waters and about 17 to 19 days will be in Canadian waters. Geological features around the Straits of Georgia that might produce earthquakes lie obscured beneath water, urban areas, forest, and thick glacial deposits. As a result, investigators must use sound waves that are produced by either a single airgun or more usually an array of airguns to indirectly view these features. Because seismic noise from the proposed survey's airguns could potentially affect marine mammals due to disturbance by sound (i.e., acoustic harassment), an IHA under the MMPA is warranted.

Throughout western Washington state and southwest British Columbia (BC), geological faults that might produce earthquakes lie hidden beneath the dense forest and the waters of Puget Sound and the Strait of Georgia. Although some faults are known from limited exposures on land and from marine seismic surveys, such as the Lummi Island and Outer Islands faults (see Figure 1 in the USGS application), more may have eluded detection in this little-studied area. Furthermore, the amount of recent (<50,000 years) motion on these faults, if any, is unknown. Estimating the frequency and sizes of earthquakes on both the known and unknown faults is crucial to understanding the earthquake risk to the cities of Bellingham and Anacortes, WA to Vancouver and Victoria, BC and to the more rural parts of the region. For more detailed information on the geological faults in this area, please refer to the USGS application.

Seismic reflection data will be collected during May, 2002 by the Canadian research vessel *J. P. Tully*. Seismic profiling will be done by towing a 600–m (1,968.5–ft) long hydrophone streamer for sensing and recording pressure changes from the airgun echos. The streamer will be towed at a depth of 5 m (16.4 ft). Near the forward end of the streamer, an airgun will be towed about 10 m (32.8 ft) behind the ship at a depth of about 5 m (16.4 ft). The hydrophone streamer, which is connected to a computer recording system, will record echos coming from the strata beneath the sea bottom. These recordings will be computer-processed to create an image of the subsurface strata, including any faults that are crossed during the profiling. The seismic operation will operate 24 hours/day while in U.S. waters and will be traveling at a speed of 6 to 8 knots (6.9 to 9.2 miles/hr; 11.1 to 14.8 km/hr).

The sound source will be either a single, 120 inch^3 airgun or, more likely, a small array of airguns consisting of two 40- in3 and two 20–in^3 guns being fired within several milliseconds (1/1000 second) of each other. The source will be chosen after tests at the beginning of the cruise. Either way, this sound source, as measured by the volume of the chamber, is only 2 percent of the size of the airgun array

Application accepted by Commissioner of Customs: April 26, 2002.

Docket Number: 02–015.

Applicant: The Regents of the University of California (Riverside Campus), Materiel Management—056, Riverside, CA 92521–0411.

Instrument: Electron Microscope, Model Tecnai 12 TWIN.

Manufacturer: FEI Company, The Netherlands.

Intended Use: The instrument is intended to be used in the following research programs: (1) Development and evolution of nematode roundworms, (2) development of nerve function in mammals, (3) developmental processes related to plant reproduction, (4) reproductive processes in mice, and (5) the structure, function and processes of cell membranes in various animals. The instrument will also be used for educational purposes in the courses: (1) Bio/Nem 159, (2) MCLB/Biol 121L, (3) Bio 200A, PP 200, (4) Ent 231, (5) Neuro 211, and (6) Nem 226.

Application accepted by Commissioner of Customs: April 26, 2002.

Docket Number: 02–016.

Applicant: Associated Universities, Inc., National Radio Astronomy Observatory (AUI/NRAO), 520 Edgemont Road, Charlottesville, VA 22903.

Instrument: Atacama Large Millimeter Array (ALMA) Radio Telescope.

Manufacturer: Vertex Antennentechnik GmbH, Germany.

Intended Use: The instrument is intended to serve as a test and evaluation instrument. The results of the evaluation will be used to finalize the design basis for the entire array of radio telescopes which will be located in Chile. The antennas of the Atacama Large Millimeter Array will collect millimeter and submillimeter waves from the cosmos and direct them through a series of mirrors into the cooled detectors. The purpose of the array is to collect the waves in such a fashion as to create an image of their source, cool gas and dust in the Universe. From these images the mechanisms of creation of planets stars and galaxies may be hypothesized and studied by astronomers and students.

Application accepted by Commissioner of Customs: May 3, 2002.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–12863 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–337–807]

Notice of Final Negative Countervailing Duty Determination: IQF Red Raspberries from Chile

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

ACTION: Notice of final negative countervailing duty determination.

