

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Utah Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 10:30 a.m. and recess at 12 p.m., on Friday, November 16, 2001, at the Sheraton Four Points, 1450 So. Hilton Drive, St. George, Utah 84770, to review regional and statewide civil rights issues, and discuss format and procedures for conducting a community forum. The Advisory Committee will reconvene for a community forum at 1:45 p.m. and adjourn at 6:30 p.m. to hear presentations from representatives of local, state, and federal agencies concerning services they provide to the minority community.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303-866-1040 (TDD 303-866-1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.  
[FR Doc. 01-26223 Filed 10-17-01; 8:45 am]

BILLING CODE 6335-01-P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4 p.m. on Friday, November 2, 2001, at the Blue Cross/Blue Shield of Vermont, Third Floor Conference Room, 1 East Road, Berlin, Vermont 05601. The Committee will hold a planning meeting to review its draft project proposal, discuss future coordination with educational leaders, and plan its next project activity.

Persons desiring additional information, or planning a presentation

to the Committee, should contact Marc Pentino of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.  
[FR Doc. 01-26224 Filed 10-17-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-836]

### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Live Processed Blue Mussels From Canada

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

**EFFECTIVE DATE:** October 18, 2001.

**FOR FURTHER INFORMATION CONTACT:** Zev Primor at (202) 482-4114, Maisha Cryor at (202) 482-5831 or Paige Rivas at (202) 482-0651, AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

### The Applicable Statute and Regulations

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

### Preliminary Determination

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

### Case History

This investigation was initiated on April 6, 2001.<sup>1</sup> See *Notice of Initiation of Antidumping Investigation: Live Processed Blue Mussels From Canada*, 66 FR 18227 (April 6, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

On April 25, 2001, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Canada of mussels. See *Mussels From Canada*, 66 FR 85 (May 2, 2001).

On May 8, 2001, in response to comments from interested parties pertaining the scope of the investigation, the Department issued a memorandum outlining the modifications to the scope language. See Memorandum to Tom Futtner "Live Processed Blue Mussels from Canada: Modification to the Scope of the Subject Merchandise Following Comments from Interested Parties" (May 8, 2001) on file in the Central Records Unit (CRU), room B-099 of the main Department of Commerce Building.

Also on May 8, 2001, the Department issued Section A of the antidumping questionnaire to Confederation Cove Mussel Co., Ltd. (Confederation Cove), PEI Mussel King, Inc. (Mussel King), Prince Edward Aqua Farms, Inc., (Prince Edward), and Atlantic Aqua Farms, Inc., (Atlantic Aqua). On May 18, 2001, the Department issued Sections B and C of the antidumping questionnaire to the four respondents.

On June 29, 2001, the petitioner requested a postponement of the preliminary determination in this investigation. On July 30, 2001, the Department published a **Federal Register** notice postponing the deadline for the preliminary determination until October 9, 2001. See *Live Processed Blue Mussels From Canada: Extension of Time Limit for Preliminary Determination of Antidumping Duty Investigation*, 66 FR 146 (July 30, 2001). Although the deadline for this preliminary determination was originally October 9, 2001, in light of the events of September 11, 2001 and the subsequent closure of the Federal Government for reasons of security, the time frame for issuing this preliminary determination has been extended by two days.

<sup>1</sup> The petitioner in this investigation is Great Eastern Mussel Farms, Inc.

### *Period of Investigation (POI)*

The POI is April 1, 2000, through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, March 2000).

### *Postponement of the Final Determination*

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On October 9, 2001, Confederation Cove and Atlantic Aqua requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Confederation Cove and Atlantic Aqua also included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting parties account for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

### *Scope of Investigation*

Imports covered by the investigation are shipments of live processed blue mussels from Canada. Included in the scope are fresh, live, processed blue mussels (*mytilus edulis*). Processing may include, but is not limited to, purging, grading, debearding, picking, inspecting and packing. Processed mussels are mussels that are: (1) Free of sand or grit, broken product, defective product and beads (byssus threads); (2) uniform in size; and (3) packed or ready for packing. Mussels that meet the aforementioned characteristics, regardless of the methods used to

achieve these characteristics, are covered by this investigation. The live processed blue mussels subject to this investigation are currently classifiable under subheading 0307.31.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and Customs purposes, the Department's written description of the scope of this investigation remains dispositive.

