

Comments: Send comments regarding this burden estimate, including suggestions for reducing this burden through the use of automated collection techniques or other information technology, to:

Walter L. Petty, Jr., Assistant Chief, Distance Learning Telemedicine Branch, U.S. Department of Agriculture, Rural Utilities Service, 14th and Independence Avenue SW., AG Box 1701, Washington, DC 20250. Fax: (202) 720-2734.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 13, 1995.

Wally Beyer,

Administrator, Rural Utilities Service.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-614-801]

Fresh Kiwifruit From New Zealand; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the New Zealand Kiwifruit Marketing Board (NZKMB), the respondent in this case, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on fresh kiwifruit from New Zealand. The review covers one exporter of the subject merchandise to the United States for the period June 1, 1993, through May 31, 1994.

We preliminarily determine that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between the United States price (USP) and the FMV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: October 23, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 482-4195 or 482-3814, respectively.

Applicable Statute

The Department is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 1992, the Department published the antidumping duty order on fresh kiwifruit from New Zealand (57 FR 23203). On June 7, 1994, the Department published a notice of "Opportunity to Request Administrative Review" of this antidumping duty order for the period June 1, 1993, through May 31, 1994 (59 FR 29411). We received a timely request for review by the respondent, NZKMB. On July 15, 1994, the Department initiated a review of NZKMB (59 FR 36160). The period of review (POR) is June 1, 1993 through May 31, 1994.

Scope of the Review

The product covered by this review is fresh kiwifruit. Processed kiwifruit, including fruit jams, jellies, pastes, purees, mineral waters, or juices made from or containing kiwifruit, are not covered under the scope of this review. The subject merchandise is currently classifiable under subheading 0810.90.20.60 of the Harmonized Tariff Schedule (HTS). Although the HTS number is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Verification

As provided in section 776(b) of the Tariff Act, we verified information provided by the respondent by using standard verification procedures, including onsite inspection of the grower's/seller's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

United States Price

In calculating USP, the Department treated certain sales by the respondent as exporter's sales price (ESP) sales, as provided in section 772(c) of the Tariff Act. These sales to the United States by NZKMB were made to the first unrelated party in the United States after importation, and hence warranted ESP methodology.

We calculated ESP based on packed F.O.B. (ex-New Zealand coolstore), and packed F.O.B., freight-prepaid prices. We made deductions, where appropriate, for New Zealand inland freight (coolstore to port), loading charges in New Zealand, ocean freight, basic marine insurance, charter insurance, U.S. import duties, U.S. brokerage and handling, U.S. inland freight (decreased to account for prepaid freight where applicable), and price discounts (i.e., advertising allowances, special advertising allowances, market adjustment discounts, advertising rebates which actually constituted discounts, and discounts for quality problems). In accordance with sections 772(e)(1) and (2) of the Tariff Act, we made additional deductions, where appropriate, for agent commissions, broker commissions, credit, direct advertising, and indirect selling expenses. Indirect selling expenses included inventory carrying costs, repacking, U.S. primary and U.S. satellite coolstore charges, New Zealand and U.S. instore insurance, fire insurance, product liability and tamper insurance, earthquake insurance, indirect advertising, quality control expenses, miscellaneous selling-agent-related charges, other U.S.-incurred indirect expenses, and other New Zealand-incurred indirect selling expenses associated with selling in the United States. We increased the U.S. price to account for post sale price adjustments not reflected in the gross price.

As provided in section 772(b) of the Tariff Act, we used purchase price as the U.S. price for sales made directly by the NZKMB to unrelated customers in the United States prior to importation. Deductions were made, where appropriate, for ocean freight, foreign inland freight, and inland/marine insurance in accordance with section 772(d)(2) of the Tariff Act.