SUMMARY: The Department of Commerce ("the Department") has made a final determination that countervailable subsidies are not being provided to producers and exporters of individually quick frozen red raspberries in Chile.

EFFECTIVE DATE: May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Craig Matney or Jennifer Jones, Office of AD/CVD Enforcement 1, Import Administration, U.S. Department of Commerce, Room 3096, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1778 or 482–4194, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (April 2001).

Petitioners

The petition in this investigation was filed by the IQF Red Raspberries Fair Trade Committee ("Committee") and its members (collectively referred to hereinafter as "the petitioners"). The Committee is an *ad hoc* association of growers and processors of IQF red raspberries. All of the members of the Committee are producers of IQF red raspberries.

Case History

Since the publication of the preliminary determination in the **Federal Register** (*see Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: IQF Red Raspberries from Chile*, 66 FR 52588 (October 16, 2001) ("*Preliminary Determination*")), the following events have occurred:

We conducted verification of the questionnaire responses of the Government of Chile ("GOC"), Fruticola Olmue S.A. ("Olmue"), Exportadora Frucol Ltda. ("Frucol") and Comercial Fruticola S.A. ("Comfrut") from December 12–19, 2001.

On December 12, 2001, based on a request from Olmue, Frucol and Comfrut (collectively, "the responding companies"), which are also respondents in the companion antidumping duty investigation, the Department postponed the final antidumping determination until May 15, 2002. Because of the alignment of the countervailing duty investigation with the antidumping duty investigation, the final determination in the countervailing duty investigation was also postponed until May 15, 2002. *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 (December 30, 2001).

On March 25, 2002, we received a combined case brief from the GOC and the three responding companies. No brief or rebuttal brief was filed by the petitioners. No hearing was held because none was requested.

Scope of Investigation

The products covered by this investigation 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 investigation excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under 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 investigation is dispositive.

Period of Investigation

The period for which we are measuring subsidies (the POI) is calendar year 2000.

Analysis of Comments Received

All issues raised in the case brief submitted are addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision*

Memorandum. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at http://ia.ita.doc.gov/frn/ under the heading "Chile." The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examining relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce, Room B–099.

Summary

The total net countervailable subsidy rates for Olmue, Comfrut, and Frucol are 0.01, 0.16 and 0.65 percent, *ad valorem,* respectively. All of these rates are *de minimis.* Therefore, we determine that countervailable subsidies are not being provided to producers or exporters of IQF red raspberries in Chile.

Suspension of Liquidation

In the *Preliminary Determination,* the total net countervailable subsidy rates for all the responding companies were *de minimis* and, therefore, we did not suspend liquidation. For the instant determination, because the rates for all the responding companies remain *de minimis,* we are not directing the Customs Service to suspend liquidation of IQF red raspberries from Chile.

Notification of the International Trade Commission

In accordance with section 705(d) of the Act, we have notified the International Trade Commission of our determination.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to Administrative Protective Order of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 15, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX

List of Comments and Issues in the Decision Memorandum

Comment 1: Benchmark Interest Rates
Comment 2: Countervailability of ProChile Export Promotion Assistance Program

[FR Doc. 02–12858 Filed 5–21–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051702A]

Proposed Information Collection; Comment Request; International Dolphin Conservation Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before July 22, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Cathy Campbell, 562–980–4060 or Cathy.E.Campbell@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Oceanic and Atmospheric Administration (NOAA) collects information to implement the International Dolphin Conservation Program Act. The Act allows entry of yellowfin tuna into the United States, under specific conditions, from nations in the Program that would otherwise be under embargo. The Act also allows U.S. fishing vessels to participate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean on terms equivalent with the vessels of other nations. NOAA collects information to allow tracking and verification of "dolphin safe" and "non-dolphin safe" tuna products from catch through the U.S. market.

NOAA has modified the existing information collection by requiring that any wholesaler or distributer of any tuna or tuna products labeled as "dolphin-safe" produce documentary evidence concerning the origin of the tuna or products within 30 days of receiving a written request from the National Marine Fisheries Service (NMFS). NMFS expects that this will result in an annual information burden on 20 additional respondents.

In addition, NMFS has modified the existing information collection by eliminating the requirement that canneries provide 48 hours notice of receipt of tuna shipment and eliminating the requirement that processors provide NMFS with copies of their receiving reports on a real-time basis. This has resulted in an overall reduction in the number of annual burden hours and the estimated annual cost to the public of this information collection.

