

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 19, 2001.

**Bernard T. Carreau,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 01-31989 Filed 12-27-01; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-423-810]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Luxembourg

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

**ACTION:** Notice of preliminary determination of sales at less than fair value.

**SUMMARY:** We preliminarily determine that structural steel beams from Luxembourg 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.

Interested parties are invited to comment on this preliminary determination. Because we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

**EFFECTIVE DATE:** December 28, 2001.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger or Margarita Panayi, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-0049, 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

("Department's") regulations are to the regulations at 19 CFR part 351 (April 2001).

#### Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 20, 2001)) ("Initiation Notice"), the following events have occurred.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from Luxembourg are materially injuring the United States industry (*see* ITC Investigation Nos. 731-TA-935-942 (Publication No. 3438)).

On July 26, 2001, we selected the largest producer/exporter of structural steel beams from Luxembourg as the mandatory respondent in this proceeding. For further discussion, see Memorandum to Susan H. Kuhbach, Senior Director Office 1, from The Team Re: Respondent Selection dated July 26, 2001. We subsequently issued the antidumping questionnaire to ProfilARBED, S.A. ("ProfilARBED") on July 26, 2001.

We received section A, B, and C questionnaire responses from ProfilARBED during August and September 2001. Based on our analysis of the responses, we determined that the Luxembourg home market was not viable and that sales to Germany, the largest third-country market, should be reported and used for calculating normal value ("NV"). Further, as the Department stated in the *Initiation Notice*, in the event German sales were to be used for NV, a sales-below-cost investigation would be initiated. Therefore, we also requested that ProfilARBED complete a section D questionnaire response (*see* October 10, 2001, supplemental questionnaire and "Home Market Viability" section below).

We issued and received responses to our supplemental questionnaires from October through December 2001.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from*

*the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 56078 (November 6, 2001).)

#### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on November 21, 2001, ProfilARBED 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), because (1) our preliminary determination is affirmative, (2) ProfilARBED accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting ProfilARBED's 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 Investigation

The scope of these investigations covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of these investigations unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of these investigations: (1) Structural steel beams

greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

#### Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (*see* 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of

the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp. v. United States*, 572 F. Supp. 883, 889 (CIT 1983) ("*Diversified*"). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified*, we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that "\* \* \* beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However, "\* \* \* if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope

definition by reason of such additional weldment, connector or attachment." Accordingly, we modified the scope definition to account for this clarification. *See* the "Scope" section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

#### Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

#### Fair Value Comparisons

To determine whether sales of structural steel beams from ProfilARBED to the United States were made at less than fair value ("LTFV"), we compared the constructed export price ("CEP") to the NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average CEPs to weighted-average NVs.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by ProfilARBED in Germany during the POI that fit the description in the "Scope of 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 made in the third country, where appropriate. Where there were no sales of identical merchandise in the third country 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. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by ProfilARBED in the following order of importance: form; shape/size (section depth); strength/grade; and coating.

ProfilARBED reported different forms in the home market for beams that had "special finishing" and it reported different strength/grades in the home market for beams that had different notch-toughness requirements. ProfilARBED did not demonstrate that the hot-formed beams with "special finishing" should be distinguished from other hot-formed beams. Neither did ProfilARBED demonstrate that the

grades that had different notch-toughness requirements should be distinguished from other beams that had the same grade (but not the notch-toughness requirements). Therefore, we did not differentiate the forms either on the basis of "special finishing" or on the basis of notch toughness.

### Constructed Export Price

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was 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, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. In this case, all U.S. sales of merchandise produced by ProfilARBED are made in the United States by TradeARBED Inc. ("TANY"), which is a seller affiliated with ProfilARBED.

We based CEP on the packed FOB or CIF prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors. We made deductions for rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland freight expenses (freight from port to warehouse) and U.S. storage expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit costs) and indirect selling expenses (including inventory carrying costs).