### *Selection of Respondents*

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. Using company-specific export data for the POI, which we obtained from queries of U.S. Customs data under the HTS number that corresponds to the subject merchandise, we found that sixty producers/exporters may have exported mussels to the United States during the POI. Due to limited resources we determined that we could investigate only the four largest producers/exporters, accounting for more than 50 percent of total exports to the United States. See memorandum regarding Selection of Respondents for the Antidumping Investigation of Live Processed Blue Mussels from Canada (May 1, 2001) on file in the CRU. Therefore, we designated Atlantic Aqua, Prince Edward, Confederation Cove, and Mussel King as mandatory respondents and sent them the antidumping questionnaire.

### *Product Comparisons*

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the *Scope of Investigation* section, above, and sold in Canada during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon package type and, in the case of one respondent also size, to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or constructed value (CV). Where there were no sales of identical merchandise

in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

### *Fair Value Comparisons*

During the POI, U.S. sales by the Canadian respondents were both export price (EP) and constructed export price (CEP) sales. To determine whether sales of mussels from Canada were made in the United States at LTFV, we compared EP and CEP to the normal value (NV), as described in the EP, CEP, and NV sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs and compared these to weighted-average home market prices during the POI.

### *Date of Sale*

For home market and U.S. sales, the four respondents reported the date of invoice as the most appropriate date of sale. These respondents stated that the invoice date best reflects the date on which the material terms of sale are established and that price and/or quantity can and do change between order confirmation date and invoice/shipment date. The Department is preliminarily using the dates of sale reported by each respondent (*i.e.*, date of invoice), as this is our preferred methodology. The Department uses invoice date under 19 CFR 351.401(i) unless there is sufficient evidence that material terms of sale initially set at some earlier date were not subject to change. However, we intend to fully examine establishment of material terms of sale at verification, and we will incorporate our findings, as appropriate, in our analysis for the final determination.

### *Export Price*

For Mussel King, Atlantic Aqua, Prince Edward and a portion of Confederation Cove's sales, we used EP for the price to the United States, in accordance with section 772(a) of the Act, because the four respondents reported that they sold the merchandise directly to unaffiliated U.S. customers or sold the merchandise to unaffiliated trading companies, with knowledge that these companies in turn sold the merchandise to U.S. customers, and constructed export price was not otherwise warranted for these transactions. For Mussel King, Atlantic Aqua, Prince Edward and Confederation Cove, we calculated EP using the packed prices charged to the first unaffiliated customer in the United States (the starting price). We deducted

from the starting price, where applicable, amounts for discounts, rebates, billing adjustments (Mussel King reported warranty expense which we are treating as a billing adjustment, *see* Calculation Memorandum of the Preliminary Results for the Less-Than Fair-Value Investigation of PEI Mussel King Inc., (Mussel King) (October 11, 2001) in file in the CRU), and movement expenses in accordance with section 772(c)(2)(A) of the Act. In this case, movement expenses include foreign inland freight, international freight, foreign and U.S. brokerage and handling charges, insurance, U.S. duties, U.S. inland freight and U.S. warehousing. In the instant investigation, no additions to EP were warranted under section 772(c)(1) of the Act.

#### CEP

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d). For purposes of this investigation, Confederation Cove has classified a portion of its sales as CEP sales. For Confederation Cove, we calculated CEP based on packed prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, brokerage and handling, international freight, and U.S. warehousing. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit expenses, repacking) and indirect selling expenses. For CEP sales, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act. We recalculated Confederation Cove's reported U.S. freight expense by reallocating the freight expense over the quantity of subject merchandise sold during the POI. *See* Calculation Memorandum of the Preliminary Results for the Less-Than-Fair Value Investigation of Confederation Cove Mussel Co. Ltd., (October 11, 2001) on file in the CRU. In the instant investigation, no additions to CEP were warranted under section 772(c)(1) of the Act.

#### NV

##### A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or has sufficient aggregate value, if quantity is inappropriate) and that there is no particular market situation in the home market that prevents a proper comparison with the EP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. For this investigation, we found that all four respondents each had a viable home market for mussels. Thus, the home market is the appropriate comparison market in this investigation, and we used the respondents' submitted home market sales data for purposes of calculating NV. In deriving NV, we made adjustments as detailed in the "Calculation of NV Based on Home Market Prices" and "Calculation of NV Based on CV," sections below.

##### B. Affiliated-Party Transactions and Arm's-Length Test

If an exporter or producer sells the subject merchandise to an affiliated party, the Department may calculate normal value based on that sale only if satisfied that the price is comparable to the price at which the exporter or producer sold the subject merchandise to a person who is not affiliated with the seller (*i.e.*, arm's length price). *See* section 773(a)(1)(B)(i) of the Act and 19 CFR 351.403(c).