II. Method of Collection

Paper forms, other paper records, telephone calls, and radio transmissions.

III. Data

OMB Number: 0648–0387.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations, individuals or households.
Estimated Number of Respondents: 58.
Estimated Time Per Response: 30 minutes for a vessel permit application; 10 minutes for an operator permit application; 30 minutes for a request for a waiver to transit the eastern tropical Pacific Ocean without a permit (and subsequent radio reporting); 10 minutes for a notification of vessel departure; 10 minutes for a change in permit operator; 10 minutes for notification of a net modification; 10 hours for an experimental fishing operation waiver; 15 minutes for a request for a Dolphin Mortality Limit; 10 minutes for notification of vessel arrival; 60 minutes for a tuna tracking form; 10 minutes for

that the unknown person who eventually delivered the service copy did not open the envelope and read the BPI. One aggravating factor was that the missing service copy was not reported to the Commission until seven days after it was missing.

IV. Investigations in Which No Breach Was Found

During 2001, the Commission completed six additional investigations in which no breach was found. One investigation was not completed, but was withdrawn by the Office of General Counsel, because the revealed information was not treated as BPI by the Commission. The reasons for a finding by the Commission of no breach included:

(1) The information disclosed at the hearing was sufficiently changed to make it no longer confidential;

(2) The information revealed was publicly available;

(3) The suppliers of the BPI had consented to the use of the information in U.S. District Court litigation and, therefore, providing BPI to the district court judge for in camera inspection was not a breach;

(4) The information was not BPI because it was a general description of the channels of distribution;

(5) The information revealed was hypothetical and therefore not BPI; and

(6) The Commission did not treat the information as BPI in its staff report.

Issued June 4, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–14386 Filed 6–6–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 303–TA–23, 731–TA–566–570, 731–TA–641 (Final) (Reconsideration) (Remand)]

Ferrosilicon From Brazil, China, Kazakhstan, Russia, Ukraine and Venezuela; Notice of Commission Determination to Conduct a Portion of the Hearing in Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of domestic producer Elkem Metals Co., the Commission has determined to conduct a portion of its hearing in the above-captioned proceedings scheduled for June 6, 2002, in camera. See Commission rules 207.24(d), 201.13(m) and 201.36(b)(4) (19 CFR 207.24(d), 201.13(m) and 201.36(b)(4)). The remainder of the hearing will be open to the public. The Commission has determined that the seven-day advance notice of the change to a meeting was not possible. See Commission rule 201.35(a), (c)(1) (19 CFR 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–3087, e-mail *mbernstein@usitc.gov.* Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes that Elkem has justified the need for a closed session. Elkem seeks a closed session to allow testimony concerning the effect domestic ferrosilicon producers' agreement to establish floor prices had on U.S. ferrosilicon prices during the Commission's original periods of investigation. Because such discussions will necessitate disclosure of business proprietary information (BPI), they can only occur if a portion of the hearing is held in camera. In making this decision, the Commission nevertheless reaffirms its belief that whenever possible its business should be conducted in public.

The hearing will include public presentations by domestic producers and by respondents, with questions from the Commission. In addition, the hearing will include an in camera session for a confidential presentation by Elkem and for questions from the Commission relating to the BPI, followed by an in camera rebuttal presentation by respondents and for questions from the Commission relating to the BPI. For any in camera session the room will be cleared of all persons except those who have been granted access to BPI under a Commission administrative protective order (APO) and are included on the Commission's APO Service list in this investigation. See 19 CFR 201.35(b)(1), (2). The time for the parties' presentations and rebuttals in the in camera session will be taken from their respective overall allotments for the hearing. All persons planning to attend the in camera portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, Inv. Nos. 303–TA–23, 731–TA–566–570, 731–TA–641 (Final) (Reconsideration) (Remand) may be closed to the public to prevent the disclosure of BPI.

Issued: June 4, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–14332 Filed 6–6–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–416 (Final)]

Individually Quick Frozen Red Raspberries From Chile

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On May 22, 2002, the Department of Commerce published notice in the **Federal Register** of a negative final determination of subsidies in connection with the subject investigation (67 FR 35961). Accordingly, pursuant to § 207.40(a) of the Commission's rules of practice and procedure (19 CFR 207.40(a)), the countervailing investigation concerning individually quick frozen red raspberries from Chile (investigation No. 701–TA–416 (Final)) is terminated.

