Foreign-Trade Zones Board

[Order No. 842]

Expansion of Foreign-Trade Zone 202; Los Angeles, CA, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Board of Harbor Commissioners of the City of Los Angeles, grantee of Foreign-Trade Zone 202, for authority to expand its general-purpose zone to include five new sites in the Los Angeles, California, area, was filed by the Board on October 30, 1995 (FTZ Docket 66–95, 60 FR 56566, 11/9/95); and

Whereas, notice inviting public comment was given in Federal Register and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 202 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 26th day of August 1996.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration; Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–22682 Filed 9–04–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 843]

Expansion of Foreign-Trade Zone 70; Detroit, MI

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Greater Detroit Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 70, for authority to expand its general-purpose zone to include an additional site in Detroit, Michigan, was filed by the Board on February 5, 1996 (FTZ Docket 8–96, 61 FR 6623, 2/21/96); and

Whereas, notice inviting public comment was given in Federal Register and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 70 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 26th day of August 1996.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration; Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–22683 Filed 9–4–96; 8:45 am]

BILLING CODE: 3510–DS–P

International Trade Administration

[A–351–806]

Silicon Metal from Brazil; Final Results of Antidumping Duty Administration Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On March 20, 1995, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on silicon metal from Brazil. The review period is July 1, 1992, through June 30, 1993. The review covers four manufacturers/exporters. The review indicates the existence of margins for two firms.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have changed our results from those presented in our preliminary results as described below in the comments section of this notice.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: Fred Baker or John Kugelman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1995, the Department of Commerce (the Department) published in the Federal Register (60 FR 14731) the preliminary results of its administrative review of the antidumping duty order on silicon metal from Brazil (July 31, 1991, 56 FR 36135).

Applicable Statute and Regulations

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

Scope of the Review

The merchandise covered by this review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. HTS item numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The period of review (POR) is July 1, 1992, through June 30, 1993. This review involves four manufacturers/exporters of Brazilian silicon metal; Companhia Brasileira Carburetto de Calcio (CBCC), Companhia Ferroligas Minas Gerais—Minasligas (Minasligas), Eletroila, S.A. (currently known as Eletrosilex Belo Horizonte (Eletrosilex)), and Rima Electrometalurgia S.A. (RIMA).

Compsumption Tax

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the

Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith* v. *United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by the court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States* 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to his amount so that the tax adjustment would not alter a ''zero'' per-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the ''*Zenith* footnote 4'' methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the ''*Zenith* footnote 4'' methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the Federal Circuit has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax- neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the ''*Zenith* footnote 4'' methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Analysis of Comments Received

We received case and rebuttal briefs from Minasligas, Eletrosilex, and a group of five domestic producers of silicon metal (collectively, the petitioners). Those five domestic producers are American Alloys, Inc., Elken Metals, Co., Globe Metallurgical, Inc. SMI Group, and SKW Metals,and Alloys, Inc. We also received written comments and written rebuttal comments from CBCC and RIMA.

Comment 1: Petitioners argue that the Department erred by basing the margin calculation for each of the four respondents on U.S. sales of silicon metal that did not enter U.S. Customs territory during the POR. Petitioners cite to section 751(a)(2) of the Tariff Act for support that the statute requires that margins be based on entries. Petitioners also cite to *Torrington Co.* v. *United States*, 818 F. Supp. 1563, 1573 (CIT 1993) (*Torrington*) to demonstrate that the Court of International Trade (CIT) has held that the word ''entry'' as used in the statute refers to the ''formal entry of merchandise into the U.S. Customs territory.'' Furthermore, petitioners argue that the Department itself has stated that the use of the term ''entry'' in the antidumping law refers unambiguously to the release of merchandise into the customs territory of the United States (*See Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review*, 56 FR 31692, 31704 (July 11, 1991) (*AFBs from Germany*)). Petitioners also state that the Department's past practice has been to conduct reviews of sales based on entries of subject merchandise and argue that any unusual circumstances that may have prompted the Department to base reviews on sales, rather than entries, in other case are not present here. Finally, petitioners argue that basing reviews on entries rather than sales is sound policy. By limiting reviews to entries, petitioners argue, the Department precludes respondents from controlling the outcome of administrative reviews. They Claim that basing the review on entries prevents manipulation because the transactions subject to review are determined by an objective administrative act performed by the U.S. Customs Service.

CBCC and RIMA argue that the petitioners have confused the issue of the liquidation of entries with the issue of the scope of inquiry in an administrative review. They allege that, in effect, the petitioners have argued that a company that does not have shipments that entered the United States during the POR should not be reviewed. Such a policy, CBCC and RIMA argue, would be contrary to the express language of the statute and the regulations, and also a departure from the Department's practice in the previous administrative review of this order. Furthermore, they argue that the purpose of an administrative review is, in part, to redetermine the deposit rate based on commercial activities during the POR. Thus, it makes sense to base the review on sales because the terms of sale are established by the exporter on the date of sale, and not when the entry arrives in the United States.

Eletrosilex and Minasligas argue that the petitioners made the same argument in the previous administrative review of this order, and the Department rejected it in its final results of review. They argue that in that review the Department cited its regulations for support that a review covers either ''entries or sales of the merchandise during the 12 months immediately preceding the most recent anniversary month.'' *Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review*, 59 FR 42806, 42813 (DOC Position to Comment 25) (August 19, 1994). They state that the Department also noted in that review that it had based other administrative reviews on sales rather than entries. Furthermore, they argue, the Department in its *Advance Notice of Proposed Rulemaking* (56 FR 63696, 63697 (December 5, 1991)) (*Advance Notice*) stated that the statutory language *in toto* shows that Congress did not intend to limit administrative reviews solely to entries, and that to do so would hinder the achievement of statutory goals governing review and assessments.

Additionally, Minasligas argues that there are not compelling policy reasons that would require the Department to base administrative reviews solely on entries of subject merchandise because, contrary to the petitioners' assertions, the respondent does not control the outcome of an administrative review when the Department bases its review on sales. First, the terms of the transaction involving the subject merchandise will remain the same, whether the Department bases the review on sales, shipments, or entries. Second, the entry of the subject merchandise into the customs territory of the United States is, in practical terms, of no importance to the Department's *comparison* of United States price (USP) to FMV to determine a dumping margin. Third, Minasligas argues that petitioners have misconstrued *Torrington. Torrington*, Minasligas argues, deals with the issue of whether entry of merchandise subject to an antidumping duty order into a Free Trade Zone (FTZ) ''required that antidumping duties be imposed on merchandise imported into a FTZ until such time as the merchandise *enters* the Customs territory of the U.S.'' (*Torrington*, 818 F. Supp. at 1572, 1573 (emphasis added)). It did not, Minasligas argues, deal with the question at issue here, and is therefore irrelevant.

Department's Position

We agree with all parties in part, and disagree with all parties in part.

We agree with petitioners that normally the Department reviews sales where there are entries of subject merchandise during the POR. In determining a respondent's antidumping duty margin, the Department first determines whether the respondent had entries during the POR. In reviews where the respondent had one or more entries during the POR, the Department reviews the respondent's sales to determine the antidumping duty margin and, in accordance with section 751 (a)(2), uses this margin to assess on the entries during the POR. In reviews where the respondent had no entries during the POR, the Department normally conducts a no-shipment review (*i.e.*, a review in which a respondent's margin from the last review/investigation in which it had entries is carried forward and applied in a period in which there were no entries). This approach is in accordance with the explicit language of the stastute which requires that we asses antidumping duties on entries during the POR.

We do not agree with petitioners that section 751(a)(2) requires that we review only sales that entered U.S. customs territory during the POR. Section 751(a)(2) mandates that the dumping duties determined be assessed on entries during the POR. It does not limit administrative reviews to sales associated with entries during the POR. Furthermore, to review only sales associated with entries during the POR would require that we tie sales to entries. In many cases we are unable to do this. Moreover, the methodology the Department should use to calculate antidumping duty assessment rates is not explicitly addressed in the statute, but rather has been left to the Department's expertise based on the facts of each review. ''* * * the statute merely requires that PUDD [*i.e.*, potentially uncollected dumping duties] * * * serve as the basis for both assessed duties and cash deposits of estimated duties.'' *See The Torrington Company* v. *United States* 44 F.3d 1572, 1578 (CAFC 1995).

The Department agrees with CBCC and RIMA that a company should not be precluded from review simply because it has no entries during the POR. However, the review we normally conduct under such circumstances is a no-shipment review (described above), and not a review of sales that may have occurred during the POR. No-shipment reviews ensure that a respondent continues to be ''reviewed'' even in situations where it had no entries during the POR.

We also agree with Eletrosilex and Minasligas that the Department's regulations permit a review of either ''entries or sales.'' However, this language pertains to the methodology to employ in conducting a review, and does not address situations where a respondent had no entries during a POR.

We also agree with Eletrosilex and Minasligas that the Department's *Advance Notice of Proposed Rulemaking* states that the statutory language *in toto* shows that Congress did not intend to limit administrative reviews solely to entries. However, although we may base a review on either sales or entries during the POR, we must rely on entries to determine which type of review to conduct (*i.e.*, a sales-based review of a no-shipment review). Contrary to Minasligas' claims, the entry of subject merchandise into the customs territory of the United States is a necessary prerequisite for a sales-based review, because if a respondent had no entries during a POR, we would be unable to assess any antidumping duties determined to be due as a result of our review.

We have determined, based on information received from the U.S. Customs Service, that all respondents in this review had at least one consumption entry into U.S. customs territory during the POR. However, we have also determined that some respondents made sales to importers who had not entries during the POR. In these final results of review, we included all four respondents and adopted the following approach in determining which sales to review:

1. Where a respondent sold subject merchandise, and the importer of that merchandise had at least one entry during the POR, we reviewed all sales to that importer during the POR.

2. Where a respondent sold subject merchandise to an importer who had no entries during the POR, we did not review the sales of subject merchandise to that importer in this administrative review. Instead, we will review those sales in our administrative review of the next period in which there is an entry by that importer.

After completion of this review, we will issue liquidation instructions to Customs which will instruct Customs to assess dumping duties against importer-specific entries during the period.

Comment 2: Petitioners argue that the Department erred in its calculations for each of the four respondents by comparing the United States price (USP) to the constructed value (CV) for the month of the sale. They argue that in hyperinflationary economy cases it is the Department's practice to compare the USP to the CV for the month of shipment. In support of their contention, they cite *Porcelain-On-Steel Cooking Ware from Mexico; Final Results of Antidumping Duty Administrative Review*, 55 FR 21061, 21065 (May 22, 1990) (*Porcelain-On-Steel Cooking Ware*), in which the Department stated:

> where, as here, a country's economy experiences hyperinflation, we use a company's replacement costs incurred during the month of shipment, rather than its historical costs, to calculate CV and COP. See Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order; Tubeless Steel Disc Wheels from Brazil, 53 FR 34566 (1988); and Oil Country Tubular Goods from Argentina, 50 FR 12595 (1985). This practice enables us to achieve a fair comparison by examining contemporaneous costs and prices, and thereby avoid distortions caused by hyperinflation. (emphasis added.)

Accordingly, petitioners argue that in the final results of review the Department should base its margin calculations for each of the four respondents by comparing USP to the CV for the months of shipment.

Eletrosilex argues that the Department's regulations contemplate that, in purchase price situations, the CV will be based on ''relevant costs and expenses at a time *preceding* the time the producer * * * sells the merchandise for exportation to the United States.'' 19 CFR § 353.50(b)(1) (emphasis added). Furthermore, Eletrosilex argues that the Department has long recognized that price and cost comparisons are relevant only when made in a narrow and comparable time period, and has in the past paid special attention in hyperinflationary economy cases to avoid time frames that cause distortions that result from hyperinflation. Moreover,the determination of what is the appropriate time period is, Eletrosilex argues, a discretionary call that the Department makes based on the facts of each case. According to Eletrosilex, the Department's Antidumping Manual, Chapter 8, p. 61 (August 1991 ed.) states: ''The determination of proper comparison periods is made on the basis of the facts in a particular investigation.'' The facts of this situation, Eletrosilex argues, warrant comparing the U.S. sale to the CV for the month of sale because there was a six-month interval between the date of sale and the date of shipment. On the date of sale (a time when prices were substantially depressed) the price was fixed and did not subsequently change. Six months later, when the merchandise was shipped, Brazil was facing inflation in excess of 2000 percent annually. Therefore, Eletrosilex claims that costs at that time had no relevance to costs or prices on the date of sale six months earlier.

Minasligas argues that petitioners' argument is moot because the department did not compare its USP to a CV; the Department compared USP to a weighted-average home market sales price. However, if the Department uses the CV of the month of shipment in the final results, Minasligas argues that the Department should adjust the CV to account for inflation between the date of sale and the date of shipment, as was done in the investigation of this case. *See Silicon Metal from Brazil; Final Determination of Sales at Less Than Fair Value,* 56 FR 26977, 26983 (June 12, 1991) (*Silicon Metal Final Determination*).

Department's Position: We agree with petitioners that, when using CV in hyperinflationary economies, our normal practice is to compare the U.S. price to the CV of the month of shipment. *See Porcelain-On-Steel Cooking Ware* at 21065. Therefore, we have compared USP to CV of the month of shipment in these final results of review, unlike in the preliminary results of review. However, we also agree with Minasligas that an adjustment should be made to CV to account for inflation between the date of sale and the date of shipment. Therefore, in these final results of review we have calculated a circumstance-of-sale inflation adjustment as described in *Tubeless Steel Disc Wheels from Brazil; Amended Final Determination of Sales at Less than Fair Value and Amended Antidumping Duty Order,* 53 FR 34566 (September 7, 1988). This was the same methodology followed in the original investigation of this proceeding. *See Silicon Metal Final Determination,* at 26983.

Comment 3: Petitioners argue that the Department erred in using the shipment date as the date of sale for Minasligas' sales made pursuant to long-term contracts. They base this argument on Appendix 2–2 of the Department's questionnaire which says that, for sales made pursuant to a long-term contract, the date of sale is the date of the contract, and that only if the terms of sale are subject to change, and do in fact change up to, or even subsequent to, the date of shipment, may the date of shipment be taken as the date of sale. Petitioners allege that there is no evidence on the record to indicate that the essential terms of sale changed, for the sales made pursuant to a long-term contract, after the date of the contract. Therefore, petitioners argue the Department should take the date of the contract as the date of sale for each sale made pursuant to a long-term contract. Furthermore, as the dates of the contracts are not on the record of this review, petitioners argue that the Department should either require Minasligas to report the date of the contracts, or else use the best information available (BIA) in the final results of review.

Minasligas argues that the Department acted properly and in full accord with its own precedent in using the shipment date as the date of sale. The Department has previously articulated, Minasligas argues, that the date of sale is the date on which the essential terms of the sale, specifically price and quantity, are finalized (*See* Department's questionnaire, Appendix 2–2, and *Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Japan* (56 FR 12156, 12163, March 22, 1991 (*Cement from Japan*). Here, Minasligas argues that, contrary to petitioners' assertions, evidence on the record indicates that the price and quantity are not finalized until the date of shipment.

Department's Position: We agree with Minasligas. In *Cement from Japan* at 12163 we said:

> It is the Department's practice to determine the date of sale as that date on which the essential terms of the sale, specifically price and quantity, are finalized to the extent that they are outside the parties' control. See *Titanium Sponge from Japan* (54 FR 13403, 13404 (April 3, 1989)) (aff'd *Toho Titanium Co. v. United States*, 743 F. Supp. 888 (CIT 1990)); *Brass Sheet and Strip from France,* 52 FR 812, 814 (1987). The Department normally considers the contract date as the date of sale because a written contract best represents the date at which the terms of sale are formalized and the parties are bound.

From our review of the price and quantity information on the record of this review, we have determined that prices for sales made pursuant to the same contract sometimes vary. Thus, we conclude that the parties are not in fact bound by the contract, and that the terms of sale are not finalized until the date of shipment. Hence, in these final results of review, as in the preliminary results of review, we have used the date of shipment as the date of sale.

Comment 4: Petitioners argue that the Department lacked the information necessary to ''treat properly'' Minasligas' home market sales of silicon metal to a particular Brazilian producer of silicon metal. These sales were included in the margin calculation in the preliminary results of review. Petitioners argue that the sales volumes and prices to Minasligas' customer raise fundamental questions regarding the relationship between Minasligas and the customer. Thus, petitioners argue, the Department needs to know the ultimate disposition of the silicon metal sold to the Brazilian producer and whether Minasligas knew the ultimate disposition of the silicon metal at the time of sale, (*i.e.*, whether the silicon metal was subsequently resold by the Brazilian producer to an American or third-country buyer) in order to determine whether the sale should have been included in Minasligas' home market sales listing and used in the margin calculation. Petitioners argue that the Department should solicit this information or else not use the sales in the calculation of the final results of review.

Minasligas argues that the Department had all necessary information to treat properly all of Minasligas' home market sales. It argues that the petitioners have inaccurately cited Minasligas' sales volumes and prices to this customer, and that there is nothing on the record to suggest that the sales to the Brazilian producer were anything other than arms-length transactions. It further argues that the petitioners' claim that Minasligas may have known that the sales to the Brazilian producer may have been resold and, therefore, should have been treated differently than they were, is based on vague, hypothetical conjecture, and is without any support in the record.

Department's Position: We agree with Minasligas. From our review of the proprietary version of the record in this proceeding, we have determined that there is an insufficient basis for concluding that the sales to this particular home market customer were not arms-length transactions. Where prices to this customer differ from prices to other customers, the disparity can usually be explained as a function of differing quantities. Furthermore the questionnaire to which Minasligas responded in this review required that it report as U.S. sales, all sales made to unrelated intermediaries outside the U.S. that it knew at the time of sale were destined for delivery in the U.S. market. No evidence exists on the record that Minasligas failed to comply with this requirement. Hence, in these final results of review, as in the preliminary results of review, we have included the sales to this customer in the calculation of FMV.

Comment 5: Petitioners argue that the Department should reject RIMA's cost of production (COP) response and base the margin for RIMA on BIA. They base this argument on numerous alleged weaknesses they find in the cost data that RIMA submitted. Among those alleged weaknesses are the following:

(1) RIMA's financial accounting system did not record depreciation and inventory in accordance with Brazilian Generally Accepted Accounting Principles (GAAP), thus, petitioners argue, rendering the reported cost from the audited financial statements completely unreliable for antidumping purposes;

(2) RIMA's cost accounting system (which was used to value finished inventory values) was not totally integrated into its financial accounting system;

(3) RIMA's cost accounting system did not reconcile with supporting documentation (*e.g.,* payroll and purchase ledgers).

(4) the monthly adjustments RIMA used to reconcile the cost accounting system to the financial account system fluctuated immensely.

Petitioners conclude from these points that the accounting systems that generated the numbers to which the reported COP/CV data were reconciled are completely unreliable, and that, therefore, the Department should reject RIMA's submitted cost data and assign RIMA a margin based on BIA.

RIMA argues that none of petitioners' criticisms of its cost accounting system is pertinent. RIMA argues that it is permitted under Brazilian tax and corporate laws to not report depreciation on its financial statements. RIMA also claims that its failure to report depreciation on its financial statements is not relevant to this case because depreciation was calculated, verified, and taken into account in the cost computations. Moreover, RIMA argues that because the Department's methodology has departed entirely from the approach taken in standard Brazilian accounting, the fact that RIMA's financial statement may not comply with Brazilian GAAP should not be a basis for using BIA. Furthermore, RIMA argues that the integration of the cost accounting system with the financial accounting system has been explained in responses and shown to verifiers, who found the reconciliations acceptable.

Department's Position: For the final results, we accepted RIMA's submitted costs as the basis for COP and CV calculations. The Department recognizes that concerns exist about whether RIMA's valuation and presentation of its production costs are in accordance with Brazilian GAAP (see notes 3 & 4 of the independent auditor's opinion on the financial statements, cost verification exhibit 4). However, the Department also realizes that RIMA's auditors believed that the cost reported in the financial statements could still be relied upon and stated, ''[i]n our opinion, except for that contained in paragraphs 3 and 4, the accounting reports * * * adequately represent, in all relevant respects, the net worth and financial position of RIMA * * *'' (see independent auditor's opinion on the financial statement, note 5, cost verification exhibit 4, emphasis added). For purposes of the Department's calculations, we note that RIMA did calculate and submit depreciation based on internal schedules maintained by the company. At verification, we reviewed these schedules and traced selected information to both RIMA's audited balance sheet and source documentation (see cost verification exibit 7). We noted no discrepancies. Furthermore, because the Department required RIMA to use monthly replacement costs, the petitioners' concern about RIMA's ending inventory not being recorded in accordance with Brazilian GAAP is moot. The Department has determined in previous cases that Brazilian GAPP does not reasonably reflect the costs of producing silicon metal in Brazil. (*See Silicon Metal Final Determination* at 26986.) Therefore, in accordance with our replacement cost methodology, the Department valued RIMA's actual monthly production using its respective current month's cost and did not use RIMA's ending inventory in calculating RIMA's COP.

The Department also tested RIMA's cost and financial accounting systems. The company's cost accounting system was used to prepare managerial reports of product specific costs and the financial accounting system was used to prepare the annual financial statement. The two systems were linked (or integrated) through finished inventory values. The costs reflected in the managerial reports were adjusted monthly to conform with the accumulated production costs from the financial accounting system. RIMA officials contended at verification that their cost system produced questionable results and was not reliable. Therefore, they based cost of production on data obtained only from the financial accounting system. The Department found this approach reasonable because the figures produced by the company's cost accounting system were usually understated and required adjustment to conform with the audited financial accounting system results (*See* cost verification exhibit 9). Therefore, we were able to rely upon RIMA's financial statements to verify its submitted costs.

Comment 6: Petitioners argue that the Department should increase RIMA's direct material input quantities by the percentages recommended by the Department's Office of Accounting (OA) in its preliminary calculation adjustment memo dated December 22, 1994. By failing to follow OA's recommendation that RIMA's direct material input quantities be increased, petitioners argue that the Department used cost figures and input quantities in its calculations that were unverifiable and specifically rejected by the verifiers. They claim that this usage of RIMA's data was a violation of section 776(b) of the Tariff Act which requires that the Department rely on BIA for unverifiable information. Petitioners also argue that relying on RIMA's reported cost information is not adverse to RIMA and, therefore, allows the company to control the outcome of the proceeding to its advantage.

RIMA argues that there is no justification for applying a BIA figure to all of RIMA's direct material input quantities. RIMA believes that the Department properly rejected OA's BIA recommendation for direct materials. However, RIMA argues that the computer program used to calculate the preliminary review results shows that the Department increased costs. This error, RIMA argues, should be corrected in the final results.

Department's Position: We accepted RIMA's submitted direct material quantities as the basis for COP and CV calculations for the final results. We disagree with the petitioners' contention that the quantities were unverifiable and specifically rejected by the verifiers. In fact, we were able to trace the submitted quantities to RIMA's source documents in this review period. In the verification report, we stated that we traced the direct materials quantities from RIMA's characteristic numbers report, which is used as a basis for reporting its quantity of inputs, to RIMA's daily production records, which are maintained in the furnace control room. (*See* cost verification report, page 8, October 31, 1994). However, due to a discrepancy between the information provided at the first and second review verifications concerning the availability of furnace reports through November 1993, OA contemplated an adjustment to increase RIMA's submitted direct material quantities. Upon reflection, however, we decided to accept RIMA's submitted information for this review because each review is conducted independently of other reviews and should not, on such matters, be influenced by other reviews. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 60 FR 49569, 49570 (September 26, 1995).

Furthermore, we have determined that, contrary to RIMA's assertion, the computer program used to calculate the preliminary results of review does not contain an increase to direct material input quantities. Therefore, for purposes of these final results of review, we have not adjusted the quantity of direct material inputs in the computer program.

Comment 7: Petitioners argue that the Department made two mistakes with regard to RIMA's overhead costs. They allege that the first mistake was the Department's calculation of overhead by averaging ratios for direct labor, electricity, and direct materials calculated by comparing the usage for each item for silicon metal production to the usage for overall production. Petitioners argue that this use of a simple average does not accurately reflect the relationship of material costs, direct labor, and electricity costs to the sum of RIMA's cost of materials, direct labor, and utility costs. Petitioners claim that the Department needs to add an additional step to its calculations that weight-averages the adjustment ratios (based on the relationship of each cost item to the sum of the direct materials, electricity, and direct labor) to account accurately for the amount of overhead attributable to the production of silicon metal. Petitioners' second argument is that the Department erred in using the overhead costs for the month of sale rather than the month of shipment.

RIMA argues that it allocated its direct labor, direct materials, and electricity costs to most accurately reflect its true cost of production. RIMA argues that it is inappropriate for the Department to decide whether a company's approach is the ''best allocation.'' It states that unless there is something seriously wrong with the overall cost accounting system of a company, the Department must use the figures developed by the company in its ordinary course of business. RIMA also argues that OA was incorrect to characterize the direct labor hours as ''estimates.'' It states that the direct labor hours are programmed hours, developed over time and based on actual production performance. Finally, RIMA argues that there is no evidence on the record that a more complex allocation program would be better. In fact, RIMA argues that electricity consumption, which the Department used in its revised allocation methodology, is a poor method of allocating indirect costs because the amount of electricity consumed varies greatly with the product being made and the quality of raw materials.

Department's Position: We believe the allocation of overhead costs used in the preliminary results of review is appropriate, and applied the same methodology in these final results of review. We reviewed RIMA's submitted allocation method and found that it understates the cost of the subject merchandise. RIMA used estimated direct labor hours to allocate overhead costs. This method is not used in RIMA's normal course of business. Furthermore, the Department does not believe that direct labor hours alone are an adequate basis for cost allocations in this case because RIMA derived the hours from its cost accounting system which, as discussed in comment 5, does not produce accurate results. We believe that, based upon the specific facts of this case, an average of ratios based on direct labor hours, electricity usage, and direct material usage provides a broad and stable base for allocation purposes. Furthermore, this combination corresponds very closely to RIMA's production furnaces' machinery, and labor requirements. For example, silicon metal production consumes a larger quantity of electricity than non-subject merchandise. Therefore, a larger portion of the cost of maintaining the power lines and transformers should be allocated to the product. Finally, we note that RIMA's normal allocation method was examined at verification, and produced appropriately the same results as the method used in these final results (see cost verification exhibit 7).