Mussel King, Prince Edward, and Atlantic Aqua reported that they only sold mussels in the home market to unaffiliated customers. Therefore, the Department's arm's-length test is inapplicable with regard to their home market sales. Confederation Cove reported that it sold mussels in the home market to affiliated customers. We applied the arm's-length test to Confederation Cove's affiliated party sales by comparing these sales to sales of identical merchandise by Confederation Cove to unaffiliated home market customers. If the affiliated party sales satisfied the arm's-length test, we used the sales in our analysis. Sales to affiliated customers in the home market which were not made at arm's-length prices were excluded from our analysis because we consider such sales to be outside the ordinary course of trade. *See* section 773(a)(1)(B)(i) of the Act. To test whether these sales were made at arm's-

length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all discounts and rebates, movement charges, direct selling expenses, and home market packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c) and *Antidumping Duties; Countervailing Duties; Final Rule* 62 FR 27296, 27355 (The Preamble) (May 19, 1997).

##### C. Cost of Production (COP) Analysis

On July 6 and July 12, 2001, the petitioner alleged that sales of mussels in the home market were made at prices below the fully absorbed COP with regard to Prince Edward and Atlantic Aqua, respectively. On July 19, 2001, the petitioner alleged that sales of mussels in the home market were made at prices below the fully absorbed COP with regard to both Mussel King and Confederation Cove. Accordingly, the petitioner requested that the Department conduct company-specific sales-below-COP investigations. Based upon the comparison of adjusted prices for the foreign like product to COP, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of mussels produced in Canada were made at prices below the COP with regard to all four respondents. As a result, the Department has conducted an investigation to determine whether the four respondents made sales in the home market at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below. *See* Memorandum to Holly A. Kuga "Petitioner's Allegation of Sales Below the Cost of Production for Atlantic Aqua Farms, Inc., (Aug. 15, 2001); Memorandum to Holly A. Kuga "Petitioner's Allegation of Sales Below the Cost of Production for Prince Edward Aqua Farms (Aug. 15, 2001); Memorandum to Holly A. Kuga "Petitioner's Allegation of Sales Below the Cost of Production for Confederation Cove Mussel Co., Ltd., (Aug. 15, 2001); Memorandum to Holly A. Kuga "Petitioner's Allegation of Sales Below the Cost of Production for PEI Mussel King (Aug. 15, 2001), all on file in the CRU.

##### 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each respondent based

on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses, including interest expenses. We relied on the COP data submitted by Confederation Cove, Mussel King, Prince Edward, and Atlantic Aqua in their cost questionnaire responses.

## 2. Test of Home Market Sales Prices

On a model-specific basis, we compared the reported COP to the home market prices, less any applicable discounts and rebates, movement charges, selling expenses, commissions, and packing. We then compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

## 3. Results of the COP Test

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

We found that, for certain specific products, more than 20 percent of Mussel King's and Confederation Cove's home market sales, within an extended period of time, were at prices less than the COP, in accordance with section 773(b)(1)(A) of the Act. We, therefore, excluded these sales and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. With respect to Atlantic Aqua's and Prince Edward's home market sales, we determined that less than 20 percent of their sales within an extended period of

time were made at prices less than the COP. We, therefore, retained all home market sales for these two respondents and used them as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

## D. Calculation of NV Based on Home Market Prices

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted, where applicable, the starting price for discounts and rebates. We made adjustments for any differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act by deducting direct selling expenses incurred for home market sales (credit expense), and adding U.S. direct selling expenses. We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset). Finally, we made a CEP offset adjustment to the NV for indirect selling expenses pursuant to section 773(a)(7)(B) of the Act as discussed in the Level of Trade/CEP Offset section below. No other adjustments to NV were claimed or allowed.

## E. Calculation of NV Based on CV

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. In the instant case, because NV can be based on home market sales, NV has not been calculated based on CV.

## F. Level of Trade (LOT)/CEP Offset

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transactions as appropriate. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer after the deductions

required under section 772(d) of the Act.

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Industrial Nitrocellulose From the United Kingdom; Notice of Final Results of Antidumping Duty Administrative Review*, 65 FR 6148, 6151 (February 8, 2000).

We obtained information from the respondents about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying LOTs for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments. In identifying LOTs for CEP, we considered the selling functions reflected in the CEP, after the deduction of expenses and profit under section 772(d) of the Act. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. In this investigation, none of the respondents requested a LOT adjustment. However, Confederation Cove requested a CEP offset.

With regard to home market sales, Confederation Cove reported that its sales were made to four categories of home market customers (distributors, retailers, processors and end users) through two channels of distribution. For both channels, Confederation Cove performed similar selling functions for all its home market customers (packaging, negotiating terms of sale, issuing invoices, preparing product for shipment, and processing orders). Because channels of distribution do not qualify as separate LOTs when the

selling functions performed for each customer class are sufficiently similar, we determined that there is a single LOT for home market sales. See the memorandum entitled *Live Processed Blue Mussels from Canada: Level-of-Trade Analysis*, dated October 11, 2001, (*LOT Memorandum*). For its U.S. market sales, Confederation Cove reported that it made EP and CEP sales of subject merchandise to three types of customers (distributors, retailers and restaurants) through two channels of distribution. The two channels are as follows: (1) Sales from Confederation Cove directly to unaffiliated U.S. distributors (*i.e.* Confederation Cove's EP sales); and (2) sales from Confederation Cove to its U.S. affiliate, who then resold the merchandise to unaffiliated distributors, retailers and restaurants (*i.e.* Confederation Cove's CEP sales). Further, it indicated that for both EP and CEP sales, it performed certain types of selling functions (packaging, negotiation of sales terms, preparing product for shipment, issuing invoices and processing orders) to varying degrees for each channel of distribution. We examined the types of selling functions provided in each of the two U.S. market channels of distribution, and determined, based upon the selling functions performed, that EP sales and CEP sales are made at two different LOTs, specifically, LOT1 (the LOT for EP sales) for EP sales, and at a less remote stage of distribution, LOT2 (the LOT for CEP sales), for CEP sales. See LOT Memorandum. We then compared LOT1 to the home market LOT and found that EP sales are provided at the same LOT as home market sales. Thus, no LOT adjustment is warranted for EP sales. We also compared LOT2 to the home market and found that CEP sales are provided at a different LOT than home market transactions. Specifically, we examined the selling functions performed by Confederation Cove for its U.S. CEP sales (as adjusted under section 772(d) of the Act) and determined that they are at a different LOT than its home market sales because the company's CEP transactions were at a less advanced stage of distribution. Therefore, we have preliminarily found that Confederation Cove's home-market sales occurred at a different and more advanced LOT than its CEP sales to the United States. Because we compared CEP sales to home market sales which were at a more advanced LOT, we examined whether a LOT adjustment may be appropriate. In this case, Confederation Cove only sold at one LOT in the home market. Therefore, there is no basis upon which to

demonstrate a pattern of consistent price differences between LOTs based on sales of subject merchandise. Further, we do not have information which would allow us to examine pricing patterns based on Confederation Cove's sales of other products and there is no other record information on which such a LOT analysis could be based. Because the data available do not provide an appropriate basis for making a LOT adjustment and the LOT in the home market is at a more advanced stage of distribution than the LOT of the CEP sales, a CEP offset is appropriate. Thus, we made a CEP-offset adjustment to HM sales in accordance with section 773(a)(7)(B) of the Act for comparison to Confederation Cove's CEP sales. In accordance with section 773(a)(7)(B) of the Act, we calculated the CEP offset as the lesser of the following: (1) the indirect selling expenses incurred for the home-market sales, or (2) the indirect selling expenses deducted from the starting price in calculating CEP. See LOT Memorandum.

Mussel King reported that it made EP sales of subject merchandise to a single type of customer through a single channel of distribution in the U.S. market. Further, Mussel King indicated that it performed certain types of selling functions (freight and delivery arrangements, promotional services, and customer claim/returned product support) for the U.S. customers. Because there is only one type of customer, a single channel of distribution, and the same selling functions are performed for every customer, we preliminarily determine that there is a single level of trade with respect to Mussel King's EP sales. Because we found that home market sales of subject merchandise are made to a single type of customer through a single channel of distribution with identical selling functions and intensity as those provided in the U.S. market, we preliminarily determined that Mussel King's EP sales are provided at the same LOT as its home market sales. Thus, no LOT adjustment is warranted, and we have not made a LOT adjustment for Mussel King's sales.