EFFECTIVE DATE: June 3, 2002.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

Issued: June 4, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–14331 Filed 6–6–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1006–1009 (Preliminary)]

Urea Ammonium Nitrate Solutions From Belarus, Lithuania, Russia, and Ukraine

Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Belarus, Russia, and Ukraine of urea ammonium nitrate solutions, provided for in subheading 3102.80.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV). The Commission has determined that U.S. imports from Lithuania are negligible.[2]

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations with regard to Belarus, Russia, and Ukraine. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of these investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Lynn M. Bragg, however, further finds that subject imports of urea ammonium nitrate solutions from Lithuania will imminently account for more than 3 percent of total import volume of all such merchandise, and determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from Lithuania that are alleged to be sold at LTFV.

Background

On April 19, 2002, a petition was filed with the Commission and Commerce by the Nitrogen Solutions Fair Trade Committee, an ad hoc coalition of U.S. producers of urea ammonium nitrate solutions, which consists of CF Industries, Inc. of Long Grove, IL; Mississippi Chemical Corp. of Yazoo City, MS; and Terra Industries, Inc. of Sioux City, IA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of urea ammonium nitrate solutions from Belarus, Lithuania, Russia, and Ukraine. Accordingly, effective April 19, 2002, the Commission instituted antidumping duty investigations Nos. 731–TA–1006–1009 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 29, 2002 (67 FR 20994). The conference was held in Washington, DC, on May 10, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 3, 2002. The views of the Commission are contained in USITC Publication 3517 (June 2002), entitled *Urea Ammonium Nitrate Solutions from Belarus, Lithuania, Russia, and Ukraine: Investigations Nos. 731–TA–1006–1009 (Preliminary).*

Issued: June 4, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–14387 Filed 6–6–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276(a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29

Department published in the Federal Register the preliminary determination in the antidumping duty investigation of imports of certain cold-rolled carbon steel flat products from Spain. *See Notice of Preliminary Determination of Sales at Less than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Spain*, 67 FR 31248 (May 9, 2002).

Pursuant to section 735(a)(2)(A) of the Act, on May 13, 2002, the respondent requested that the Department postpone its final determination until no later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**. In accordance with 19 CFR 351.210(e)(2), the respondent consented to the extension of provisional measures to no longer than six months in its request for postponement. In accordance with 19 CFR 351.210(b)(2)(ii), because our preliminary determination is affirmative, because no compelling reasons for denial exist, and because the exporter accounts for a significant proportion of exports of subject merchandise, we are granting the respondent's request and are postponing the final determination until no later than September 23, 2002. Furthermore, any provisional measures imposed by this investigation will be extended from a four-month period to not more than six months.

This notice is issued and published pursuant to section 735(d) of the Act and 19 CFR 351.210(g).

Dated: June 6, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–14833 Filed 6–11–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-840]

Engineered Process Gas Turbo-Compressor Systems from Japan: Final Results of Five-Year ("Sunset") Review and Revocation of Antidumping Duty Order.

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

ACTION: Notice of final results and revocation of antidumping duty order on engineered process gas turbo-compressor systems from Japan.

SUMMARY: On May 1, 2002, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on engineered process gas turbo-compressor systems from Japan (67 FR 21632). Because no domestic interested party responded to the sunset review notice of initiation by the applicable deadline, the Department is revoking this antidumping duty order.

EFFECTIVE DATE: June 16, 2002

FOR FURTHER INFORMATION CONTACT: Amir R. Eftekhari or James P. Maeder, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-5331 or (202) 482-3330, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statue

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the "Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("Department") regulations are to 19 CFR part 351 (2001).

Background

On June 16, 1997, the Department issued an antidumping duty order on engineered process gas turbo-compressor systems from Japan. Pursuant to section 751(c) of the Act, the Department initiated a sunset review of this order by publishing a notice of the initiation in the **Federal Register**, 67 FR 21632 (May 1, 2002). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of the sunset review of this order.

Because the Department did not receive a response from any domestic interested party to the sunset review notice of initiation by the applicable deadline, May 16, 2002, the Department notified the International Trade Commission on May 24, 2002, that it intended to issue a final determination revoking this antidumping duty order.

Determination to Revoke

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.218(d)(1)(iii)(B)(3) of the *Sunset Regulations*, if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the sunset review, revoking the order or terminating the suspended investigation. Because no domestic interested party filed a response to the notice of initiation, the Department finds that no domestic interested party is participating in this review, and it is revoking this antidumping duty order.

Effective Date of Revocation

Pursuant to sections 751(c)(3)(A) and 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the Department will instruct the Customs Service to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after June 16, 2002. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation. 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.

Dated: June 6, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–14830 Filed 6–11–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–806]

Notice of Amended Final Determination of Sales at Less Than Fair Value: IQF Red Raspberries from Chile.

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

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: June 12, 2002.

FOR FURTHER INFORMATION CONTACT: Cole Kyle or Blanche Ziv, (202) 482–1503 or (202) 482–4207, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations are to 19 CFR Part 351 (April 2001).

Scope of Investigation

The products covered by this investigation 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 investigation excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under section 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 investigation is dispositive.

Amended Final Determination

On May 15, 2002, the Department determined that individually quick frozen ("IQF") red raspberries from Chile are being sold in the United States at less than fair value ("LTFV"), as provided in section 735(a) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: IQF Red Raspberries from Chile*, 67 FR 35790 (May 21, 2002). On May 28, 2002, we received a ministerial error allegation, timely filed pursuant to 19 CFR 351.224(c)(2), from the IQF Red Raspberries Fair Trade Committee and the IQF Committee of the Washington Red Raspberry Commission ("the petitioners") regarding the Department's final margin calculations. The petitioners requested that we correct the error and publish a notice of amended final determination in the **Federal Register**, pursuant to 19 CFR 351.224(e). The petitioners' submission alleges that the Department failed to correct the margin program for Fruticola Olmue ("Olmue") pursuant to the Department's findings at verification[1]. Specifically, the petitioners allege that the Department inadvertently applied the incorrect indirect selling expense factor in calculating Olmue's third country indirect selling expense in the margin calculations. Olmue did not submit comments on the ministerial error allegation.

In accordance with section 735(e) of the Act, we have determined that a ministerial error in the calculation of Olmue's indirect selling expenses for U.S. and third country sales was made in our final margin calculations. For a detailed discussion of the above-cited ministerial error allegation and the Department's analysis, *see* Memorandum to Richard W. Moreland, "Allegation of Ministerial Error; Final Determination in the Antidumping Duty Investigation of IQF Red Raspberries from Chile" dated May 29, 2002, which is on file in the Central Records Unit ("CRU"), room B-099 of the main Department building.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of IQF red raspberries from Chile to correct this ministerial error. Accordingly, we have revised Olmue's margin. We also revised the "All Others" rate. The revised final weighted-average dumping margins are as follows:

Exporter/Manfacturer	Original Weighted-average margin percentage	Revised Weighted-average margin percentage
Comercial Fruticola	0.50	0.50
Exportadora Frucol	0.00	0.00
Fruticola Olmue	5.98	6.33
All Others[2]	5.98	6.33

[2] Pursuant to section 735(c)(5)(A) of the Act, we have excluded from the calculation of the all-others rate margins which are zero or de minimis.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of IQF red raspberries from Chile, except for subject merchandise produced by Exportadora Frucol and Comercial Fruticola (which have zero and *de minimis* weighted-average margins, respectively). Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended final determination.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 6, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-14832 Filed 6-11-02; 8:45 am]

BILLING CODE 3510-DS-S

[1] No ministerial errors allegations were filed with respect to the other two respondents in this case, Comercial Fruticola ("Comfrut") and Exportadora Frucol ("Frucol").

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-838]

Notice of Amended Final Determination of Sales at Less-Than-Fair-Value: Structural Steel Beams from Taiwan

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

EFFECTIVE DATE: June 12, 2002.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230;

APPENDIX B

LIST OF WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject:	Individually Quick Frozen Red Raspberries from Chile
Inv. No.:	731-TA-948 (Final)
Date and Time:	May 23, 2002 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, SW, Washington, DC.

CONGRESSIONAL APPEARANCE:

The Honorable Brian Baird, U.S. Congressman, 3rd District, State of Washington
The Honorable Rick Larsen, U.S. Congressman, 2nd District, State of Washington

OPENING REMARKS:

Petitioners (**Joseph W. Dorn**, King & Spalding)
Respondents (**Warren E. Connelly**, Akin, Gump, Strauss, Hauer & Feld, LLP)

In Support of the Imposition of Countervailing and Antidumping Duties:

King & Spalding
Washington, DC
on behalf of

IQF Red Raspberries Fair Trade Committee
IQF Committee of the Washington Red Raspberry Commission

Lyle Rader, President, Rader Farms, Incorporated

Jerry Dobbins, Owner, Dobbins Berry Farm

Joseph W. Dorn)
) – OF COUNSEL
Stephen A. Jones)

In Opposition to the Imposition
of Countervailing and Antidumping Duties:
Akin, Gump, Strauss, Hauer & Feld, LLP
Washington, DC
on behalf of

Asociacion Gremial de Exportadores de Productos Congelados A.G. ("AGEPCO")

Robert Jobin, Co-owner, Fruticola Olmue, S.A.