We also reviewed the petitioners' criticism of our calculation, and disagree with their suggested additional step to weight the three ratios based on April 1993 values. Because Brazil's economy was hyperinflationary during the POR, we believe that the use of a specific month's values in the calculation could create inappropriate results when applied to the remaining months of the POR. Therefore, in these final results of review, we have used the same computation of RIMA's overhead costs as we did in the preliminary results of review. However, we agree with petitioner that overhead costs, like the other elements of CV, should be based on the CV of the month of shipment. In these final results of review, we have based CV on the month of shipment. See Department's Position to comment 2.

Comment 8: Petitioners argue that the Department erred by deducting RIMA's home market packing expenses from RIMA's CV before adding U.S. packing expenses to RIMA's CV. They argue that RIMA's CV did not include home market packing expenses and, therefore, these expenses did not need to be deducted before adding U.S. packing expenses.

Department's Position: We agree, and have corrected this error in these final results of review.

Comment 9: Petitioners cite to page two of the Department's March 14, 1995, preliminary results analysis memorandum to argue that the Department erred by excluding a line item called ''HM Taxes'' from Eletrosilex's CV. The line item in question, petitioners believe, represents Eletrosilex's Program of Social Integration (PIS), Social Investment Fund (FINSOCIAL), and Industrialized Products (IPI), taxes. Petitioners argue that these taxes must be included in CV since they are not remitted or refunded upon exportation of the merchandise. The statutory authority they cite to support their argument is section 773(e)(1)(A) of the Tariff Act, which provides that:

> the constructed value of imported merchandise shall be the sum of * * * the cost of material (exclusive of any internal tax applicable in the country of exportation directly to such materials of their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used * * * (emphasis added)

Eletrosilix argues that petitioners' argument is flawed because page two of the preliminary results analysis memo to which petitioners cite refers not to CV, but to the calculation of Net Home Market Price.

Department's Position: Eletrosilix is correct that page two of the preliminary results analysis memorandum concerns Net Home Market Price, and not CV. However, we believe petitioners intended to reference page five of the analysis memorandum, where we stated that in our computation of CV, we subtracted from COM the field ''HM taxes.''

Petitioners are correct that, in accordance with section 773(e)(1)(A) of the Tariff Act, internal taxes should be included in CV if they are not remitted or refunded upon exportation of the merchandise. After publishing the preliminary results of review, we solicited information from all respondents in this review regarding their tax payments. Eletrosilex stated that its PIS and FINSOCIAL (currently known as COFINS) taxes are already included in its reported direct materials costs (*See* Eletrosilex's September 6, 1995, submission, p. 4) Furthermore, in these final results of review, unlike the preliminary results of review, we have included the IPI tax (and also the tax on Circulation of Merchandise (ICMS)) in the calculation of CV for all respondents because these taxes are not remitted or refunded upon export of silicon metal. Because section 773(e)(1)(A) of the Tariff Act does not account for offsets of taxes paid due to home market sales, we did not account for the reimbursement to the respondents of ICMS and IPI taxes due to home market sales of silicon metal. The experience with regard to home market sales is irrelevant to the tax burden borne by the silicon metal exported to the U.S. Therefore, in these final results of review, all of the taxes Eletrosilex paid on its purchases of inputs for the production of silicon metal are included in CV.

In adopting this methodology, we are using the methodology applied in the less-than-fair-value (LTFV) investigation of this case (*See Silicon Metal Final Determination* at 26984). We believe this methodology more strictly accords with the language of section 773(e)(1)(A) of the Tariff Act than does the methodology used in the preliminary results of this review.

Comment 10: Petitioners argue that the Department erred by calculating Eletrosilex's net financial expenses from information contained in Eletrosilex's financial statements. Petitioners argue that the financial statements are unreliable for calculating Eletrosilex's net financial expenses for antidumping purposes because they include both long and short-term interest income, whereas the Department's practice is to offset interest expenses by only short-term interest income. Furthermore, petitioners note that in response to further questioning by the Department, Eletrosilex reported monthly total interest income rather than only short-term interest income. Petitioners argue that the Department should, therefore, make no offset to Eletrosilex's short-term interest expense.

Eletrosilex argues that it had no long-term interest income during the POR, and that all of its interest income was from short-term investments. Therefore, Eletrosilex argues, the Department properly subtracted all of its reported interest income from interest expenses in determining its net interest expenses.

Department's Position: We agree with the respondent. During verification, we traced financial receipts to source documentation to confirm that Eletrosilex's audited interest income figure was derived from only short-term investments (cost verification exhibit 12). We noted no discrepancies. Therefore, in these final results of review, as in the preliminary results of review, we allowed Eletrosilex to offset financing costs by the reported interest income.

Comment 11: Petitioners argue that the Department incorrectly calculated Eletrosilex's cost of overhauling one of its furnaces. Petitioners argue that the Department's calculation, which allocated costs equally to all months of the POR and applied each month's inflation rate to those costs, fails to account for the compounding effect of inflation. However, petitioners claim that the Department properly rejected Eletrosilex's September 1992 projected costs. Petitioners argue that using projected figures would violate the Department's practice of calculating replacement costs based on actual figures.

Eletrosilex argues that the use of compounded inflation rates by the Department is discretionary. Furthermore, it argues that the merits of using compounded inflation rates should be weighed against Eletrosilex's argument that the maintenance costs should be allocated over a longer period of time, not less than three years, because the furnace breakdown was a highly aberrational event. Eletrosilex also contends that the Department erred in using the actual production volume in the COP/CV calculations for the month of September 1992, and argues that the Department should instead use Eletrosilex's projected output.

Department's Position: We agree with petitioners. First, the petitioners are correct in arguing that COP/CV data should be based upon actual results and not projections. *See Final Determination of Sales at less Than Fair Value: Oil Country Tubular Goods from Austria,* 60 FR 33551, 33557 (June 28, 1995). Therefore, in these final results of review, as in the preliminary results of review, the Department used actual production tons and not projected results to obtain Eletrosilex's actual per-ton costs for September 1992. Second, we amortized Eletrosilex's shut down costs over the POR since the repairs benefited production during this period. We are rejecting Eletrosilex's three year amortization period because the longer time period is unsupported by facts on the record. Additionally, we discussed the POR amortization period with company officials at verification. At that time, company officials agreed with the suggested period and did not offer any alternate amortization periods (*see* October 5, 1994, cost verification report, p. 5). Third, we have adjusted our calculation to account for the compounding effects of inflation.

Comment 12: Petitioners argue that the Department double-counted Eletrosilex's claimed duty drawback for ICMS and IPI taxes paid on imported electrodes by adding the duty drawback adjustment to USP, but also excluding ICMS and IPI taxes from CV. They argue that the Department's practice has been to perform its calculation in such a way that double-counting does not occur. In support of their view, petitioners cite *Final Determination of Sales at Less Than Fair Value: Mechanical Transfer Presses from Japan,* 55 FR 335, 343 (January 4, 1990), in which the Department said that if duty drawback is ''not included in the materials costs in the calculation of COM (cost of manufacture), the Department [adds] these uncollected duties to the CV.''

Eletrosilex argues that it does not include ICMS and IPI taxes in its COM because they are not costs to Eletrosilex. Rather, because they are value-added taxes, their cost is passed along to the next user. Therefore, Eletrosilex argues, the Department should not consider these taxes in its calculation of CV. Furthermore, Eletrosilex argues, it is the Department's practice, in accordance with section 773(e)(1)(a) of the Tariff Act, not to include in CV any internal tax which is remitted or refunded upon exportation of the product in which the material is used. Eletrosilex states that because more than 87 percent of their product is exported, nearly all of the tax would be excluded from the CV calculation under any circumstances.

Department's Position: We agree with petitioners. Eletrosilex's argument with respect to section 773(e)(1)(a) of the Tariff Act is not valid because the duty drawback law applicable to Eletrosilex suspends the payment of ICMS and IPI taxes that would ordinarily be due upon importation of electrodes. Therefore, because the ICMS and IPI taxes are suspended, we cannot conclude that they are already included in the COM or the tax payments that Eletrosilex has reported. Thus, in order to make an ''apples-to-apples'' comparison between USP And CV, we need to add to CV the full amount of the duty drawback that we added to USP in accordance with section 772(d)(1)(B) of the Tariff Act. We have done so in these final results of review.

Comment 13: Petitioners argue that the Department used an incorrect exchange rate in converting five of Eletrosilex's U.S. selling and movement charges from cruzeiros to U.S. dollars. They argue that the Department should use a devalued exchange rate because Eletrosilex reported its charges in devalued cruzeiros.

Eletrosilex argues that the petitioners's argument is confused because the Department used the exchange rate which petitioners, in their case brief, argued should be used, *i.e.*, the exchange rate of the month of shipment.

Department's Position: We agree with Eletrosilex. Our standard methodology in reviews involving hyperinflationary economies is to convert U.S. movement expenses using the exchange rate in effect on the date the costs were incurred. We employ this methodology to avoid creating dumping margins that result only from the rapid depreciation of a local currency during the interval between the month of sale and the month of shipment. *See Steel Wheels from Brazil, Final Determination of Sales at Less than Fair Value,* 54 FR 21456, 21459 (May 18, 1989) (*Steel Wheels*). Thus, in these final results of review, as in the preliminary results of review, we have converted Eletrosilex's U.S. export costs into U.S. dollars using the monthly exchange rate in effect during the month of shipment.

Comment 14: Petitioners argue that the Department erred by comparing Eletrosilex's U.S. prices inclusive of ICMS tax to a CV exclusive of ICMS tax. By doing so, the Department failed to make an ''applies-to-apples'' comparison. Moreover, they argue that section 772(d)(2) of the Tariff Act states that the USP shall be reduced by ''any additional costs and charges * * * incident to bringing the merchandise * * * the United States'' and by ''any export tax * * * or other charge imposed by the country of exportation on the exportation of the merchandise to the United States * * *'' if included in the price of the merchandise. Therefore, petitioners argue that the Department should subtract from Eletrosilex's USP the ICMS taxes that were included in the reported gross prices.

Eletrosilex argues that the ICMS tax is applied to the sale of semi-industrialized products, such as silicon metal, and the law specifically excludes any waiver of the tax upon exportation. Therefore, Eletrosilex argues, the ICMS tax is not an export tax and is, therefore, properly included in the calculation of USP.

Department's Position: We disagree with petitioners that the ICMS tax is an export tax or other charge imposed on the exportation of the merchandise to the United States as defined in section 772(d)(2) of the Act. The ICMS tax is imposed upon all sales of this product, regardless of the market to which it is destined. Since the tax is not levied solely upon exported merchandise, it does not constitute an export tax and cannot be subtracted from the USP of the merchandise under section 772(d)(2). However, the Department has concluded that the ICMS tax must be added to the constructed value (CV) of the product. Section 773(e)(1)(A) of the Act requires the deduction from CV of any internal tax applicable directly to material inputs or their disposition which has been rebated or not collected upon exportation. For Eletrosilex, this tax was collected upon exportation, but not rebated. Thus, the tax must be added to the CV to properly reflect the true costs and expenses borne by the product.

Comment 15: Petitioners argue that the Department used an incorrect exchange rate in converting three of CBCC's U.S. movement charges from cruzeiros to U.S. dollars. They argue that the Department should use a devalued exchange rate because CBCC reported its charges in devalued cruzeiros.

CBCC argues that the petitioners' only argument for using an artificially-determined rate rather than the true and real rate in effect on the date the expense was incurred is that it results in a very small increase in the expense in dollars. The Department was correct, CBCC argues, to seek a calculation of values based on the prevailing and correct economic indices in effect at the time of the transaction.

Department's Position: Our standard methodology in reviews involving hyperinflationary economies is to convert U.S. movement expenses using the exchange rate in effect on the date the costs were incurred. We employ this methodology to avoid creating dumping margins that result only from the rapid depreciation of a local currency during the interval between the month of sale and the month of shipment. (*See* Department's Position to comment 13.) Thus, in these final results of review we have converted CBCC's U.S. export costs into U.S. dollars using the monthly exchange rate in effect during the month of shipment. We intended to employ this methodology for all U.S. movement expenses in the preliminary results. However, in our review of the computer programs used for the preliminary results, we determined that for warehousing we used the exchange rate during the month of sale. We have corrected this error in these final results of review.

Comment 16: Petitioners argue that the Department erred by deducting CBCC's home market packing expenses from CBCC's CV before adding U.S. packing expenses to CBCC's CV. They argue that CBCC's CV did not include home market packing expenses and, therefore, they did not need to be deducted before adding U.S. packing expenses.

Department's Position: We agree, and have corrected this error in these final results of review.

Comment 17: Petitioners argue that the Department erred by using the incorrect indirect selling expenses in its calculation of CBCC's CV. The Department's preliminary results analysis memorandum for CBCC states that the Department used the indirect selling expenses CBCC submitted in its March 22, 1994, submission. Petitioners allege that, in reality, the Department used the indirect selling expenses submitted by CBCC in its March 17, 1994, submission.

Department's Position: We disagree. Upon review of the computer program used to calculate the preliminary results of review, we have determined that we used the indirect selling expenses that CBCC reported in exhibit 9 of its March 22, 1994, submission.

Comment 18: Minasligas argues that the Department erred in its method of calculating an ICMS tax rate to be applied to its USP. According to Minasligas, the Department's method was to calculate an average rate based on home market sales prices for the entire POR, and to then deduct from that rate the ICMS tax payable on exports. Minasligas contends that this method is flawed in two ways. First, it is distortive in a hyperinflationary economy such as Brazil's because it biases the result in favor of sales that occur later in the POR. A more accurate method, Minasligas argues, is to perform the calculation on a monthly basis. Second, Minasligas argues that the method is flawed because Minasligas is exempt from paying ICMS tax on its exports which is evident in the information on the record of this review. Thus, the Department should not have made a deduction from the calculated ICMS tax rate for any ICMS tax allegedly due on exports.

Petitioners comment that the Department used the wrong set of home market sales in calculating Minasligas' FMV (see comments 3 and 4 above). Thus, any recalculation of the ICMS tax rate that the Department performs should be based on the correct set of sales.

Department's Position: In these final results of review, we have not calculated a tax rate to be applied to USP. Rather, as discussed under the ''Consumption Tax'' section of this notice, where we have made price-to-price comparisons, we have added to U.S. price the absolute amount of tax charged in the home market. Moreover, because Brazil had a hyperinflationary economy during the period of review, we have calculated the absolute amount of tax on a monthly basis, rather than an annual basis, in order to avoid distortion resulting from hyperinflation. Finally, we agree with Minasligas that evidence on the record indicates that Minasligas' export customers were not charged ICMS tax. In the preliminary results we made a deduction from the home market tax rate that we applied to the U.S. price because we mistakenly believed that Minasligas paid ICMS tax on its exports. In these final results of review, we have added to Minasligas's U.S. selling price the absolute amount of tax without making any deductions.

We disagree with petitioners' argument that we based FMV on the wrong set of sales. See the Department's Position to comments 3 and 4.

Comment 19: Minasligas argues that the Department erred in including inventory carrying costs in its computation of CV. It argues that it is the Department's longstanding practice to exclude inventory carrying costs from the computation of CV when all of the U.S. sales were purchase price transactions, as is the case here. (*See Notice of Amended Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Brazil;* 59 FR 8598, 8599 (February 23, 1994).) Thus, Minasligas argues that if the Department resorts to CV in the final results of review, inventory carrying costs should be removed from the computation of CV.

Department's Position: This issue is moot with respect to Minasligas because we did not use CV as the basis of FMV for Minasligas in these final results.

Comment 20: Minasligas argues that the Department erred in its computation of CV by not removing its inland freight costs from the direct selling expenses before calculating profit. The effect of this error, Minasligas argues, is to increase profit by 8 percent of the amount of inland freight.

Department's Position: This issue is moot with respect to Minasligas because we did not use CV as the basis of FMV for Minasligas in these final results.

Comment 21: RIMA argues that the Department erred in calculating an arm's-length price for the cost of RIMA's self-produced charcoal by using the April 1993 cost as the basis for calculating a write-up for the entire POR. It argues that there is no reasons to take an arbitrarily chosen month and apply it across a year's worth of data where, as here, data exist for each month of the POR, and the calculation is relatively simple.

Petitioners argue that RIMA is incorrect in stating that sufficient information is on the record to enable the Department to calculate an adjusted charcoal cost for each month of the POR. Specifically, RIMA did not submit information on the quantity of charcoal purchased each month from related and unrelated suppliers. Therefore, petitioners argue that in the final results of review the Department should base its adjustment for charcoal cost on the information submitted by RIMA for April 1993, as it did in the preliminary results of review. The petitioners also contend that the Department should increase the cost of quartz to account for wastage.

Department's Position: We agree with petitioners that our charcoal adjustment used in the preliminary results of review is appropriate. RIMA obtained charcoal from unrelated suppliers, related suppliers, and company-owned plantations. At verification, RIMA did not provide information to support its claim for costs incurred for self-produced charcoal and for costs incurred for charcoal acquired from related suppliers. Instead, RIMA suggested that the Department value all charcoal consumed during the POR using the replacement cost of monthly purchases from related suppliers. Therefore, as representational figures in this case, we used the relative quantity and value of charcoal purchased from related and unrelated suppliers during the month of April 1993 as BIA to increase charcoal costs (see cost verification exhibit 15). Furthermore, we reviewed the information on the record and not that RIMA reported monthly per-unit prices of charcoal in its submitted inventory holding gain and loss calculation, but did not submit information on the quantity of charcoal purchased from related and unrelated suppliers (see most verification exhibit 13). Therefore, contrary to RIMA's statement, the Department could not calculate monthly charcoal adjustments for any month other than April 1993.

As for the petitioners' concern about waste, in these final results of review we have increased RIMA's quartz quantity based on the waste factor provided by RIMA officials at verification. (*See* cost verification report, p. 3.)

Comment 22: RIMA states that there is a discrepancy between the cost spreadsheet from the preliminary results analysis memorandum and the computer printout that calculated the margins. It claims that the COM in the computer printout is approximately ten percent higher than the spreadsheet. RIMA argues that this error should be corrected in the final results.

Department's Position: In its case brief, RIMA cited to no specific numbers in the computer program that vary from the COP spreadsheet. Nevertheless, we have extensively reviewed the computer program used to calculate the margins for the preliminary results for any possible errors with regard to COM, and we have found none. We believe that RIMA's confusion may be due to the fact that the variable COM on the computer output pages labeled ''Constructed Value Profit'' of the margin calculation program is the COM of the month of payment, rather than the COM of the month of sale.

Comment 23: RIMA argues that the Department erred by not making an adjustment for inventory holding gains and losses. It states that this adjustment is necessary in order to account for short-term inventory gains that accrue when using a replacement cost accounting system, as was done in this administrative review. Furthermore, RIMA argues that it is not clear from the decision memorandum what the perceived defect is in the inventory holding figures that RIMA reported. RIMA speculates that the apparent problem is that the Department has changed methodologies between the original investigation and this review. RIMA claims that the Department cannot ask for data, verify the data, and then use a methodology that does not use the data.

Petitioners argue that the Department correctly rejected RIMA's inventory holding gain and loss calculation because RIMA had failed to follow the Department's methodology for calculating inventory holding gains and losses in a hyperinflationary economy. Petitioners cite the Department's preliminary results analysis memorandum (p. 7) to document that the Department determined that RIMA had failed to properly layer the inventory and to value it at the production cost for each month. Thus, petitioners argue, the Department's basis for rejecting RIMA's calculation was not because the Department had changed methodologies. Petitioners further argue that because RIMA submitted inaccurate information, the Department is required not only to reject RIMA's inventory carrying gains/losses calculation, but to resort to BIA for RIMA's inventory holding gains and losses.

Department's Position: We reviewed RIMA's inventory gains and losses calculation and found certain inconsistencies which render that calculation unacceptable. In its calculation, RIMA failed to follow our instructions to layer inventory by month, and identify when the finished goods and direct materials were produced or purchased (See question C.5 of the questionnaire and cost verification exhibit 13). RIMA cannot shift the burden of correcting the calculation to the Department when, as here, doing so would require substantial inventory identification and the performance of numerous recalculation. (*See, e.g., Chinsung Indus, Co., Ltd.* v. *United States*, 705 F. Supp. 598 (February 7, 1989.) Thus, we have denied RIMA an adjustment for inventory carrying gains/losses. Furthermore, we do not agree with petitioners that we must use BIA. There is no legal or policy precedent which requires the Department to resort to BIA when we deny an adjustment that a respondent failed to accurately and adequately substantiate.

Comment 24: RIMA argues that the Department double-counted its credit expenses in the cost test by imputing them to COP and also deducting credit from the home market price compared to COP.

Petitoners argue that, contrary to RIMA's assertion, the Department did not reduce home market price by a credit adjustment prior to performing the cost test. The analysis memorandum and the computer program used to calculate the preliminary results of review both indicate, petitioners' argue, that the only adjustment the Department made to the home market price before comparing the price to the COP of the month of payment is that for the ICMS tax.

Department's Position: We agree with petitioners. In the preliminary results of review we made no deduction of credit from the home market selling price before comparing the price to COP. Thus, we did not double-count RIMA's credit expenses.

Comment 25: CBCC argues that the Department erred in performing the cost test when it applied a deflator to CBCC's home market selling prices before comparing them to the COP. It argues that because nothing on the record defines the deflator or explains its use, it should be removed from the computer program because its use was not in accordance with law.

Department's Position: We agree in part. In the preliminary results of review we compared CBCC's home market selling prices, net of adjustments, to the COP for the month of payment. This information was contained on page 4 of the preliminary results analysis memorandum for CBCC. Inadvertently omitted from the analysis memorandum (but included in the analysis memoranda for other respondents in this review) was the explanation that for sales with payment dates after the POR, we performed the cost test by comparing the COP of the last month of the review period to a deflated sales price. We have followed this methodology in these final results of review as we did in the preliminary results of review. The specifics of how we calculated the deflator are contained in the final results analysis memorandum for CBCC. However, in the computer program used to calculate the preliminary results of review, we mistakenly applied the deflator to all home market sales, and not just those with payment dates after the POR. We have corrected this error in these final results of review.

Comment 26: CBCC argues that the Department erred in calculating the direct selling expenses used in computing its COP/CV. These selling expenses consist of three elements: shipping, warehousing, and commission. CBCC states that the Department's computation of shipping expenses incorrectly included shipping expenses for all products that CBCC produces, and not just silicon metal. CBCC argues that in the final results, the Department should allocate shipping expenses to silicon metal based on the volume of silicon metal shipped as a percentage of shipments of all products. With respect to warehousing, CBCC argues that it incurs no warehousing expenses on its domestic sales; therefore, warehousing should not be considered a home market direct selling expense. Furthermore, in the computation of CV, warehousing expenses (which are all incurred on exports) are already included in the computation of the foreign unit price in dollars. Thus, by also including them in the calculation of CV, warehousing expenses are double-counted. With respect to commissions, CBCC argues that it incurs no commission in the home market on sales of silicon metal, and that, therefore, commissions also should not be included as direct selling expenses.

Petitioners argue that the Department should not consider the arguments CBCC has set forth in support of its position because they are untimely and unsupported. The antidumping questionnaire to which CBCC responded, petitioners state, requests CBCC to report selling expenses ''associated with the same general class or kind of merchandise sold in the home market/third country.'' The arguments in CBCC's case brief, which CBCC failed to supply in its questionnaire response are, according to petitioners, based on untimely information which the Department is obliged under its regulations not to consider. Moreover, petitioners argue that CBCC's proposed methodology for reducing shipping costs is flawed because it is based on quantities produced, and not on quantities sold.

Department's Position: We have reviewed the record of this proceeding and determined that the information CBCC submitted in its case brief is not new information. Contrary to petitioners' assertions, CBCC did provide this information in its November 1, 1993, questionnaire response (pp. 8, 9, 23, and exhibit 11). We agree with CBCC that because it incurs no warehousing expenses on sales of silicon metal in the home market and pays no commissions in the home market, these expenses should not be included in its COP/CV for silicon metal. Because we have removed warehousing expenses from COP/CV, they are not double-counted in these final results of review. Furthermore, the Department does not treat shipping expenses as direct selling expenses. *See Color Televisions Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 55 FR 26225, 26230 (June 27, 1990), where we stated that inland freight was a movement expense, and not part of selling, general, and administrative expense. Therefore, because CBCC incurred no direct selling expenses on its home market sales of silicon metal, we have removed the selling expense category from the calculation of COP/CV.

Comment 27: CBCC argues that the Department incorrectly calculated CBCC's general and administrative (G&A) expenses. It states that, in the preliminary results, the Department divided the financial statement G&A by the financial statement cost of goods sold (both of which were calculated on a historical cost basis), and multiplied the resulting percentage by the replacement cost COM for each month. CBCC states that this methodology was explicitly found deficient by the CIT on an appeal of the initial investigation in this case. There, CBCC states, the CIT remanded the case to the Department and directed it to use a consistent criterion. As a result, the percentage or ratio of G&A expenses to historical cost in the financial statement had to be applied to the historical cost of silicon metal in each respective month of the POR. CBCC argues that the Department should do the same in this review.

Petitioners argue that the CIT decision relied upon by CBCC has been vacated by the U.S. Court of Appeals for the Federal Circuit (CAFC). (*See Camargo Corrêa Metais, S.A.* v. *United States*, 52 F.3d 1040 (Fed. Cir. April 17, 1995).) As a result, petitioners argue, CBCC's argument should be rejected, and the Department should calculate monthly G&A and financial expenses for all respondents based on replacement COM in accordance with its long-established practice prior to the CIT decision relied upon by CBCC.

Department's Position: We agree, in part, with both the respondent and the petitioners. First, the petitioner is current that the CIT decision has been vacated by the CAFC. Therefore, we could calculate monthly C&A and financial expenses for all respondents based on replacement COM in accordance with our establishment practice prior to the CIT decision. However, CBCC correctly points out that this methodology does not use a consistent criterion. Therefore, we recalculated CBCC's G&A factor on a replacement cost basis. We readjusted CBCC's G&A factor on a company-wide annual basis by indexing CBCC's submitted monthly nominal G&A and cost of sales figures. The purpose of indexing the respondent's monthly figures is to obtain values at a uniform price level because the simple addition of monthly nominal values during a period of high inflation would yield a meaningless result. We then divided the indexed G&A figure by the indexed cost of sales figure to derive the company's annual G&A factor on a replacement cost basis. We then multiplied this factor by the monthly replacement COM. For these final results, the Department used this method to calculate G&A factors for all respondents except Eletrosilex because it submitted a constant purchasing power, audited financial statement.

Comment 28: CBCC argues that the Department double-counted its credit expenses by imputing them to COP and also deducting credit from the home market price compared to COP.

Petitioners argue that, contrary to CBCC's assertion, the Department did not reduce home market price by a credit adjustment prior to performing the cost test. The analysis memorandum and the computer program used to calculate the preliminary results of review both indicate, petitioners argue, that the only adjustment the Department made to the home market price before comparing the price to the COP for the month of payment is that for the ICMS tax.

Department's Position: We agree with petitioners. In the preliminary results of review we made no deduction of credit from the home market selling price before comparing the price to COP. Thus, we did not double-count CBCC's credit expenses.

Comment 29: CBCC argues that the Department incorrectly calculated CBCC's financial expenses by using an interest factor based on historical cost multiplied by the monthly replacement COM. CBCC contends that this method is contrary to the CIT decision in the initial investigation of this case. CBCC also argues that the Department should not consolidate CBCC's financial expenses with those of its parent company, Solvay do Brasil (Slovay), because CBCC incurred no financial expense during 1992 and 1993. Furthermore, CBCC states that Slovay's financial expenses do not relate to the production of silicon metal.

The petitioners contend that the Department's interest calculation is permissible since the CIT ruling was subsequently vacated by the CAFC. Furthermore, the petitioners argue that the Department correctly consolidated the financial expense. To support its argument the petitioners cite the *Final Determination of Sales at Less Than Fair Value: New Minivans from Japan*, 57 FR 21937, 21946 (May 26, 1992), in which the Department said its practice "is based on the fact that the group's parent, primary operating company, or other controlling entity, because of its influential ownership interest, has the power to determine the capital structure of each member within the group." The petitioners also cite *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand*, 57 FR 21065, 21069 (May 18, 1992), in which the Department said that it "is the Department's policy to combine the financing activities of a parent or subsidiary when the parent exercises control over the subsidiary (*i.e.*, meets the requirements for consolidation)." Therefore, the petitioners argue that consolidating the financial statements of CBCC and Solvay is justified because Solvay has a controlling interest in CBCC, and thus has the power to decide the composition of CBCC's capital structure. Finally, the petitioners believe that the Department's interest calculation incorrectly subtracted CBCC's total financial revenue from its total financial expenses. The petitioners argue that the correct method is to subtract only the short-term interest income from CBCC's financing costs.

Department's Position: We disagree with CBCC's claim that its interest factor should be based on only historical figures. The Department's preferred methodology is to calculate CBCC's interest factor on a replacement cost basis (see Department's Position to comment 27 for details on this methodology). However, in this case we do not have the necessary information on the record to index monthly interest costs. Therefore, we calculated financial expenses based on our established practice prior to the CIT decision because it is still a viable method (see comment 27 for details). *See Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review*, 59 FR 42806 (August 19, 1994).

Regarding CBCC's argument that we should not have consolidated the interest expenses of CBCC with Solvay, we agree with the petitioners that CBCC should report interest expenses on a consolidated basis regardless of what they produce. We maintain that the cost of capital is fungible, and we allocate a proportional share of interest expenses to all goods produced by a respondent during the POR. The Department considers financing expenses to be costs incurred for the general operations of the corporation. We recognize the fungible nature of a corporation's invested capital resources, including debt and equity, and we do not allocate corporate financing expenses to individual divisions of a corporation on the basis of sales per division. Instead, we allocate the interest expense related to the debt portion of the capitalization of the corporation, as we appropriate, to the total operations of the consolidated corporation. This consolidation methodology is consistent with our longstanding practice for computing interest expense in cases involving parent-subsidiary corporate relationships. *See, e.g., Final Determination of Sales at Less Than Fair Value, Small Business Telephones from Korea*, 54 FR 53141, 53149 (December 27, 1989). Therefore, for these final results we calculated net financing costs on a consolidated basis.

Regarding CBCC's claim that it is inappropriate to use consolidated interest figures because CBCC has no debt, we note that this argument fails to take into consideration any borrowing costs associated with Solvay's initial and subsequent capital investment in the company. CBCC maintains that all interest expenses incurred by Solvay pertain solely to the parent's operations. Under this principle, CBCC would have us accept that its parent funds its own operations from borrowing while, at the same time, funding its investment in CBCC solely through equity capital. Such a principle ignores the fact that Solvay's capital structure is comprised of both debt and equity. Therefore, it is neither possible, nor appropriate, in our analysis to allow the company to pick and chose which portions of its parent's operation should incur the additional interest costs associated with borrowed funds.

Regarding petitioners' claim that financing costs should not be reduced by interest income, we note that during verification we confirmed that Solvay's audited interest income figure was derived from only short-term investments. (See cost verification exhibit 19.) We noted no discrepancies. Therefore, we allowed Solvay to offset financing costs by the reported interest income.

Comment 30: CBCC alleges that the Department applied an incorrect criterion for profit in the CV calculation. It states that, although it is impossible to determine from the disclosure documents the source of the profit calculations, the profit margins indicated in the output of the computer program suggest that there was a programming error.

Department's Position: The profit calculation was skewed in the preliminary results of review because we calculated a profit ratio using cost and revenue data computed over the entire POR. Because Brazil was a hyperinflationary economy during the POR, we have, in these final results of review, calculated a profit ratio for each month of the review period using cost and revenue data calculated on a monthly basis. We then weight-averaged these profit ratios to calculate an annual profit ratio. For any respondent whose profit ratio was greater than eight percent, we used the actual profit ratio in the computation of profit for CV. For any respondent whose profit ratio was less than eight percent, we used the statutory minimum of eight percent.

Comment 31: CBCC argues that the Department incorrectly calculated the FMV for March 1993. It states that the CV for March 1993, according to the expanded sales listing of the program output, is one figure, whereas the FMV used in the margin calculation for the same month is a different figure. CBCC argues that the disclosure documents do not explain the reason for the differences in the two figures, and therefore, CBCC concludes that there was an error either in the program or in the criteria employed.

Department's Position: We have reviewed extensively the computer program and output, including the expanded sales listing for March 1993, and have been unable to determined why CBCC believes the CV for March 1993 is the figure that it cites in its case brief. This figure appears nowhere in the output. Therefore, we found no error in the computer program based on this comment from CBCC.

Comment 32: Eletrosilex argues that the Department erred in calculating its imputed credit expense by using the short-term interest rates charged by the state bank of Minas Gerais. It states that it reported its own actual short-term borrowing rates, and that these rates should have been used in the imputed credit calculation. Use of the exogenous rates, Eletrosilex argues, inflated the determination of CV and distorted the CV in a manner prejudicial to Eletrosilex.

Petitioners argue that it is the Department's policy to calculate home market imputed credit expenses based on an interest rate tied to the currency in which the home market sales were made. (*See Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Mexico*, 57 FR 42953, 42956 (September 17, 1992) and *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolle Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Belgium*, 58 FR 37083, 37089 (July 9, 1993).) Because Eletrosilex's home market prices were invoiced in Brazilian currency and the interest rates that Eletrosilex reported were for loans denominated in U.S. dollars, petitioners argue that the Department was correct in not using Eletrosilex's reported rates for home market imputed credit. For the final results, petitioners claim that the Department should continue to use a home market interest rate denominated in Brazilian currency to calculate home market credit expenses. Moreover, petitioners argue that in the preliminary results the Department erroneously divided a monthly interest rate by 365 instead of 30 days, and that this error should be corrected in the final results.

Department's Position: We agree with petitioners that because the loans Eletrosilex reported were loans denominated in U.S. dollars, we cannot use the interest rates on those loans for calculations involving Brazilian currency. *See Notice of Final Determination of Sales at less Than Fair Value and Negative Critical Circumstances Determination: Disposable Pocket Lighters from Thailand*, 60 FR 14263, 14269 (March 16, 1995); *Final Determination of Sales at Less Than Fair Value*; *Fresh Cut Roses from Colombia*, 60 FR 6980, 6998 (February 6, 1995). Therefore, for the computation of home market credit, we have used the short-term interest rates charged by the state bank of Minas Gerais, as we did for the preliminary results. In these final results of review, we have, however, applied Eletrosilex's U.S. dollar-denominated interest rates to its calculation of U.S. imputed credit. We also agree with the petitioners that because the interest rates used in the calculation are monthly rates, the denominator should be 30, rather than 365. We have corrected this error in these final results of review.

Comment 33: Eletrosilex argues that the Department erred in not granting an inventory carrying cost offset to its CV financing costs. Eletrosilex argues that in making a CV calculation the Department uses annualized calculations for G&A and interest expense. Therefore, there is no sound reason for the Department to ignore an accurate calculation designed to make the CV calculation conform as closely as possible to reality.

Department's Position: We disagree with Eletrosilex. For the final results, we disallowed Eletrosilex's submitted CV inventory carrying cost offset because the company's POR sales were purchase price transactions, and not exporter's sales price transactions (see Eletrosilex's November 1, 1993, submission, p. 17). Thus, the inventory carrying cost offset is not a factor.