We recalculated ProfilARBED's indirect selling expenses incurred by its U.S. affiliate to reflect the expense rate for the POI rather than the fiscal year, based on the information provided in ProfilARBED's December 11, 2001, submission. ProfilARBED reported most U.S. sales data on a theoretical-weight basis. We adjusted these data to state them on an actual-weight basis.

For those U.S. sales which ProfilARBED did not report a date of payment, we have used the signature date of the preliminary determination (*i.e.*, December 19, 2001) in the calculation of imputed credit expenses. In addition, we recalculated ProfilARBED's U.S. interest rate on a

365-day basis, rather than the 360-day basis reported, and recalculated the imputed interest expense accordingly. (See Memorandum entitled "U.S. Imputed Interest Rate Recalculation" dated December 19, 2001.)

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by ProfilARBED and its U.S. affiliate on their sales of the subject merchandise in the United States and the foreign like product in Germany and the profit associated with those sales.

### Normal Value

#### A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared ProfilARBED's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

In this case, we determined that ProfilARBED's aggregate volume of home market sales of the foreign like product was insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Specifically, the vast majority of ProfilARBED's sales were made to an affiliated reseller whose inventory includes products from affiliated and unaffiliated suppliers in other countries, the origin of which cannot be readily identified. Because most of the sales to the affiliated reseller are eventually re-sold to non-Luxembourg customers, and those made to Luxembourg customers cannot be specifically identified as Luxembourg-produced merchandise, ProfilARBED's sales to the affiliated reseller cannot be relied upon for purposes of determining home market viability. Therefore, we used sales to the largest third country ("Germany") as the basis for comparison-market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404 (see the Department's October 10, 2001 supplemental questionnaire at pages 1–2).

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

The Department's standard practice with respect to the use of third country sales to affiliated parties for NV is to determine whether such sales are at

arm's-length prices. Therefore, in accordance with that practice, we performed an arm's-length test on ProfilARBED's sales to affiliates.

Sales to affiliated customers in the third country not made at arm's-length prices are excluded from our analysis because they are made outside the ordinary course of trade. See 19 CFR 351.102. 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 movement charges, direct selling expenses, and 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). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

In accordance with 19 CFR 351.403(d), where the respondent's sales to its affiliates constituted at least five percent of the total home-market sales, and these sales failed the arm's-length test, we normally use the sales made by the affiliates to unaffiliated customers in our analysis. Accordingly, we requested ProfilARBED to report these resales.

As discussed in several of its submissions, particularly its October 1, 2001, and November 28, 2001, submissions, ProfilARBED claims that its record-keeping system used in the ordinary course of business does not permit ProfilARBED to track its downstream resales from the mill to the ultimate unaffiliated purchaser. According to ProfilARBED, the information is not recorded electronically and to track the information manually would be extremely burdensome and time-consuming.

For purpose of the preliminary determination, we have accepted ProfilARBED's claim that, even acting to the best of its ability, it could not provide the requested information for the large number of sales in question in

the time available. Therefore, for the preliminary determination, we have calculated NV based on the sales to unaffiliated customers and affiliated customers which passed the arm's length-test. We will examine ProfilARBED's claim during verification.

The petitioners submitted additional comments regarding this topic on December 12 and 14, 2001. We received these comments too late for consideration in this preliminary determination. We will consider these comments for the final determination.

### C. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of structural steel beams in the third country 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 to determine whether sales were made at prices below their respective COP (see *Initiation Notice*, 66 FR 33048, 33051).

#### 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 for the foreign like product, plus an amount for general and administrative expenses ("G&A"), interest expenses, and third country packing costs (see "Test of Third Country Sales Prices" section below for treatment of third country selling expenses). We relied on the COP data submitted by ProfilARBED except in the following instances:

A. We adjusted the values of electricity, capital leasing and natural gas purchased from affiliated parties to reflect the higher of transfer price, market price or the supplier's COP, in accordance with sections 773(f)(2) and (3) of the Act.