Foreign Market Value

In order to determine whether there were sufficient sales of kiwifruit in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of kiwifruit by NZKMB to its volume of

kiwifruit sales to third countries, in accordance with section 773(a)(1)(B) of the Act. We determined that home market sales did not constitute a viable basis for calculating FMV. Therefore, in accordance with 19 CFR sections 353.48 and 353.49(b), the Department chose sales to Japan as the basis of FMV. Japan is the largest third-country market based on information submitted by the NZKMB. Neither the petitioner nor the respondent in this review raised any other factor relevant to third country selection, hence we did not consider any other factor in determining the third-country market. The Department relied on monthly weighted-average third country prices in the calculation of FMV.

Because many of the NZKMB's third country sales were found to have been made at prices below the cost of production and were therefore disregarded in the most recent review, the Department initiated a COP investigation for the purposes of this administrative review. Just as the Department found in the original investigation and the first administrative review, we find that in comparing third-country sales to COP, the reseller/exporter's acquisition prices are irrelevant because section 773(b) of the Tariff Act requires that the Department look at the actual COP of the subject merchandise. Thus, we used the cost incurred by kiwifruit farmers, the actual producers of the subject merchandise, to calculate the COP benchmark.

Due to the large number of growers from which the NZKMB purchased kiwifruit during the POR, the Department determined that sampling was both administratively necessary and methodologically appropriate to calculate a representative cost of producing the subject merchandise for purposes of this administrative review (see section 777A of the Tariff Act). Based on comments submitted by the petitioner and the respondent, we decided to select kiwifruit growers as follows: Farms were segregated by geographic regions into either the Bay of Plenty region or non-Bay of Plenty regions. In selecting our sample of 25 growers, we determined that we would select 18 growers representing the Bay of Plenty region and seven from the non-Bay of Plenty regions, in order to reflect the relative proportion of kiwi production from each of the two regions. Because the Department's purpose is to estimate the average unit cost per tray of exported kiwifruit, as a second step we have assigned selection probabilities to the growers on the basis of the volume of kiwifruit each grower

submitted to the NZKMB for export. (See public document Proposed Sampling Methodology, August 26, 1994.)

We sent COP questionnaires through the NZKMB to 25 kiwifruit growers, all but one of which responded to the Department's questionnaire. The 24 responses submitted, along with supplemental responses and verification results, were analyzed and relied upon, where appropriate, in reaching the preliminary results of the review.

We calculated the cost of cultivation for each grower by summing all costs for the 1993-1994 kiwifruit season. These costs included the cost of materials, farm labor, farm overhead, and packing. We allocated the cost on a per-tray equivalent basis over the total number of tray equivalents submitted by each grower to the NZKMB. (A tray equivalent is a standard unit of measurement for kiwifruit. It is representative of the kiwifruit which can fit into a standard packing tray.) We then adjusted those costs to reflect the fruit loss of 8.8 percent, which was disclosed by the NZKMB in its financial statement. We added the NZKMB's general and administrative expenses to the farm's average cost per tray.

The orchard set-up costs for all growers were amortized over 20 years. Where growers purchased an established orchard, the acquisition price of the farm was treated as the start up cost.

For growers that allocated costs over the productive area, that is, canopy area, we made adjustments to include the headlands and sidelands in the productive area of the kiwifruit orchard for the purpose of allocating costs.

We made adjustments to growers' cost for depreciation, interest, labor, repairs, management, vehicles, fertilizer, spraying, rates (property tax), electricity, shelter, water, general and administrative, pruning, and mowing on a farm-specific basis where appropriate.

For the grower that did not submit a response, we used best information available (BIA) to determine its COP, pursuant to 19 CFR 353.37(a). This BIA was based on the highest COP we calculated for all responding growers.

We calculated a simple average COP from the sampled growers' individual COPs. The total COP was calculated on a New Zealand dollar per single-layer tray equivalent basis (NZ\$/SLT). In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below COP, we examined whether such sales were made in substantial quantities over an extended period of time, and whether such sales

were made at prices which would permit recovery of all costs within a reasonable period of time in the normal course of trade.

