

DEPARTMENT OF COMMERCE

International Trade Administration

[C-403-802]

Fresh and Chilled Atlantic Salmon From Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order

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

SUMMARY: On January 3, 2011, the Department of Commerce (the Department) initiated a sunset review of the countervailing duty (CVD) order on fresh and chilled Atlantic salmon from Norway pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year ("Sunset") Review*, 76 FR 89 (January 3, 2011) (*Sunset Initiation*). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of the domestic interested party and adequate substantive responses from the respondent interested parties, the Department determined to conduct a full sunset review of this CVD order pursuant to section 751(c) of the Act and 19 CFR 351.218(e)(2). As a result of our analysis, the Department finds that revocation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy.

DATES: *Effective Date:* November 14, 2011.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4793.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2011, the Department initiated the third sunset review of the CVD order on fresh and chilled Atlantic salmon from Norway pursuant to section 751(c) of the Act. *See Sunset Initiation*. Phoenix Salmon U.S., Inc. (Phoenix Salmon), the domestic interested party, timely filed a notice of intent to participate and submitted a substantive response to the Department. The Government of Norway (GON), the Norwegian Seafood Federation, and Aquaculture Division of the Norwegian Seafood Association, the respondent interested parties, also submitted to the Department a substantive response.

Based on a finding that the substantive responses were adequate, we determined to conduct a full sunset

review of this CVD order. *See Memorandum to Gary Taverman, Acting Deputy Assistant Secretary for AD/CVD Operations, from Melissa Skinner, Director, AD/CVD Operations, Office 3, regarding "Adequacy Determination: Third Sunset Reviews of the Antidumping and Countervailing Duty Orders on Fresh and Chilled Atlantic Salmon From Norway,"* (April 6, 2011).

On June 28, 2011, the Department published the preliminary results of this full sunset review, finding a likelihood of continuation or recurrence of subsidization with a net countervailable subsidy likely to prevail of 2.20 percent *ad valorem* for all producers/exporters of subject merchandise from Norway. *See Fresh and Chilled Atlantic Salmon From Norway: Preliminary Results of Full Third Sunset Review of Countervailing Duty Order*, 76 FR 37786 (June 28, 2011).

Interested parties were invited to comment on the preliminary results. On September 7, 2011, we received a case brief from the GON, and on September 12, 2011, we received a rebuttal brief from Phoenix Salmon. We did not conduct a hearing because a hearing was not requested.

Scope of the Order

The product covered by the order is the species Atlantic salmon (*Salmo Salar*) marketed as specified herein; the order excludes all other species of salmon: Danube salmon, Chinook (also called "king" or "quinnat"), Coho ("silver"), Sockeye ("redfish" or "blueback"), Humpback ("pink") and Chum ("dog").¹ Atlantic salmon is a whole or nearly-whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh-water ice ("chilled"). Excluded from the subject merchandise are fillets, steaks and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Atlantic salmon is currently provided for under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 0302.12.0003 and 0302.12.0004.

The HTSUS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision

¹ On August 5, 2009, the Department made a final scope ruling determining that whole salmon steaks are within the scope of the order. *See Notice of Scope Rulings*, 75 FR 14138 (March 24, 2010).

Memorandum for the Final Results of Full Third Sunset Review of the Countervailing Duty Order on Fresh and Chilled Atlantic Salmon from Norway (Decision Memorandum) from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with this final notice, which is hereby adopted by this notice. Parties can find a complete discussion of all issues raised in this full sunset review and the corresponding recommendation in this public memorandum which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit, room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

The Department determines that revocation of the CVD order on fresh and chilled Atlantic salmon would likely lead to continuation or recurrence of a countervailable subsidy at the rate of 2.20 percent *ad valorem* for all producers/exporters of subject merchandise from Norway. See Decision Memorandum.

Notification to Interested Parties

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

We are issuing and publishing the final results of this review in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: November 3, 2011.

Paul Piquado,

Assistant Secretary for Import Administration.

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