Juan Luis Correa, Commercial Manager, Santiago Comercio Exterior Exportaciones Ltda. ("Sanco"), and Director, AGEPCO

Edward R. Flanagan, President and CEO, Jasper Wyman & Son

Eric Y. Johnson, President, Certified Pure Ingredients, Incorporated

Warren E. Connelly)
) – OF COUNSEL
Karen Bland Toliver)

REBUTTAL AND CLOSING REMARKS:

Petitioners (**Joseph W. Dorn**, King & Spalding)
Respondents (**Warren E. Connelly**, Akin, Gump, Strauss, Hauer & Feld, LLP)

APPENDIX C

SUMMARY DATA

Table C-1
IQF red raspberries: Summary data concerning the U.S. market, 1999-2001

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per pound*; and period changes=*percent*, except where noted)

Item	Calendar year			Period changes		
	1999	2000	2001	1999-2001	1999-2000	2000-2001
U.S. consumption quantity:						
Amount	24,469	26,002	25,940	6.0	6.3	-0.2
Producers' share[1]	59.1	62.9	66.0	7.0	3.8	3.1
Importers' share:[1]						
Chile (subject)	***	***	***	***	***	***
Chile (nonsubject)	***	***	***	***	***	***
All other sources	1.2	0.9	0.5	-0.8	-0.4	-0.4
Subtotal nonsubject	***	***	***	***	***	***
Total	40.9	37.1	34.0	-7.0	-3.8	-3.1
U.S. consumption value:						
Amount	27,636	28,388	24,994	-9.6	2.7	-12.0
Producers' share[1]	68.5	67.6	71.7	3.2	-0.9	4.0
Importers' share:[1]						
Chile (subject)	***	***	***	***	***	***
Chile (nonsubject)	***	***	***	***	***	***
All other sources	1.3	0.8	0.6	-0.8	-0.5	-0.2
Subtotal nonsubject	***	***	***	***	***	***
Total	31.5	32.4	28.3	-3.2	0.9	-4.0
U.S. imports from--						
Chile (subject):						
Quantity	***	***	***	-6.6	-9.3	3.0
Value	***	***	***	-14.2	5.3	-18.5
Unit value	$***	$***	$***	-8.1	16.0	-20.8
Ending inventory	***	***	***	52.5	230.1	-53.8
Chile (nonsubject):						
Quantity	***	***	***	-17.4	7.9	-23.5
Value	***	***	***	-20.8	10.4	-28.2
Unit value	$***	$***	$***	-4.0	2.3	-6.2
Ending inventory	***	***	***	111.4	50.3	40.6
All other sources:						
Quantity	305	228	122	-60.0	-25.2	-46.5
Value	362	228	140	-61.3	-37.0	-38.6
Unit value	$1.19	$1.00	$1.15	-3.3	-15.7	14.8
Ending inventory	***	***	***	([2])	([2])	-100.0
Subtotal nonsubject:						
Quantity	***	***	***	-20.8	5.3	-24.8
Value	***	***	***	-24.7	5.8	-28.8
Unit value	$***	$***	$***	-4.9	0.5	-5.3
Ending inventory	***	***	***	111.4	55.8	35.6
All sources:						
Quantity	10,017	9,648	8,810	-12.0	-3.7	-8.7
Value	8,709	9,189	7,079	-18.7	5.5	-23.0
Unit value	$0.87	$0.95	$0.80	-7.6	9.5	-15.6
Ending inventory	523	1,190	979	87.2	127.5	-17.7

Table continued on next page.

Table C-1--*Continued*
IQF red raspberries: Summary data concerning the U.S. market, 1999-2001

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per pound*; and period changes=*percent*, except where noted)

Item	Calendar year			Period changes		
	1999	2000	2001	1999-2001	1999-2000	2000-2001
U.S. producers'-- Capacity quantity	19,285	18,184	21,138	9.6	-5.7	16.2
Production quantity	16,824	15,818	16,865	0.2	-6.0	6.6
Capacity utilization[1]	87.2	87.0	79.8	-7.5	-0.3	-7.2
U.S. shipments: Quantity	14,452	16,354	17,130	18.5	13.2	4.7
Value	18,926	19,199	17,915	-5.3	1.4	-6.7
Unit value	$1.31	$1.17	$1.05	-20.1	-10.4	-10.9
Export shipments: Quantity	***	***	***	33.3	35.6	-1.6
Value	***	***	***	69.8	20.8	40.6
Unit value	$***	$***	$***	27.4	-10.9	43.0
Ending inventory quantity	9,783	9,160	8,834	-9.7	-6.4	-3.6
Inventories/total shipments[1]	***	***	***	-16.1	-11.7	-4.4
Production workers	1,129	1,133	1,193	5.7	0.4	5.3
Hours worked (*1,000 hours*)	383	400	387	0.9	4.4	-3.4
Wages paid (*1,000 dollars*)	3,081	3,470	3,540	14.9	12.6	2.0
Hourly wages	$8.04	$8.67	$9.15	13.9	7.9	5.6
Productivity (*pounds/hour*)	43.7	39.2	43.4	-0.6	-10.2	10.8
Unit labor costs	$0.18	$0.22	$0.21	14.6	20.2	-4.7
Net sales: Quantity	17,925	16,367	17,583	-1.9	-8.7	7.4
Total revenue	23,032	17,988	18,747	-18.6	-21.9	4.2
Unit value	$1.28	$1.10	$1.07	-17.0	-14.5	-3.0
Operating expenses	22,594	18,758	19,155	-15.2	-17.0	2.1
Operating income or (loss)	438	(770)	(408)	-193.2	-275.8	-47.0
Capital expenditures	1,375	2,650	1,512	10.0	92.7	-42.9
Unit operating expenses	$1.26	$1.15	$1.09	-13.6	-9.1	-4.9
Unit operating income or (loss)	$0.02	$(0.05)	$(0.02)	-195.0	-292.5	-50.7
Operating income or loss/sales[1]	1.9	(4.3)	(2.2)	-4.1	-6.2	2.1

[1] Period changes are in percentage points.
[2] Not applicable.

Note.–Financial data are reported on a fiscal year basis and are not comparable to shipment data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.

Table C-2
IQF red raspberries (organic): Summary data concerning the U.S. market, 1999-2001

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Table C-3
IQF red raspberries (nonorganic): Summary data concerning the U.S. market, 1999-2001

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Table C-4
IQF-quality red raspberries: U.S. producers' summary data, 1999-2001

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per pound*; and period changes=*percent*, except where noted)

Item	Calendar year			Period changes		
	1999	2000	2001	1999-2001	1999-2000	2000-2001
U.S. producers'--						
Acreage harvested (*acres*)	3,268	3,224	3,346	2.4	-1.3	3.8
Amount harvested (*1,000 pounds*)	28,423	26,923	30,968	9.0	-5.3	15.0
Average yield (pounds/acre)	8,698	8,351	9,256	6.4	-4.0	10.8
Fresh fruit shipments:						
Quantity	***	***	***	69.2	50.8	12.2
Value	***	***	***	83.2	110.1	-12.8
Unit value	***	***	***	-8.4	-1.9	-6.6
Processed fruit shipments:						
Quantity	26,925	25,724	29,140	8.2	-4.5	13.3
Value	22,222	17,201	22,461	1.1	-22.6	30.6
Unit value	$0.84	$0.68	$0.78	-7.1	-19.0	14.6
Full-time employment:						
Production workers	244	247	260	6.6	1.2	5.3
Hours worked (*1,000 hours*)	326	337	344	5.5	3.4	2.1
Wages paid (*1,000 dollars*)	3,518	3,685	3,677	4.5	4.7	-0.2
Hourly wages	$10.79	$10.93	$10.69	-0.9	1.3	-2.2
Part-time employment:						
Production workers	1,974	1,805	1,959	-0.8	-8.6	8.5
Hours worked (*1,000 hours*)	550	531	558	1.5	-3.5	5.2
Wages paid (*1,000 dollars*)	3,954	3,819	4,265	7.9	-3.4	11.7
Hourly wages	$7.18	$7.19	$7.64	6.3	0.1	6.2
Productivity (*pounds*/hour)	31.8	30.6	33.8	6.2	-3.8	10.3
Unit labor costs	$0.28	$0.29	$0.26	-4.9	5.7	-10.0
Growers' financials:						
Net sales:						
Quantity	3,186	2,610	3,312	4.0	-18.1	26.9
Total revenue	2,533	1,320	1,699	-32.9	-47.9	28.7
Unit value	$0.80	$0.51	$0.51	-35.5	-36.4	1.4
Operating expenses	2,022	1,943	1,843	-8.9	-3.9	-5.1
Operating income or (loss)	511	(623)	(144)	-128.2	-221.9	76.9
Operating income or loss/sales[1]	20.2	(47.2)	(8.5)	-28.6	-67.4	38.7
Consolidated financials:						
Net sales, total revenue	25,564	19,309	20,445	-20.0	-24.5	5.9
Operating expenses	24,616	20,701	20,998	-14.7	-15.9	1.4
Operating income or (loss)	948	(1,392)	(552)	-158.2	-246.8	60.3
Operating income or loss/sales[1]	3.7	(7.2)	(2.7)	-6.4	-10.9	4.5

[1] Period changes are in percentage points.

Note.–Financial data are reported on a fiscal year basis and are not comparable to shipment data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX D

ADDITIONAL IMPORT, CONSUMPTION, AND MARKET SHARE DATA

Table D-1
IQF red raspberries (organic): U.S. imports, by sources, 1999-2001

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Table D-2
IQF red raspberries (nonorganic): U.S. imports, by sources, 1999-2001

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Table D-3
IQF red raspberries: U.S. imports from Chile, by months, January 1998-March 2002

Month	1998	1999	2000	2001	2002
	Quantity (*1,000 pounds*)				
January	250	402	465	511	87
February	723	1,343	1,514	425	718
March	671	1,754	1,711	1,100	2,110
April	1,335	2,414	1,761	1,504	([1])
May	288	1,386	1,070	1,264	([1])
June	458	1,426	1,625	931	([1])
July	183	304	495	1,367	([1])
August	71	484	449	836	([1])
September	35	72	129	214	([1])
October	151	100	118	436	([1])
November	40	15	7	9	([1])
December	39	14	76	92	([1])
Annual	4,243	9,712	9,420	8,688	

[1] Not available.

Source: Official Commerce statistics (HTS No. 0811.20.2020).

Table D-4
IQF red raspberries: U.S. imports from Chile, 1991-2001

Period	Quantity (*1,000 pounds*)	Value (*$1,000*)	Unit value (*per pound*)
1991	3,397	2,358	$0.69
1992	2,311	2,364	1.02
1993	2,677	2,931	1.10
1994	3,964	4,136	1.04
1995	2,975	3,640	1.22
1996	12,970	10,359	0.80
1997	11,526	9,372	0.81
1998	4,243	3,751	0.88
1999	9,712	8,347	0.86
2000	9,420	8,961	0.95
2001	8,688	6,939	0.80
Source: Compiled from official Commerce statistics (HTS No. 0811.20.2020).			

Table D-5
IQF red raspberries (organic): U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption, and market shares, 1999-2001

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Table D-6
IQF red raspberries (nonorganic): U.S. shipments of domestic product, U.S. imports, by sources, apparent U.S. consumption, and market shares, 1999-2001

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Table D-7
IQF red raspberries: Selected data under various scenarios, 1999-2001

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APPENDIX E

EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of IQF red raspberries from Chile on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product).

Actual Negative Effects

The majority of responding producers stated that they had experienced actual negative effects as a result of IQF red raspberries imported from Chile. Summarized excerpts from producer responses are provided below. (Note: Statements that are <u>not</u> in quotes reflect items checked in section III-11 of the questionnaire.)

<u>Growers</u>

* * * * * * *

<u>Processors</u>

* * * * * * *

Anticipated Negative Effects

The majority of responding producers stated that they also anticipate negative effects as a result of imports of IQF raspberries from Chile. Narrative excerpts from producer responses are provided below.

<u>Growers</u>

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<u>Processors</u>

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APPENDIX F

ADDITIONAL FOREIGN PRODUCER DATA

Table F-1
IQF red raspberries (organic): Data for SUBJECT producers in Chile, 1999-2001, and projected 2002

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Table F-2
IQF red raspberries (nonorganic): Data for SUBJECT producers in Chile, 1999-2001, and projected 2002

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Table F-3
IQF red raspberries: Data for NONSUBJECT producers in Chile, 1999-2001, and projected 2002

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Table F-4
IQF red raspberries: Data for ALL producers in Chile, 1999-2001, and projected 2002

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