B. We revised the G&A rate to include exchange gains and losses on accounts payable in the numerator of the calculation and to exclude packing expenses from the denominator of the calculation.

C. We revised the financial expense rate to exclude short-term interest income offsets for dividends and trade receivables.

D. We revised the denominator in the consolidated financial expense rate calculation to reflect cost of goods sold rather than raw materials.

See Memorandum from Heidi Norris to Neal Halper, Director Office of Accounting, dated December 19, 2001,

Re: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination.

#### 2. Test of Third Country Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the third country 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, rebates, discounts, and direct and indirect selling expenses. In determining whether to disregard third country 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)(2)(C), where less than 20 percent of the 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 the respondent's sales of a given product during the POI are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances 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 certain specific products, more than 20 percent of third country sales during the POI were at prices less than the COP and, in addition, the below-cost sales 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) of the Act.

#### 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 or CEP. Sales are made at

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

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOT for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices<sup>3</sup>, we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United States*, 243 F.3d 1301 (Fed. Cir. March 7, 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.* no LOT

<sup>1</sup> The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale appears to occur.

<sup>2</sup> Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common structural steel beams selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

<sup>3</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

We obtained information from ProfilARBED regarding the marketing stages involved in making the reported third country and U.S. sales, including a description of the selling activities performed by ProfilARBED for each channel of distribution. ProfilARBED's LOT findings are summarized below.

We examined the chain of distribution and the selling activities associated with sales reported by ProfilARBED to distributors in the German market. ProfilARBED's sales to different distributors did not differ from each other with respect to selling activities (e.g. market research, advertising and promotion, technical services, sales calls and demonstrations). Based on our overall analysis, we found that all of ProfilARBED's sales to distributors constituted one LOT.

In the U.S. market, ProfilARBED reported CEP sales only. Therefore, we treated all of ProfilARBED's U.S. sales as sales to an affiliated importer (i.e., at the constructed, or CEP, LOT) and found only one LOT. This CEP LOT differed considerably from the German market LOT in that ProfilARBED reported a lower intensity of selling activities associated with market research, advertising, technical service, sales calls and demonstrations, and warranties for the CEP LOT than the German market LOT. We found the CEP LOT to be different from the German market LOT and to be at a less advanced stage of distribution than the German market LOT. Consequently, we could not match CEP sales to sales at the same LOT in the German market, nor could we determine a LOT adjustment based on ProfilARBED's sales to Germany. Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment.

Because there is only one LOT in the German market, it is not possible to determine if there is a pattern of consistent price differences between the sales on which NV is based and German market sales at the LOT of the export transaction. Accordingly, because the data available do not form an appropriate basis for making a LOT adjustment but the German market LOT is at a more advanced stage of distribution than the CEP LOT, we have made a CEP offset to NV in accordance

with section 773(a)(7)(B) of the Act. The CEP offset is calculated as the lesser of: (1) The indirect selling expenses on the German market sales, or (2) the indirect selling expenses deducted from the starting price in calculating CEP.

#### *E. Calculation of Normal Value Based on Comparison Market Prices*

We calculated NV based on delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length. We made deductions, where appropriate, from the starting price for discounts and rebates. We also made deductions for movement expenses, including inland 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 warranties. ProfilARBED reported some German sales data on a theoretical-weight basis. We adjusted these data to state them on an actual-weight basis.

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 third country packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the comparison-market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

#### **Currency Conversion**

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

#### **Verification**

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final 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 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 CEP, 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
ProfilARBED .....	2.40
All Others .....	2.40

#### **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 to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for 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. 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 rebuttal brief deadline date 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 19, 2001.

**Bernard T. Carreau,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 01-32000 Filed 12-27-01; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 121801G]

#### Pacific Fishery Management Council; Public Meetings and Hearings

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

**ACTION:** Notice of public meetings and hearings.

**SUMMARY:** The Pacific Fishery Management Council (Council) will hold public hearings to receive public comment on the draft fishery management plan (FMP) for West Coast highly migratory species (HMS) fisheries. This notice announces the dates and locations of these public hearings. The draft FMP will be available after December 31, 2001.