Comment 34: Petitioners argue that because Eletrosilex failed to properly layer its inventory, the Department was correct in rejecting Eletrosilex's reported inventory holding gains/losses calculation. Petitioners argue that in its calculation, Eletrosilex also failed to report beginning inventory for one of the months for charcoal, wood, quartz, and electrodes. Furthermore, according to petitioners, Eletrosilex also calculated inventory holding gains/losses for only direct materials, and not for secondary materials or for finished goods. Moreover, petitioners argue, because Eletrosilex's calculation was inaccurate and incomplete, the Department is required to use BIA for Eletrosilex's inventory holding gains/losses.

Department's Position: We rejected Eletrosilex's submitted inventory holding gains and losses calculation because we found certain inconsistencies which render that calculation unacceptable. In its calculation, Eletrosilex failed to follow our questionnaire instructions to layer inventory by month, and identify when the finished goods and direct materials were produced or purchased (see question C.5 of the Department's questionnaire and cost verification exhibit 22). As explained with respect to RIMA in comment 23, Eletrosilex cannot shift to the Department the burden of correcting the calculation where, as here, doing so would require substantial inventory identification and the performance of numerous calculations. Thus, we have denied Eletrosilex and adjustment for inventory carrying gains/losses. Furthermore, we do not agree with petitioners that we must use BIA. There is no legal or policy precedent which requires the Department to resort to BIA when we deny an adjustment that a respondent failed to accurately and adequately substantiate.

Comment 35: Eletrosilex argues that the preliminary results analysis memorandum shows that in making adjustments for secondary material replacement costs, the Department improperly transcribed numbers for the months of September and October under column ''b.''

Department's Position: We agree, and corrected this error in these final results of review.

Comment 36: Eletrosilex argues that the Department double-counted some of its G&A expenses. It claims that this occurred because of Eletrosilex's bookkeeping method. Eletrosilex states that it included in its variable and fixed overhead some of the salaries and costs attributable to administrative functions at its manufacturing facility at Copitao Eneas. However, Eletrosilex's auditors did not consider these costs to be variable and fixed factory overhead, and included them instead in G&A. Thus, they were included in both Eletrosilex's reported factory overhead and in the G&A expenses recorded on its audited financial statement. Because the Department's methodology for calculating G&A was to devise a ratio of G&A to cost of goods sold, utilizing figures drawn from the financial statements, and multiplying the ratio by Eletrosilex's COM (which includes overhead), Eletrosilex argues that the salaries and costs attributable to administrative functions at its manufacturing facility at Copitao Eneas were, in effect, double-counted. Therefore, these costs should be removed from the COM. Doing so would also lower Eletrosilex's calculated interest expenses, Eletrosilex argues, because these too were calculated by applying a ration to the COM.

Petitioners argue that there is no evidence on the record of this review to support the claim that Eletrosilex included salaries and costs attributable to administrative functions at its Copitao Eneas facility in its reported fixed or variable overhead. This information was first submitted, petitioners argue, in Eletrosilex's case brief and, therefore, to accept this information would be a violation of 19 CFR § 353.31(a)(3).

Department's Position: We reviewed the schedules provided by Eletrosilex and concur that our preliminary adjustment overstates cost. However, the Department does not believe that Eletrosilex's suggestion of reducing submitted COM is the best way to correct the cost overstatement. Instead, we have reduced the G&A figure used to calculate the Department's G&A factor by the amount of the salaries and costs attributable to administrative functions. We used this methodology because these production costs were correctly submitted as a cost of manufacturing. Furthermore, we adjusted the cost-of-sales figures used in both the G&A and interest factor calculation to account for Eletrosilex's reclassification of costs.

With regard to petitioners' argument that Eletrosilex's information is untimely and therefore in violation of 19 CFR § 353.31(a)(3), we have determined that the respondent's information is already on the record of this review. It can be found in cost verification exhibit 7 and in exhibit 5 of the June 10, 1994 submission. Therefore, we have allowed this information to remain on the record of this review.

Comment 37: Eletrosilex argues that the test for sales below cost was flawed due to errors in methodology, analysis, and transcription. First, it claims that each of the errors noted in comments 32–36 are applicable to the Department's computation of COP. Eletrosilex claims that the correction of these errors will result in a substantially reduced COP. Second, according to Eletrosilex, the Department erred in its calculation of the home market price to be compared to COP by deducting a charge for home market credit using the short-term interest rate charged by the state bank of Minas Gerais, rather than Eletrosilex's own actual short-term borrowing rate. Third, Eletrosilex argues that the Department erred in not comparing home market sales price at the time of sale to the COP for the month of sale. With hyperinflation, that comparison is truer than using the month of payment and a deflation index.

Petitioners argue, with regard to the last point, that Eletrosilex reported in its November 1, 1993, questionnaire response (at 16) that the home market sales prices reported in its sales listing are ''increased to incorporate the projected inflation rate between the date of sale and the actual date of payment.'' In light of this method of reporting, petitioners claim that it would be improper to compare Eletrosilex's unadjusted prices at the time of sale to its COP for the month of sale because it is the Department's practice to subtract inflation adjustments from the home market sales prices used in the COP comparison when those prices include adjustments for anticipated inflation (See *Ferrosilicon from Brazil, Notice of Amended Final Determination of Sales at Less Than Fair Value,* 59 FR 8598, February 23, 1994) (*Ferrosilicon from Brazil Amended Final Determination*).

Department's Position: With regard to Eletrosilex's first point, the Department applied to the cost test the same determinations that it made with respect to CV as described in our responses to comments 33–36. The issue Eletrosilex raised in comment 32 does not apply to COP because we do not use any imputed values in the computation of COP. With respect to Eletrosilex's second point, we used the same interest rate to calculate credit (which we deducted from the price to be compared to COP) that we used in the computation of credit that we included in CV. Therefore, see Department's position to comment 32, where this issue is addressed with respect to CV. With regard to Eletrosilex's third point, we agree with petitioners that the record indicates that Eletrosilex's selling prices include an element for anticipated inflation between the date of sale and the date of payment, and that it would, therefore, be incorrect to compare Eletrosilex's unadjusted prices at the time of sale to the COP of the month of sale. *See Ferrosilicon from Brazil Amended Final Determination.* Hence, in these final results of review, as in the preliminary results of review, we have compared Eletrosilex's home market prices to the COP of the month of payment.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margins exist for the period July 1, 1992, through June 30, 1993:

Manufacturer/Exporter	Margin (percent)
CBCC	16.81
Minasligas	0.00
Eletrosilex	0.00
RIMA	31.60

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results of review for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act, and will remain in effect until the final results of the next administrative review:

(1) The cash deposits rates for the reviewed companies will be those rates listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacture of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this or any previous review conducted by the Department, the cash deposit rate will be 91.06 percent, the ''all others'' rate established in the LTFV investigation.

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

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: August 27, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–22679 Filed 9–4–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–351–806]

Silicon Metal From Brazil; Preliminary Results of Antidumping Duty Administrative Review, Intent To Revoke in Part, and Intent Not To Revoke in Part

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

ACTION: Notice of preliminary results of antidumping duty administrative review, intent to revoke in part, and intent not to revoke in part.

SUMMARY: In response to requests from petitioners and five respondents, the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on silicon metal from Brazil. This review covers five manufacturers/exporters and the period July 1, 1993, through June 30, 1994. The review indicates that one of the companies had a margin during the period of review, and that three of the companies had no margins during the period for review. Our review also indicates that one company had no shipments during the period of review.

We intend to revoke the order for Companhia Ferroligas Minas Gerasis—Minasligas (Minasligas). We have preliminarily determined that Minasligas has not sold the subject merchandise at less than foreign market value (FMV) in this review and for at least three consecutive administrative review periods, and that it is not likely that Minasligas will sell the subject merchandise at less than FMV in the future. Minasligas has also submitted a certification that it will not sell to the United States at less than FMV in the future, and has agreed in writing to its immediate reinstatement in the order if the Secretary concludes under 19 CFR § 353.22(f) that subsequent to revocation Minasligas sold the merchandise at less than FMV.

We do not intend to revoke the order with respect to Companhia Brasileira Carbureto de Cálcio (CBCC). CBCC submitted an untimely request for revocation. Furthermore, in the final results of our most recently completed administrative review of this order, CBCC had a margin that was greater than *de minimis.* Therefore, CBCC does not qualify for revocation.

We have preliminarily determined that sales have been made below the FMV for one company. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between United States price (USP) and the FMV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: September 5, 1996.

FOR FURTHER INFORMATION CONTACT: Fred Baker or John Kugelman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5253.

Applicable Statute: Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1991, the Department published in the Federal Register (56 FR 36135) the antidumping duty order on silicon metal from Brazil. On July 1, 1994, the Department published (59 FR 33951) a notice of ''Opportunity to Request an Administrative Review'' of this antidumping duty order for the period July 1, 1993, through June 30, 1994. We received timely requests for review from CBCC, Minasligas, Eletrosilex Belo Horizonte (Eletrosilex), Rima Industrial S.A. (RIMA), and Camargo Corrêa Metais S.A. (CCM). We also received a request for review of the same five manufacturers/exporters of