practicable to complete the review within the statutory time limit (see *Memorandum to Robert S. LaRussa from Joseph A. Spetrini,* November 12, 1997).

Since it is not practicable to complete this review within the time limits mandated by the Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit as follows:

Product	Country	Review period	Initiation date	Prelim due date	Final due date*
Certain Welded Carbon Steel Pipes and Tubes (A–549–502).	Thailand	03/01/96–02/28/97	04/24/97	03/31/98	08/05/98

*The Department shall issue the final determination 120 days after the publication of the preliminary determination. This final due date is estimated based on publication of the preliminary notice five business days after signature.

Dated: November 12, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 97–30398 Filed 11–18–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–337–802]

Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Fresh Atlantic Salmon From Chile

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

EFFECTIVE DATE: November 19, 1997.

FOR FURTHER INFORMATION CONTACT: Rosa Jeong, Marian Wells or Todd Hansen, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–1278, 482–6309 or 482–1276, respectively.

Preliminary Determination

The Department of Commerce (the ''Department'') preliminarily determines that countervailable subsidies are not being provided to producers or exporters of fresh Atlantic salmon (''salmon'') in Chile.

Petitioners

The petition in this investigation was filed by the Coalition for Fair Atlantic Salmon Trade (''FAST'') and the following individual members of FAST: Atlantic Salmon of Maine; Cooke Aquaculture U.S., Inc.; DE Salmon, Inc.; Global Aqua—USA, llc; Island Aquaculture Corp.; Maine Coast Nordic, Inc.; ScanAm Fish Farms; and Treats Island Fisheries (collectively referred to hereinafter as ''petitioners'').

Case History

Since the publication of the notice of initiation in the **Federal Register** (62 FR 36772 (July 9, 1997) (''*Initiation Notice*''), the following events have occurred.

We deemed this case to be extraordinarily complicated and on July 28, 1997, we postponed the preliminary determination until November 10, 1997 (62 FR 40335).

On July 23, 1997, we issued a countervailing duty questionnaire to the Government of Chile (''GOC''). Due to the large number of producers and exporters of fresh Atlantic salmon in Chile, and with the GOC's assurance that it could provide aggregate data for most programs, we solicited information from the GOC on an aggregate or industry-wide basis, rather than from the individual producers and exporters. On August 1, 1997, the GOC notified us that it lacked usage information for the following programs: Chilean Production Development Corporation (''CORFO'') Export Credits and Long-Term Export Financing, Law 18,439 Export Credit Limits, Law 18,449 (Stamp Tax Exemption), and Article 59 of Decree Law 824. Therefore, on August 7, 1997, we issued an additional questionnaire to four producers/exporters of the subject merchandise concerning the above four programs as well as Chapter XVIII and Chapter XIX. The questionnaire was sent to the following companies: Pesquera Mares Australes Ltda., Marine Harvest Chile, Aguas Claras S.A., and Pesquera Eicosal Ltda.

On August 1, 1997, petitioners submitted comments arguing that the Law No. 18,480 program should have been included in the initiation. In the *Initiation Notice*, the Department declined to initiate on Law No. 18,480, partly based on information provided during consultations with the GOC. Upon further review of information on the record, we determined that our initial rejection of petitioners' allegation was unwarranted. On August 21, 1997, we decided to include certain benefits allegedly provided under Law No. 18,480 in our investigation (see Memorandum from team to Richard W. Moreland, Acting Deputy Assistant Secretary for Import Administration). On August 25, 1997, the Department requested that the GOC provide information regarding rebates for exports using domestically produced inputs provided under Law No. 18,480.

The Department received the GOC and company questionnaire responses on September 15, 1997 and September 22, 1997. The Department issued supplemental questionnaires to the GOC and the four companies, and their affiliates, on September 30, 1997, and received the supplemental responses on October 14, 1997. On October 21, 1997, the Department issued a second supplemental questionnaire to the GOC. The GOC responded to this questionnaire on October 27 and October 29, 1997.

On November 6, 1997, we received a request from petitioners, pursuant to 19 CFR 355.20(c), to postpone the final determination in this investigation to coincide with the final determination in the antidumping duty investigation of the fresh Atlantic salmon from Chile. Accordingly, we are aligning the final determination in this investigation with the date of the final determination in the antidumping duty investigation of the fresh Atlantic salmon from Chile.