**DATES:** Public hearings will be held January 28–February 4, 2002 at seven West Coast locations. See

**SUPPLEMENTARY INFORMATION** for specific date and time information.

**ADDRESSES:** Documents will be available from and written comments should be sent to Dr. Donald McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220; phone: 503-326-6352 or fax: 503-326-6831. For specific meeting and hearing locations, see **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Dan Waldeck; phone: 503-326-6352.

**SUPPLEMENTARY INFORMATION:** Public hearings will be held to receive comments on the draft FMP at the following locations and times:

*January 28, 2002, 4 p.m.:* Natural Resources Building, 1111 Washington Street, Room 172, Olympia, WA 98501.

*January 29, 2002, 7 p.m.:* Red Lion Inn, Pacific Room, 400 Industry, Astoria, OR 97103.

*January 30, 2002, 7 p.m.:* Red Lion Hotel, South Umpqua Room, 1313 N Bayshore Drive, Coos Bay, OR 97420.

*January 31, 2002, 7 p.m.:* Red Lion Hotel Eureka, Evergreen Room, 1929 Fourth Street, Eureka, CA 95501.

*February 1, 2002, 7 p.m.:* Moss Landing Community Center, 8071 Moss Landing Road, Moss Landing, CA 95039.

*February 2, 2002, 11 a.m.:* Hilton Port of Los Angeles/San Pedro, Terrasini Room, 2800 Via Cabrillo Marina, San Pedro, CA 90731.

*February 4, 2002, 7 p.m.:* Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, CA 92109.

The public may also provide oral and written comments on the draft FMP during the March 2002 Council meeting, which will be held March 11-15, 2002 at the Red Lion Hotel Sacramento, 1401 Arden Way, Sacramento, CA 95815. At that time, the Council is scheduled to take final action on the HMS FMP.

Although non-emergency issues not contained in this hearing notice may arise for discussion, those issues may not be the subject of formal action during these hearings. Action will be restricted to those issues specifically listed in this document and to any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503-326-6352 (voice), or 503-326-6831 (fax) at least 5 days prior to the meeting date.

Dated: December 19, 2001.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 01-31974 Filed 12-27-01; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 121901C]

#### Permits; Foreign Fishing

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

**ACTION:** Notice of receipt of foreign fishing applications.

**SUMMARY:** NMFS publishes for public review and comment a summary of applications submitted by the Government of the Russian Federation requesting authorization to conduct fishing operations in the U.S. Exclusive Economic Zone (EEZ) in 2002 under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**ADDRESSES:** Comments may be submitted to NMFS, Office of Sustainable Fisheries, International Fisheries Division, 1315 East-West Highway, Silver Spring, MD 20910; and/or to the Regional Fishery Management Councils listed here:

Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01905, Phone (978) 465-0492, Fax (978) 465-3116;

Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South New Street, Dover, DE 19904, Phone (302) 674-2331, Fax (302) 674-4136.

#### FOR FURTHER INFORMATION CONTACT:

Robert A. Dickinson, Office of Sustainable Fisheries, (301) 713-2276.

**SUPPLEMENTARY INFORMATION:** In accordance with a Memorandum of Understanding with the Secretary of State, NMFS publishes, for public review and comment, summaries of applications received by the Secretary of State requesting permits for foreign fishing vessels to fish in the U.S. EEZ under provisions of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*).

This notice concerns the receipt of two applications from the Government of the Russian Federation requesting authorization to conduct joint venture (JV) operations in 2001 in the Northwest Atlantic Ocean for Atlantic herring and Atlantic mackerel. The stern trawler/processors KAPITAN GORBACHEV, PATROKL and RYBACHYI are identified as the Russian vessels that would receive Atlantic herring and Atlantic mackerel from U.S. vessels in