Atlantic Aqua and Prince Edward reported that they sold subject merchandise to three different types of customers (distributor, retail and end user) in the home market. Further, they indicated that, for each of the reported channels of distribution, they provided the same types of selling functions (price negotiation, sales calls, interactions with customers, inventory maintenance, freight, and delivery) at the same levels of intensity. Since all types of customers received the same selling functions, at the same levels of

intensity, we determine, preliminarily, that there is a single LOT in the home market with respect to Atlantic Aqua and Prince Edward. With regard to U.S. EP sales, both Atlantic Aqua and Prince Edward reported that their sales were made to the same type of customers and through the same channels of distribution as sales made in the home market (*e.g.*, distributor, retail and end user). Further, both companies indicated that the selling functions for the U.S. customers are very similar to those provided for the home market customers (*e.g.*, price negotiation, sales calls, interactions with customers, inventory maintenance, freight, and delivery). As a result, we preliminarily determine that there is a single level of trade for both companies for U.S. EP sales. Further, because the selling functions, offered by both companies, are very similar in nature and intensity in both the U.S. and the home markets, we have, preliminarily, found that both Atlantic Aqua's and Prince Edward's EP sales are provided at the same LOT as their home market sales. Thus, no LOT adjustment is warranted, and we have not made a LOT adjustment for Atlantic Aqua's and Prince Edward's sales.

#### *Currency Conversions*

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank (the Department's preferred source for exchange rates).

#### *Verification*

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

#### *All Others Rate*

Section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. See SAA at 873. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins based entirely upon the facts available. Therefore, we have preliminarily assigned to all other exporters of Canadian mussels, a margin that is the weighted average of the margins calculated for the respondents, excluding the zero margins.

*Suspension of Liquidation*

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of mussels from Canada, except for exports by Atlantic Aqua and Mussel King, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Because the estimated weighted-average dumping margins for Atlantic Aqua and Mussel King are zeros, we are not directing the Customs Service to suspend liquidation of entries of these companies from Canada. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below.

These instructions suspending liquidation will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
Atlantic Aqua Farms, Inc. ....	0.00
Confederation Cove, Inc. ....	4.70
Prince Edward Aqua Farms, Inc. ....	3.48
PEI Mussel King, Inc. ....	0.00
All Others .....	4.33

*Disclosure*

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in this investigation in accordance with 19 CFR 351.224(b).

*ITC Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

*Public Comment*

For the investigation of live processed mussels from Canada, case briefs for this investigation must be submitted no later than one week after the issuance of the last verification reports. The Department will notify the parties accordingly. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the

Department. Executive summaries should be limited to five pages total, including footnotes. Public versions of all comments and rebuttals should be provided to the Department and made available on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an 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. In the event that the Department receives requests for hearings from parties to several companies, the Department may schedule a single hearing to encompass all those companies. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination in the investigation of live processed mussels from Canada no later than 135 days after the date of this preliminary determination.

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

Dated: October 11, 2001.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 01-26290 Filed 10-17-01; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Coastal Zone Management, Federal Consistency Appeal by John T. Keegan From an Objection by the Puerto Rico Planning Board**

**AGENCY:** National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Evidence of death of appellant and request for information.

By letter dated October 26, 1999, John T. Keegan filed with the Secretary of Commerce a notice of appeal pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA). The appeal is taken from an objection by the Puerto Rico Planning Board (PRPB) to Appellant's consistency certification for a permit to install 50 helix-screw anchor moorings at Guanica Bay, Guanica, Puerto Rico. The CZMA provides that a timely objection by a state precludes any federal agency from issuing licenses or permits for the activity unless the Secretary finds that the activity is either "consistent with the objectives" of the CZMA or "necessary in the interest of security." Section 307(c)(3)(A). On January 23, 2001, Mr. Keegan filed with the Secretary a brief supporting the appeal. The PRPB filed a reply brief on February 23, 2001. The Secretary published a **Federal Register** notice and request for comments on March 20, 2001.

The Department of Commerce has received information indicating that John T. Keegan died on May 30, 2001. The Secretary now invites any persons or entities who believe they have some right to continue the consistency appeal in the place of John T. Keegan or any entity in which he might have had an interest, to make their position known to the National Oceanic and Atmospheric Administration. Those persons who believe they have some rights in this particular appeal, as heirs, interest or assigns or otherwise representing John T. Keegan or any company or business of John T. Keegan, should send their views in writing, no later than 30 days from the date of this Notice, to Suzanne Bass, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, 301-713-2967.

Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.

Dated: September 28, 2001.

**Craig O'Connor,**

*Acting General Counsel.*

[FR Doc. 01-26285 Filed 10-17-01; 8:45 am]

**BILLING CODE 3510-08-M**