Scope of Investigation

The scope of this investigation covers fresh, farmed Atlantic salmon, whether imported ''dressed'' or cut. Atlantic salmon is the species *Salmo salar,* in the genus *Salmo* of the family *salmoninae.* ''Dressed'' Atlantic salmon refers to salmon that has been bled, gutted, and cleaned. Dressed Atlantic salmon may be imported with the head on or off; with the tail on or off; and with the gills in or out. All cuts of fresh Atlantic salmon are included in the scope of the investigation. Examples of cuts include, but are not limited to: crosswise cuts

(steaks), lengthwise cuts (fillets), lengthwise cuts attached by skin (butterfly cuts), combinations of crosswise and lengthwise cuts (combination packages), and Atlantic salmon that is minced, shredded, or ground. Cuts may be subjected to various degrees of trimming, and imported with the skin on or off and with the ''pin bones'' in or out.

Excluded from the scope are: (1) fresh Atlantic salmon that is ''not farmed'' (*i.e.*, wild Atlantic salmon); (2) live Atlantic salmon; and (3) Atlantic salmon that has been subjected to further processing, such as frozen, canned, dried, and smoked Atlantic salmon, or processed into forms such as sausages, hot dogs, and burgers.

The merchandise subject to this investigation is classifiable at statistical reporting numbers 0302.12.0003 and 0304.10.4091 of the Harmonized Tariff Schedule (HTS) of the United States. Although the HTS numbers are provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

Comment on Scope

As discussed in the *Initiation Notice* at 36773, we invited comments on the scope of this proceeding. On August 8, 1997, we received a comment from the National Restaurant Association, an interested party, regarding product coverage. Specifically, the National Restaurant Association argued that ''dressed'' whole Atlantic salmon and ''cut'' salmon are not ''like products.'' Most of the National Restaurant Association's arguments have already been addressed in the *Initiation Notice*, where the Department adopted the single domestic like product definition set forth in the petition. In addition, the fact that ''dressed'' salmon and ''cut'' salmon are classified under separate HTS categories is irrelevant. Like products can and often do comprise several HTS categories or a subset of merchandise covered by a single HTS number. Finally, the specific exclusion of ''cut'' salmon from the scope of the *Salmon from Norway* proceeding was a result of the fact that the petition in that case did not include cut salmon, whereas, due to changing market conditions, the petition in this case specifically did. *See, e.g., Antidumping Duty Order: Fresh and Chilled Atlantic Salmon from Norway,* 56 Fed. Reg. 14920 (1991).

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the ''Act'').

Injury Test

Because Chile is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Chile materially injure, or threaten material injury to, a U.S. industry. On August 6, 1997, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from Chile of the subject merchandise (62 FR 42262).

Period of Investigation (''POI'')

The period for which we are measuring subsidies is calendar year 1996.

Subsidies Valuation Information

Benchmarks for Loans and Discount Rates

To calculate the countervailable benefit from loans and nonrecurring grants, we have used the average rates for U.S. dollar lending in Chile, as calculated by the Superintendencia de Bancos e Instituciones Financieras (''SBIF''), the Chilean bank supervisory agency. The U.S. dollar interest rates were used because the loans in question were denominated in U.S. dollars and the grant that was allocated over time was made in U.S. dollars.

Allocation Period

Based on information provided by the GOC, we have used nine years, the weighted-average useful life of productive assets for the Chilean salmon industry, as the allocation period in this investigation.

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

I. Programs Preliminarily Determined To Be Countervailable

A. ProChile Export Promotion Assistance

ProChile, the Export Promotion Bureau of the Chilean Ministry of Foreign Affairs, aims to promote and diversify Chile's exports by providing grants to private companies or industries for export promotional activities. Each ProChile project is designed and developed through a joint participation of ProChile and the private sector. The projects are aimed at the ''internationalization'' of the private sector participant. ''Internationalization'' refers to the extension of a company's commercial operations to the external markets, which can be achieved through exportation, mixed-ownership (foreign and domestic), joint ventures, and international subsidiaries. Typical ProChile projects include advertising and promotional campaigns, creation of catalogs and brochures, and organization of trade fairs. These projects are co-financed by ProChile and the private sector participants.

The producers and exporters of salmon in Chile received funding under this program for several salmon-related projects targeted to the U.S. and other export markets.

In the past, the Department has recognized that general export promotion programs which provide only general informational services, do not constitute a countervailable benefit. *See, e.g., Fresh Cut Flowers from Mexico,* 49 FR 15007 (1984). However, where such activities promoted a specific product, or provided financial assistance to a firm, we have found the programs to be countervailable. *See, e.g., Fresh Atlantic Groundfish from Canada,* 51 FR 10041 (1986) (government funding of attendance at trade fair which targeted the exports of specific product to the U.S. market found to be countervailable); and *Fresh Cut Flowers from Israel,* 52 FR 3316 (1987) (government reimbursements of up to 50 percent of actual expenses incurred by the firm for promotional activities found to be countervailable). Based on the information on the record, we find that ProChile's projects went beyond what we normally consider to be *general* export promotional activities. The projects were aimed at the promotion of specific products to targeted export markets and also provided direct financial assistance to the participating firms.

Accordingly, we preliminarily determine that the ProChile grants provide countervailable subsidies within the meaning of section 771(5) of the Act. The grants are a direct transfer of funds from the GOC providing a benefit in the amount of the grant. The grants are also specific within the meaning of section 771(5A)(B) of the Act because their receipt is tied to the anticipated exportation of the subject merchandise to the United States and other export markets.

We are treating these grants as ''non-recurring'' based on the analysis set forth in the Allocation section of the *General Issues Appendix* because they are exceptional rather than ongoing

events. Each project funded by a grant requires a separate application and approval, and the projects represent one-time events.

To calculate the countervailable subsidy, we used our standard grant methodology. In accordance with our past practice, we allocated over time grants from those years in which the benefits from this program exceeded 0.5 percent of the value of appropriate exports in the year of receipt. We divided the benefit attributable to the POI by the value of appropriate exports in the POI. On this basis, we determine the countervailable subsidy rate for this program to be 0.05 percent *ad valorem*. For a discussion of the denominators used in the calculation of the subsidy rate for this program, *see* November 10, 1997 Calculation Memorandum to file from team.

B. CORFO Export Credit Insurance Premium Assistance

In 1995, CORFO established a program entitled ''Export Credit Insurance Premium Assistance For Small and Medium-Sized Companies.'' This program provides a grant of up to 50 percent of the value of the export credit insurance premium, subject to a cap of one percent of the particular export invoice, for export insurance purchased by small and medium-sized Chilean exporting companies from private insurance companies. Only those Chilean exporters with annual sales of up to US $10,000,000 are eligible for this program. CORFO's liability to the insurers is limited to the payment of a portion of the insurance premium for the eligible company. Once the exporter is approved, the agreed portion of the insurance premium is paid directly to the insurance company by CORFO. CORFO made payments to insurance companies on behalf of eligible salmon-exporters under this program.

We preliminarily determine that CORFO's payments of the insurance premiums constitute countervailable grants within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOC that confer a benefit in the amount of the grant. These grants are specific within the meaning of section 771(5A)(B) of the Act because their receipt is contingent upon export performance. Because these grants are made on an ongoing basis, we have treated the benefits as recurring in accordance with the analysis set forth in the *General Issues Appendix*.

To calculate the subsidy rate, we divided the benefit attributable to the POI by the value of all exports of fresh Atlantic salmon by producers and exporters of salmon during the POI. On this basis, we determine the countervailable subsidy for this program to be 0.01 percent *ad valorem*.

C. Law No. 18,634 (Deferred and Waived Import Duties on Capital Goods)

Law Number 18,634 of August 5, 1987, established a program whereby customs duties may be deferred and subsequently waived on imported capital goods used in the production of exports. Under this program, both exporters and non-exporters are allowed to defer paying duties on certain capital goods. During the deferral period, the amount of duties owed is treated as a loan on which the producer is required to pay interest. If the capital goods are ultimately used for the production of exported goods, the outstanding balance and interest on the loan are waived.

The Law 18,634 deferral program is available to exporters as well as non-exporters. The usage data provided by the GOC indicates that the fishing and aquaculture sector is neither a predominant nor disproportionate user of the program. Moreover, many sectors not normally considered to be exporters, such as the construction, electric, gas and water industries, participated in the duty deferral program. Accordingly, we preliminarily determine that the benefit, if any, under the deferral program is not specific within the meaning of section 771(5A) of the Act.

Under the Law 18,634 waiver program, the waiver of duties is allowed, in whole or in part, if imported capital goods are used in the production of merchandise that is later exported. We preliminarily determine that the waiver program provides countervailable subsidies within the meaning of section 771(5) of the Act. The waiver of import duties represents revenue foregone by the GOC, providing a benefit in the amount of the waiver. Because the waiver program is contingent on export performance, we preliminarily determine that it is specific within the meaning of section 771(5A)(B) of the Act.

The GOC has provided the amounts of customs duties waived during the POI for exporters of subject merchandise. Because these waivers are automatic when exportation is demonstrated, we determine that the benefits under this program are recurring. To calculate the countervailable subsidy from this program, we divided the total amount of waivers granted during the POI by the value of all exports of producers and exporters of salmon. On this basis, we determine the countervailable subsidy from this program to be 0.23 percent.

D. Import Substitution of Capital Goods

In addition to the duty deferral and waiver program discussed above, Law 18,634 also contains a provision related to the purchase of domestically sourced capital goods. According to the GOC, this program is intended to encourage capital investment in Chile and to avoid a preference for imported capital goods resulting from the import duty deferral and waiver provisions of the same law. Under this provision, companies purchasing capital equipment domestically can borrow up to 73 percent of the amount of customs duties that would have been paid on the capital goods if they had been imported. If the capital goods are ultimately used in the production of exports, the loan balances and any unpaid interest are waived and the producer is not required to repay the loan. The GOC has provided the amounts of loans and waivers received under this program by exporters of subject merchandise for the POI.

Because the receipt of loans under this program is contingent upon the purchase of domestically produced capital equipment, we determine that these loans are specific in accordance with section 771(5A)(C) of the Act. Based on a comparison of the benchmark interest rates (*see Subsidies Valuation* section of this notice) to the rates charged on the loans, we preliminarily determine that certain loans confer benefits within the meaning of section 771(5)(E)(ii) of the Act because the rate charged is less than the benchmark rate. We calculated the benefit from these loans by subtracting the interest charged during the POI under the program from interest under the benchmark rate and dividing this difference by the value of all sales of producers and exporters of salmon. On this basis, we determine the countervailable subsidy from this program to be 0.02 percent *ad valorem*.

Regarding the waivers provided under the program, we preliminarily determine that the waivers are countervailable subsidies within the meaning of section 771(5) of the Act. The waiver of the loan balances represents a direct transfer of funds from the GOC, providing a benefit in the amount of the balance and any unpaid interest waived. Further, the waivers are specific within the meaning of section 771(5A)(B) of the Act because their receipt is contingent upon export performance.

Because these waivers are automatic when exportation occurs, we determine that the benefit from this program is recurring. To calculate the

countervailable subsidy from the waiver portion of this program, we divided the total amount of waivers granted during the POI by the value of all exports of producers and exporters of salmon from Chile. On this basis, we determine the countervailable subsidy from this program to be 0.25 percent *ad valorem*.

E. Promotion and Development Fund

The Promotion and Development Fund for Extreme Regions was established pursuant to Decree Law No. 3,529, published on December 6, 1980. Article 38 of this law established the fund to aid in the development of remote regions of Chile. These regions are Tarapaca, Aysen del Presidente Carlos Ibanez del Campo, Magallanes and Antartica Chilena and the provinces of Chiloe and Pelena. The fund was established to assist small and medium-sized investors who make investments or reinvestments in these regions. Decree 15 of Decree Law 3,529 (published April 20, 1981) established the regulations pertaining to the fund. These investments must be directly linked to the production process and involve capital assets relating to the company's regular business activities. The program provides grants in the amount of 15 percent of the cost of new investments or reinvestments made between January 1 and December 31, 1981, and 20 percent of the cost of investments and reinvestments made between January 1, 1982 and December 31, 1999. The GOC has provided information on the amount of grants received under this program by the producers and exporters of the fresh Atlantic salmon.

We preliminarily determine that Promotion and Development Fund grants provide countervailable subsidies within the meaning of section 771(5) of the Act. The grants are a direct transfer of funds from the GOC providing a benefit in the amount of the grant. The grants are specific within the meaning of section 771(5A)(D)(iv) because they are limited to firms located in a designated geographical region.

We have treated these grants as non-recurring based on the analysis set forth in the Allocation section of the *General Issues Appendix*. In accordance with our practice, we allocated over time, the grants from those years in which the benefits from this program exceeded 0.5 percent of the value of all sales of producer and exporters of salmon in the year of receipt. To calculate the countervailable subsidy, we used our standard grant methodology. We divided the benefit attributable to the POI by the value of all sales of producers and exporters of salmon during the POI. On this basis, we determine the countervailable subsidy for this program to be 0.01 percent *ad valorem*.

F. Law No. 18,480

Law 18,480 of December 19, 1985, established a simplified duty drawback system for inputs used in small volume exports. In addition to the duty drawback provision for imported inputs, the law also contains a provision whereby exporters using domestically produced inputs in their export operations are entitled to the amount of the duty drawback that the exporter would otherwise have realized if they had imported the inputs. Because fresh Atlantic salmon is excluded from the duty drawback portion of the program, our investigation of Law No. 18,480 is limited to the payments for using domestically sourced inputs in the production of exported goods.

The maximum export values for which the rates are applicable and the list of eligible inputs are updated each year. For an input to be eligible as a domestic input, the CIF value of its imported raw materials and inputs may not exceed 50 percent of its net value.

We preliminarily determine that Law 18,480 is a countervailable subsidy within the meaning of section 771(5) of the Act. It is specific within the meaning of section 771(5A)(B) of the Act because the receipt of the payment is contingent upon export performance. The program provides a financial contribution because it is a direct transfer of funds from the GOC to the exporters and producers of salmon.

Because the payment is automatic for eligible products, we have treated these grants as recurring. To calculate the countervailable subsidy from this program, we divided the total amount of grants received during the POI by the value of all exports of producers and exporters of salmon during the POI. On this basis, we determine the countervailable subsidy from this program to be 0.05 percent ad valorem.

II. Programs Preliminarily Determined Not to Be Countervailable

A. Fundación Chile Assistance

Fundación Chile (''FCH'') is a private, non-profit organization established in 1976 through an agreement between the GOC and the International Telephone and Telegraph Corporation (''ITT'') with an original endowment fund of US $50 million. This agreement (Decree No. 1528) stemmed from an earlier agreement (Decree No. 801) in which the GOC agreed to compensate ITT for the value of certain ITT property that a former Chilean government had previously expropriated from ITT. Under the terms of the agreement, ITT agreed to contribute its $25 million compensation to FCH's endowment, and the GOC matched this amount.

FCH's mission is to carry out scientific and technological research and apply the research to industrial production and service areas of Chile. To meet these objectives, FCH forms companies to pursue technologies of interest, which are later sold to private investors, and also provides technical assistance, consulting services, and training to companies for a fee. In 1996, a major portion of FCH's operating budget came from fees for services and profit from the sale of its companies with the remaining amount from the original endowment.

Under section 771(5)(B) of the Act, a countervailable subsidy exists where the government provides a financial contribution or ''makes a payment to a funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments.''

The GOC has argued that FCH should not be viewed as the government, nor was FCH entrusted or directed by the GOC to take actions that would normally be vested in the government. We have not addressed these claims because, as explained below, we have preliminarily determined that the financial contributions provided by FCH do not confer a benefit.

With respect to the company start-up ventures, FCH created or co-invested in three salmon-related companies. The first venture was Salmones Antartica (''Antartica''), created in 1982, which became the first company to successfully demonstrate the technical and economic viability of salmon farming in Chile. FCH made three separate equity infusions in Antartica, the last of which was disbursed in 1988. Antartica was sold to private investors in 1989. Although Antartica produced the subject merchandise during the POI, it did not do so during the time FCH had ownership interest. The second venture was in 1988 when FCH, together with three other private companies, formed Salmones Huillinco (25 percent equity participation by FCH) which produces and commercializes smolts. Finally, Salmotec S.A. (Salmotec) was created by FCH and Antartica in 1988. Salmotec was sold to a private company in 1995. FCH made equity infusions in Salmotec in 1988 and 1990.

Section 771(5)(E)(i) of the Act provides that in the case of an equity infusion, a benefit is conferred if the investment decision is inconsistent with the usual investment practice of private investors, including the practice regarding the provision of risk capital, in the county in which the equity infusion is made.

In making this determination, the Department examines the following factors, among others:

1. Current and past indicators of a firm's financial condition;
2. Future financial prospects of the firm including market studies, economic forecasts, and projects or loan appraisals;
3. Rates of return on equity in the three years prior to the equity infusion;
4. Equity investment in the firm by private investors; and
5. Prospects in world markets for the product under consideration.

In start up situations and major expansion programs, where past experience is of little use in assessing future performance, we recognize that the factors considered and the relative weight placed on such factors may differ from the analysis of an established enterprise. (For a more detailed discussion of the Department's equityworthiness criteria see the *General Issues Appendix* at 37244.)

With respect to FCH's investments in Antartica, the decision to invest was made in 1981. FCH provided the Department with three separate feasibility studies that it considered at that time. The factors evaluated in the studies included the environmental conditions of Chile, world market conditions, and projected costs and profits. One of the studies in particular projected an internal rate of return, in U.S. dollar terms, of over 30 percent on investment. Based on these factors, the studies conclude that the conditions in Chile were such that salmon farming would be profitable. In light of the studies, we preliminarily determine that FCH's 1982 decision to invest in Antartica was consistent with the usual investment practice of private investors in Chile.

The decision to invest in Salmotec was approved by FCH in 1988. The GOC claims that at the time, the Chilean salmon industry was well-established and profitable. The GOC points to the fact that by 1988, there were 20 producers and/or exporters of salmon in operation in Chile and more private companies were investing in the salmon industry. Moreover, the Chilean salmon industry had been growing at an extraordinary rate, as evidenced by the dramatic increase in volume and value of salmon production. The growth was projected to continue at an even greater rate (see Concurrence Memorandum to Richard W. Moreland, Deputy Assistant Secretary, Import Administration from team dated November 10, 1997). Based on the growth projections and the health of the Chilean salmon industry in 1988 and the entry into that industry by private investors in the same year, we preliminarily determine that FCH's decision to invest in Salmotec was consistent with the usual investment practice of private investors in Chile.

We have not analyzed nor investigated FCH's investment in Salmones Huillinco because this company is not a producer or exporter of the subject merchandise.

The GOC reported that FCH did not provide any aquaculture infrastructure to the salmon industry during the AUL period, and there can be no residual benefits from the provision of infrastructure prior to the AUL period. Therefore, we did not examine this program further.

Finally, regarding the technical assistance provided by FCH, this assistance included research and development, consultations, seminars and inspection services. For each type of service provided, FCH charged a fee. Pursuant to section 771(5)(E)(iv) of the Act, a countervailable benefit exists in this situation if the services are provided for less than adequate remuneration. The adequacy of remuneration is determined in relation to prevailing market conditions for the service.

We have examined the fees charged by private companies which are FCH's major competitors and have found that the fees charged by FCH are in line with those charged by the private service providers. Accordingly, we preliminarily determine that FCH's fees provided adequate remuneration for the services it provided.

For the foregoing reasons, we preliminarily determine that the Chilean salmon industry has not received a benefit from financial contributions provided by FCH.

B. Fund for Technological and Productive Development (FONTEC)

FONTEC was established in 1991 by CORFO to promote, guide, finance, and assist the execution of technological research and development projects in Chile. FONTEC is a committee composed of eight members from the public and private sectors with significant experience and reputation in technological fields. This program provides grants and loans for research and development projects that are aimed at innovations in technology and for investment projects in technological infrastructure.

The amount of FONTEC financing was subject to a ceiling dependent on the line of financing: (1) the first line was for ''technology innovation'' projects involving financing requests lower than US $100,000; (2) the second line was for projects involving financing requests larger than US $100,000; and (3) the third line was for technological infrastructure projects. Any private company or entity in the production sector is eligible for FONTEC funding, provided that the company demonstrates that it has the proper technical, administrative and financial capacity to execute and implement the proposed project and that the project is aimed at technological innovation in products or processes. In addition, the third line of financing is only available to entities which: (1) are formed by at least five companies; (2) organized as a corporation or a foundation whose main line of business is technological transfer; and (3) can show stable projections of the project over time. Applicants, regardless of the line of financing under which they are applying, must demonstrate the eligibility of the project and the applicant company as well as the economic benefits of the project. In particular, the evaluation guidelines for the second line of financing (projects over US $100,000) specifies that the economic benefit criterion may be satisfied by factors such as ''cost savings, production increases, *export increases*, etc.'' (Emphasis added). The guidelines for the other two lines of financing do not enumerate specific factors to measure the economic benefit. Chilean salmon producers received grants under all three lines of financing of this program.

We analyzed whether the program is specific ''in law or fact'' within the meaning of section 771(5A) of the Act. We preliminarily determine that the program is not *de jure* specific because the receipt of the benefits, in law, is not contingent on export performance or on use of domestically goods over imported goods nor are the benefits limited to an enterprise, industry or region. As stated above, we note that anticipated exportation could have been a factor in the approval process of projects under the second line of financing. Nevertheless, we have no evidence that the GOC approved the salmon project under the second line of financing based on the export factor. In other words, although the applicant may have fulfilled the economic benefits criterion by demonstrating anticipated increases

in exports, it is also possible that the criterion was met by other factors such as savings in cost and production increases. At verification, we will closely examine the actual application and approval documents of the project under the second line of financing to determine whether the GOC's approval of the project was actually contingent on the company's export performance.

Pursuant to section 771(5A)(D)(iii) of the Act, a subsidy is *de facto* specific if one or more of the following factors exists: (1) the number of enterprises, industries or groups thereof, which use a subsidy is limited; (2) there is predominant use of a subsidy by an enterprise, industry, or group; (3) there is disproportionate use of a subsidy by an enterprise, industry, or group; or (4) the manner in which the authority providing a subsidy has exercised discretion indicates that an enterprise or industry is favored over others. As explained in the Statement of Administrative Action (''SAA'') (H.R. Doc. No. 316, Vol. I, 103d Cong., 2d Session (1994) at 931), the fourth criterion normally serves to support the analysis of other *de facto* specificity criteria.

During the period 1991 through 1996, assistance under this program was distributed to a large number and wide variety of users in the majority of regions of Chile. Therefore, the program is not limited based on the number of users. The evidence also indicates that neither the salmon nor the fishing and aquaculture industry received a predominant or a disproportionate share of the total funding. Given our findings that the number of users is large and that there is no predominant or disproportionate use of the program by the salmon industry, we do not reach the issue of whether administrators of the program exercised discretion in awarding benefits. Accordingly, we preliminarily determine that the funding of projects by FONTEC is not specific and has not conferred countervailable subsidies to the Chilean salmon industry within the meaning of section 771(5) of the Act.

Of the several salmon-related projects funded by FONTEC, the GOC has argued in the alternative that the funding provided to the Instituto Tecnológico del Salmón, S.A. (''INTESAL'') falls within the definition of a non-actionable subsidy under Article 8 of the WTO Agreement on Subsidies and Countervailing Measures (''SCM Agreement''). Because we have preliminarily determined that the project funding provided by FONTEC does not constitute countervailable subsidies, we do not reach the issue of whether FONTEC's grants to INTESAL constituted a non-actionable subsidy.

C. Central Bank Chapter XIX

Chapter XIX of the Central Bank's Compendium of International Exchange Rules was designed to reduce the strain on Chile's foreign currency reserves following the country's external debt crisis at the beginning of the 1980s. Chapter XIX permitted non-resident investors who bought Chilean external debt to trade that debt in Chile for local currency to be used in carrying out investment projects in Chile. The debt swap and subsequent investment had to be authorized by the Executive Council of the Central Bank. Chapter XIX came into effect on May 14, 1985, and was abolished on August 3, 1995. No operations were carried out after 1991, however, because Chile's external debt appreciated in international markets, reducing the attractiveness of the debt swap operations.

Petitioners alleged that the Central Bank used its authority in approving the debt swaps to promote export-oriented industries and import substitution. Based on the evidence provided by the GOC, we have determined that the benefit, if any, of these debt swaps and equity investments is not specific.

Neither the laws nor the regulations concerning Chapter XIX debt for equity swaps contained any formal provision favoring exports or import substitution at the time the investments at issue were approved. Moreover, based on information provided by the GOC, nearly 30 percent of the operations carried out under Chapter XIX were for sectors producing non-traded goods. While certain anecdotal evidence exists regarding a bias towards export industries, other anecdotal evidence indicates that the Central Bank did not favor exporters in its authorizations. The GOC has claimed that the Central Bank's purpose in authorizing these transactions was to ensure that the parties were legally eligible to participate and that the investment was not fraudulent.

We note that the Central Bank rejected a large number of proposed operations. Because it was not obligated to publish its reasons for accepting or rejecting an application, we are unable to determine whether the Central Bank directed operations under Chapter XIX to export-oriented or import substituting industries. At verification, we intend to review closely the rejected proposals to determine if the Central Bank used discriminatory criteria to favor orientation towards specific sectors of the economy.

The GOC provided information on the amount of debt renegotiated and invested in each industry and region for each of the years in which Chapter XIX operations occurred. Only 4.4 percent of the operations were in the fishing and aquaculture sector; other sectors represented in Chapter XIX operations included mining, forestry, communications, and financial institutions, among others. Manufacture of paper and printing was the industry sector with the highest representation at nearly 20 percent of operations. Accordingly, we preliminarily determine that the farmed salmon industry was neither a predominant nor a disproportionate user of this program.

D. Export Credit Limits

Law Number 18,576 of 1986 governs lending limits for Chilean banks. Under this law, Chilean banks are prohibited from extending more than five percent of their paid-in-capital in non-guaranteed loans to any single borrower. (For guaranteed loans, the limit is 25 percent.) However, this law also allows Chilean banks to lend an additional five percent of their paid-in-capital to exporters for their foreign currency loans.

While this program allows a Chilean bank to lend a greater percentage of its paid-in capital to an exporter than to a customer that does not export, we have preliminarily determined that this does not confer a benefit on exporters. Based on the information submitted, it does not appear that non-exporting borrowers have less access to credit because, if their borrowings will exceed the lending limit at one bank, they can simply borrow from another commercial bank at equivalent rates and terms. We intend to examine the information closely at verification. Therefore, we preliminarily determine that the export credit limits do not constitute a countervailable subsidy within the meaning of section 771(5)(E)(ii) of the Act because there is no benefit conferred on exporters.

E. Law No. 18,449 (Stamp Tax Exemption)

Under Decree Law 3,475 of 1980, a stamp tax is levied on checks, letters of exchange, money orders, promissory notes and loan documents in Chile. The tax is levied on checks at the flat rate of 109 pesos, and on other types of documents at the rate of 0.1 percent of the capital amount per month, to a maximum of 1.2 percent *per annum*, or 0.5 percent on obligations payable on demand or with no specified maturity date. The stamp tax is paid at the time a loan is disbursed, as the issuing bank withholds the amount of the stamp tax

from the gross amount of the loan. Law 18,449 exempts documents relating to the financing of exports from this tax.

In the *Final Affirmative Countervailing Duty Determination: Standard Carnations from Chile,* 52 FR 3313, 3314 (February 3, 1987), the Department found the stamp tax exemption countervailable, stating: ''Neither the Government of Chile nor the respondent companies gave us clear explanations as to what is meant by 'export credit operations.' '' In this proceeding, the GOC has placed on the record the copies and translations of regulations relating to this program which describe the types of operations and instruments eligible for the exemption. We have previously determined that the non-excessive rebate or exemption of indirect taxes levied at the final stage is not considered a subsidy (*see, e.g., Final Negative Countervailing Determination: Welded Carbon Steel Line Pipe from Taiwan,* 50 FR 53364 (December 31, 1985)). Because the amount of the exemption is not greater than the amount of the stamp tax due, we preliminarily determine that this program does not confer countervailable benefits within the meaning of section 771(5)(E) of the Act.

F. Article 59 of Decree Law 824

Under Article 59 of Decree Law 824, effective January 1, 1994, all foreign service providers doing business in Chile are required to pay income tax at the rate of 35 percent. This tax is withheld by the Chilean company to which the service is provided and then paid to the government. The law exempts the foreign service providers from paying the tax if the income was for certain services related to exportable goods and services produced in Chile. If the services are eligible for the exemption, the Chilean company (*i.e.,* the purchaser of the services) is also exempt from the withholding requirement.

We found no evidence that the benefit, if any, resulting from the exemption from the tax and the withholding requirement accrues to the subject merchandise. Therefore, we preliminarily determine that this program does not constitute a countervailable subsidy.

III. Programs Preliminarily Determined To Be Not Used

The following programs were not used:

A. Institute for Technological Research (INTEC)
B. Central Bank Chapter XVIII
C. Export Promotion Fund
D. CORFO Export Credits and Long-Term Export Financing
E. Law No. 18,392 (Tax Exemptions)

IV. Programs Preliminarily Determined Not To Exist

Based on information provided by the GOC, we preliminarily determine that the following programs do not exist:

A. GOC Guarantee of Private Bank Loans
B. Import Substitution Subsidy for New Industries
C. Tax Deductions Available to Exporters

Summary

The total estimated preliminary net countervailable subsidy rate for all producers or exporters of fresh Atlantic salmon in Chile is 0.62 percent, **AD VALOREM,** which is *de minimis.* Therefore, we preliminarily determine that countervailable subsidies are not being provided to producers, or exporters of fresh Atlantic salmon in Chile.

Verification

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

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department make its final determination.

Public Comment

In accordance with 19 CFR 355.38, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing will be held on March 6, 1998, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to request a hearing must submit a written request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than February 24, 1998. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than March 3, 1998. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 355.38 and will be considered if received within the time limits specified above.

This determination is published pursuant to section 703(f) of the Act.

Dated: November 10, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–30387 Filed 11–18–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patents for non-exclusive, partially exclusive or exclusive licensing. All of the listed patents have been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

These patents cover a wide variety of technical arts including: A new type kinetic energy projectile; a new ceramic nanocomposite; a device to locate the position of impact of a projectile on a