When less than 10 percent of the third-country market sales of a model in a POR were at prices below COP, we did not disregard any sales of that model for that POR. When 10 percent or more, but not more than 90 percent, of the third-country market sales of a particular model in a POR were determined to be below cost, we excluded the below-cost third country market sales from our calculation of FMV for that POR, provided that these below-cost market sales were made over an extended period of time. When more than 90 percent of the third-country market sales of a particular model were made below cost over an extended period of time during a POR, we disregarded all third-country market sales of that model in our calculation of FMV for that POR, in accordance with section 773(a)(2) of the Tariff Act.

To determine whether sales below cost had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for a particular model to the number of months during a POR in which that model was sold. If the model was sold in fewer than three months during a POR, we did not disregard below-cost sales unless there were below-cost sales of that model in each month sold. If a model was sold in three or more months in a POR, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold during each POR. We used CV as the basis for FMV when an insufficient number of third-country market sales were made at prices above COP (see Preliminary Results and Partial Termination of Antidumping Duty Administrative Review: Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan (58 FR 69336, 69338, December 10, 1993)).

There is no information on the record demonstrating that prices of below cost sales would recover all costs within a reasonable period of time.

To calculate CV, the statutory minimum profit of eight percent was added because the NZKMB's actual profit was less than the statutory minimum (see section 773(e) of the Act). We added actual selling, general and administrative expenses for the NZKMB to the farm's average cost per tray because the actual expenses were higher than the statutory minimum of 10 percent.

We adjusted third-country prices, where appropriate, to reflect deductions for rebates, New Zealand inland freight, New Zealand inland freight insurance, New Zealand port loading expenses, ocean freight and charter insurance. Direct advertising, imputed credit, and letter of credit charges were also deducted. We also deducted indirect selling expenses including inventory carrying costs, New Zealand instore and fire insurance, product liability and tamper insurance, indirect advertising, and other indirect selling expenses when calculating FMV for comparison to ESP transactions. This deduction for third country indirect selling expenses was capped by the amount of U.S. indirect selling expenses plus U.S. commissions, in accordance with 19 CFR 353.56(b).

Preliminary Results of Review

We preliminarily determine that the following margin exists for the period June 1, 1993, through May 31, 1994:

Manufacturer/exporter	Percent margin
New Zealand Kiwifruit Marketing Board	10.97

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisal instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed firm will be that firm's rate established in the final results of this administrative review; (2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) If the exporter is not a firm covered in this review, a prior review, or in 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; (4) If neither the manufacturer nor the exporter is a firm covered in this or any previous review

conducted by the Department, the cash deposit rate will be 98.60 percent, the "all others" rate established in the LTFV investigation.

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

Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within ten days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first work day thereafter. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 5, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

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[A-570-804]

Sparklers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 4, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on sparklers from the People's Republic of China (PRC) (60 FR 39931). The review was requested for one manufacturer, Guangxi Native Produce Import and Export Corporation, Beihai Fireworks and Firecrackers Branch (Guangxi), of the subject merchandise and the review period June 1, 1993, through May 31, 1994.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: October 23, 1995.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482-5831/4114.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1991, the Department published in the Federal Register the antidumping duty order on sparklers from the PRC (56 FR 27946). On June 7, 1994, the Department published a notice in the Federal Register notifying interested parties of the opportunity to request an administrative review of sparklers from the PRC (59 FR 29411). On June 23, 1994, the petitioners requested, in accordance with 19 CFR 353.22(a), that we conduct an administrative review of exports to the United States by Guangxi, for the period June 1, 1993 through May 31, 1994. We published a notice of initiation of the antidumping duty administrative review on July 15, 1994 (59 FR 36160). On August 4, 1995 (60 FR 39931), the Department published in the Federal Register the preliminary results of its administrative review of the antidumping duty order on sparklers from the PRC. The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The products covered by this administrative review are sparklers from the PRC. Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning.