qualified large businesses and qualified small businesses appropriate incentives to encourage business activity in areas of general economic distress. The guidelines are proposed in accordance with the President's Executive Order 13005 entitle, ''Empowerment Contracting.'' The standards set forth in the proposed guidelines will serve as the basis for a proposed revision to the Federal Acquisition Regulation (FAR). Information obtained from public comment on the guidelines will be used to help draft the proposed FAR revision.

DATES: Comments must be submitted on or before January 6, 1997.

ADDRESSES: Comments may be mailed to the Department of Commerce, Office of the Assistance General Counsel for Finance and Litigation, Room 5896, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Joe Levine, 202–482–1071.

Dated: November 27, 1996.

Lawrence Parks,

Director, Office of Regional Growth.

[FR Doc. 96–30839 Filed 12–3–96; 8:45 am]

BILLING CODE 3510–17–M

International Trade Administration

[A–351–820]

Ferrosilicon From Brazil: Extension of Time Limits of Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limits of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results in the administrative review of the antidumping duty order on ferrosilicon from Brazil, covering the period March 1, 1995 through February 29, 1996.

EFFECTIVE DATE: December 4, 1996.

FOR FURTHER INFORMATION CONTACT: Sal Tauhidi or Wendy Frankel, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, DC. 20230; telephone: (202) 482–4851 or (202) 482–5849.

SUPPLEMENTARY INFORMATION: On April 25, 1996, the Department initiated this administrative review of the antidumping duty order on ferrosilicon from Brazil. The current time limits are December 2, 1996 for the preliminary results and March 31, 1997 for the final results. Because it is not practicable to complete this review within the original time limits as mandated by section 751(a)(3)(A) of the Tariff Act of 1930 (as amended by the Uruguay Round Agreements Act), the Department is extending the time limits for the preliminary results to April 1, 1997. Accordingly, we will issue the final results by 120 days from the date of publication of the preliminary results.

These extensions are in accordance with section 751(a)(3)(A) of the Act.

Dated: November 26, 1996.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administrative.

[FR Doc. 96–30874 Filed 12–3–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–028]

Roller Chain, Other Than Bicycle, From Japan: Final Results of Antidumping Duty Administrative Review, and Determination Not To Revoke in Part

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

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

SUMMARY: On June 4, 1996, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (61 FR 28171). The review covers seven manufacturers/exporters of the subject merchandise to the United States and the period April 1, 1994 through March 31, 1995. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: December 4, 1996.

FOR FURTHER INFORMATION CONTACT: Jack Dulberger, Matthew Blaskovich, Ron Trentham or Zev Primor, AD/CVD Enforcement, Group II, 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 June 4, 1996, the Department published in the Federal Register (61 FR 28168) the preliminary results and intent to revoke the order in part of the administrative review (Preliminary Results) of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9226, April 12, 1973).

This review covers seven manufacturers/exporters: Daido Kogyo Co., Ltd. (Daido), Izumi Chain Manufacturing Co., Ltd. (Izumi), Enuma Chain Mfg. Co., Ltd. (Enuma), Hitachi Metals Techno Ltd. (Hitachi), Pulton Chain Co., Ltd. (Pulton), Peer Chain Company (Peer), and R.K. Excel. Hitachi, Pulton, and Peer made no shipments of the subject merchandise during the period of review and the review has been rescinded with respect to these companies. See Preliminary Results, 61 FR at 28171.

Although we preliminarily determined to revoke the finding in part with respect to Enuma and Daido, we have determined not to revoke the finding in regard to these companies because they have not sold the subject merchandise at not less than normal value (NV) in this review and for at least three consecutive review periods.

The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Scope of the Review

Imports covered by the reviews are shipments of roller chain, other than bicycle, from Japan. The term ''roller chain, other than bicycle,'' as used in these reviews includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings

are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyer chain.

These reviews also cover leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. These reviews further cover chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7315.11.00 through 7619.90.00. HTSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers seven manufacturers/exporters and the period April 1, 1994 through March 31, 1995 (POR).

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action (SAA) accompanying the URAA, (see H.R. Doc. No. 316, Vol. 1, Uruguay Round Trade Agreements, Texts of Agreements, Implementing Bill, Statement of Administrative Action, and Required Supporting Statements, 103rd Cong., 2nd Sess. (Sept 27, 1994), at 829–31), the Department will, to the extent practicable, calculate NV based on sales at the same level of trade as the EP or CEP. When the Department is unable to find sales of the foreign like product in the comparison market at the same level of trade as the EP or CEP, the Department may compare the EP or CEP to sales at a different level of trade in the comparison market.

In accordance with section 773(a)(7)(A) of the Act, if sales at allegedly different levels of trade are compared, the Department will adjust the NV to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling functions performed by the exporter at the level of trade of the U.S. sale and the level of trade of the comparison market sales used to determine NV. Second, the differences must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the country in which NV is determined.

Section 773(a)(7)(B) of the Act establishes that a CEP ''offset'' may be made when two conditions exist: (1) NV is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP; and (2) the data available do not provide an appropriate basis for a level-of-trade adjustment.

In order to determine that there is a difference in level of trade, the Department must find that two sales have been made at different phases of marketing, or the equivalent. Different phases of marketing necessarily involve differences in selling functions, but differences in selling functions are not alone sufficient to establish a difference in the level of trade. Similarly, seller and customer descriptions (such as ''distributor'' and ''wholesaler'') are useful in identifying what a party considers different levels of trade, but these titles are not sufficient by themselves to establish that there are these differences.

Pursuant to section 773(a)(7)(B)(i) of the Act and the SAA at 827, in identifying levels of trade for EP and home market sales, we considered the selling functions reflected in the starting price of these transactions before any adjustments. For CEP sales, we considered only the selling activities reflected in the constructed price, *i.e.*, after expenses and profit were deducted under section 772(d) of the Act. Whenever sales were made by or through an affiliated company or agent, we considered all selling activities by affiliated parties, except for those selling activities associated with the expenses deducted under section 772(d) of the Act in CEP situations.

In implementing these principles in this review, we obtained information about the selling activities of the producers/exporters associated with each phase of marketing or the equivalent. We then asked respondents to identify the specific differences and similarities that existed in selling functions and/or support services between marketing phases in the home market and marketing phases in the United States.

We considered all selling functions and activities reported in respondents' questionnaire response but found no single selling function sufficient to warrant distinguishing separate levels of trade in the home market (see Antidumping Duties; Countervailing Duties; Proposed Rule, 61 FR 7308, 7348).

Only two respondents, Daido and Enuma, claimed that there were different levels of trade between home market and U.S. CEP sales, and that either a level of trade adjustment for CEP sales, or a CEP offset, was warranted.

To test the claimed levels of trade, we analyzed, *inter alia,* the selling activities associated with the claimed marketing phases respondents reported. We determined that there were no substantive differences in the selling activities that were performed by Daido and Enuma with respect to either the home market sales or CEP. We concluded, therefore, that no difference in level of trade existed during the period of review. Accordingly, no adjustment to NV is warranted. An additional description of our level of trade analysis for Daido and Enuma is presented in the Department's position on Comment 9 below.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received timely comments and rebuttal comments from petitioner (the American Chain Association (ACA)), Izumi, Daido, Enuma, and R.K. Excel. Moreover, at the request of these parties, we held a hearing on July 22, 1996.

Comment 1: Petitioner strongly contests the Department's use of constructed value (CV) as a basis for facts available (FA) in the Department's margin calculations. Petitioner claims that use of CV only serves to reward Izumi's inability to provide the information requested by the Department. Petitioner argues that the refusal of Izumi's affiliated party to provide downstream sales information should be considered as a refusal by Izumi itself. Moreover, petitioner is concerned that should CV be utilized in regard to Izumi's affiliated party sales, an unavoidable policy problem would result for the Department in which foreign manufacturers would be permitted to ''screen out'' high-price transactions from the calculation of NV. Petitioner contends that ''* * * [a]ll a foreign manufacturer need do is channel high-price transactions through an affiliated reseller with the (tacit) understanding that the reseller will refuse to supply data on the resale transactions to unaffiliated customers.'' See Petitioner's letter of July 8, 1996 at 6.

Finally, petitioner concedes that although it cannot be established with certainty whether the downstream data would have produced a significantly higher margin for Izumi, it contends that an adverse inference in this regard is justifiable given the relationship between Izumi and its affiliated party. Petitioner therefore requests that the Department rely on the highest

transaction margin previously assigned to Izumi to make price-to-price comparisons for Izumi's margin calculations. See Department's May 28, 1996 Status Report.

Izumi contends that the Department's decision to use FA was neither reasonable nor necessary. However, Izumi concedes that, if FA is warranted, the Department should continue to use CV data as non-adverse FA. Izumi states that since Izumi has no ownership interest in or control over this party, it cannot assume responsibility for its affiliated party's actions, even though the affiliated party owns a certain percentage of Izumi's stock. Insofar as the Department has concurred with the fact that Izumi has been cooperative in this instant review, Izumi contends that the Department's decision to use CV cannot be considered to reward Izumi's inability to provide downstream sales information. Further, Izumi argues that petitioner's claim of the possibility of Izumi colluding with its affiliated party to screen out high price transactions is mere speculation. Izumi contends that it would not profit from such a scheme since it has no ownership interest in the affiliated party.

Department's Position: We agree with petitioner in part. We disagree with Izumi's contention that our decision to apply FA to its downstream sales was neither reasonable nor necessary.

Section 773(a)(5) of the Act provides that ''[i]f the foreign like product is sold or, in the absence of sales, offered for sale through an affiliated party, the prices at which the foreign like product is sold (or offered for sale) by such affiliated party may be used in determining normal value.'' See also 19 CFR § 353.45(b). Therefore, both the statute and our regulations authorize us to use downstream sales. Because Izumi failed to provide us with the requested downstream sales information, section 776(a) of the Act requires us to use the facts otherwise available in reaching a determination regarding downstream sales.

In reaching our determination we did not use an adverse inference because Izumi acted to the best of its ability to provide us with the downstream sales information. See Section 776(b) of the Act. The SAA outlines the options the Department has in determining what information it may use in applying FA. In situations requiring that we use non-adverse FA, the SAA states that ''* * * Commerce and the Commission must make their determination based on all evidence of record, weighing the record evidence to determine that which is most probative of the issue under consideration.'' See *SAA* at 869.

As FA, we have decided not to continue to base NV entirely on CV as we did in the preliminary results. Instead, we determined use of FA based on the following steps. First, we determined the weighted-average margin that resulted from price-to-price comparisons using sales to unrelated parties in the home market. Then, we identified those remaining U.S. sales that would be matched to Izumi's home market affiliated-party transactions. Based on this, we determined that these U.S. sales would have been matched to the downstream sales, had those transactions been provided, and as partial FA, we applied to those transactions the weighted-average margin representing price-to-price comparisons to unaffiliated parties. We continued to use CV for those U.S. transactions which would not have had matches in the home market had downstream sales been supplied.

Comment 2: Izumi requests that certain models of specialty chain sold in the United States should not be matched to models sold in the home market because a comparison is precluded by significant physical differences and different uses. Izumi claims that the Department's application of a 20 percent differences in merchandise (difmer) cap does not prevent skewed results. Izumi requests that the Department continue its practice in past reviews and match U.S. models in question to constructed value.

Petitioner contends that there is no evidence on the record which substantiates Izumi's claim that differences in scope and use exist between certain models sold in the United States and in Japan. Petitioner cites to the model match methodology used in the proceedings concerning antifriction bearings (AFBs) from the Federal Republic of Germany (FRG), in which all parties were able to submit detailed comments in regard to reported differences in physical characteristics in order to distinguish between various bearing models. Petitioner claims that since no such briefing process occurred for this review, the Department was justified in utilizing Izumi's model-match concordance for price-to-price comparison purposes.

Department's Position: We agree with petitioner. Our questionnaire specifically requested this information and Izumi had the opportunity in its questionnaire response to submit comments on the physical characteristics which differentiate between various models for matching purposes. Izumi chose to wait until after the publication of our preliminary results to submit this information. In the most recently completed results covering the POR 1992–1993, Izumi submitted its comments on the physical characteristics prior to the publication of our preliminary results and requested that certain models sold in the United States be matched to CV. Given the late stage of this proceeding, we cannot accept this data for CV matching purposes. Furthermore, there is no evidence on the record which would support Izumi's post-preliminary comments. See Section 353.31 of the Department's regulations. Therefore, we have determined to continue to use certain models sold in the home market in making price-to-price comparisons.

Comment 3: Petitioner states that the Department should determine whether Izumi's affiliated party resold the subject merchandise it purchased from Izumi to the United States. Petitioner states that any U.S. sales made by Izumi's affiliated party should be treated as either export price (EP) or constructed exporter price (CEP) transactions. Petitioner insists that Izumi and its affiliated party should be required by the Department to certify whether or not the affiliated party resold this merchandise to the United States.

Izumi contends that petitioner's allegations in this regard are mere speculation since there is no evidence on the record to indicate that Izumi had knowledge that merchandise sold in the home market was destined for export to the United States. Izumi further argues that as the Department rejected the same argument raised by petitioner in the 1991–1992 review, there is no need to revisit this issue. Izumi states that petitioner's insistence that it provide a certification regarding whether its affiliated party resold merchandise purchased from Izumi to the United States has no basis in statute or regulation.

Department's Position: We agree with Izumi. In a previous segment of this proceeding, petitioner raised this identical argument which we rejected as lacking merit since there was no indication on the record to support its allegations.

Izumi certified for this review that its U.S. and home market sales and distribution systems were reported in a complete and accurate manner. Further, there is no information on the record from which to conclude that merchandise Izumi sold to its affiliated party was subsequently resold to the United States. Therefore, we have determined that Izumi need not submit any additional certifications regarding possible U.S. sales its affiliated party may have made.

Comment 4: R.K. Excel claims that the Department incorrectly subtracted all yen-denominated adjustments to U.S. price from U.S. price without converting the reported amounts from yen into U.S. dollars.

Department's Position: We agree and have made the appropriate corrections.

Comment 5: R.K. Excel and petitioner maintain that the Department incorrectly calculated R.K. Excel's preliminary dumping margin based on gross U.S. price rather than net U.S. price.

Department's Position: We agree with R.K. Excel and petitioner and have made appropriate changes to the computer program.

Comment 6: R.K. Excel contends that the Department erred in treating advertising expenses for both home market and U.S. sales as indirect rather than direct selling expenses.

Department's Position: We agree and have made the appropriate adjustments.

Comment 7: R.K. Excel argues that when the Department did not find a matching home market sale in the same month as a U.S. sale, the Department's program did not accurately match to contemporaneous home market sales. As a result, R.K. Excel alleges that the Department ignored and did not calculate margins for U.S. sales with no matching home market sales in the same month but which did have matching home market sales in contemporaneous months.

Petitioner asserts that in calculating R.K. Excel's preliminary margin, the Department inappropriately ignored certain U.S. sales that did not have corresponding home market comparisons in the same month. In such instances, the petitioner contends that the Department should apply a ''facts available'' margin to these sales.

Department's Position: We agree with R.K. Excel and in accordance with the Department's established practice, have made the appropriate program corrections.

Comment 8: Enuma argues that the Department erroneously disregarded its further manufacturing (FM) cost information for the purpose of calculating CEP sales for Enuma. Enuma contends that the Department should not have rejected its FM cost allocation methodology because it is based directly on Enuma's material costs. Enuma requests that the Department recalculate the margin using its cost information instead of FA.

Enuma asserts that the inventory values for the attachment-equipped roller chain which it submitted as further manufacturing material costs represented transfer prices for the FM sales. In order to test these transfer prices, the Department obtained values for six attachment models representing the majority of FM sales, and compared these to Enuma's cost of production (COP) plus movement expenses. However, the Department later found that COP plus movement expenses for one of the six attachments exceeded the transfer price. Enuma argues that this below-COP transfer price was merely an ''aberrational value'' which did not represent the entire set of attachments. Enuma argues that the Department's general policy favors using affiliated party transfer prices where possible, and cites to: Certain Carbon and Alloy Steel Wire Rod from Canada; Preliminary Results of Antidumping Duty Administrative Review, 59 FR 18791 (April 20, 1994); and AFBs (Other than Tapered Roller Bearings (TRBs)) from the FRG, Final Results of Antidumping Duty Administrative Review, 54 FR 18992 (May 3, 1989).

Enuma further argues that the Department also wrongly rejected its methodology for allocating non-material FM costs, which it based on attachment material costs. DC claims that under the factual circumstances, which it claims are supported by one of the Department's verification reports, its allocation methodology for non-material FM costs is justified. Further, DC asserts that this method is ''more precise'' than the one the Department ''ordinarily requires.''

Petitioner responds that the Department's position is correct and asserts that the one-sixth finding ''represents a significant proportion of the total [attachments] test group.'' The Department could infer from this that other sales were probably also below COP. Petitioner argues that the Department was justified in concluding that the submitted transfer prices did not consistently reflect actual material costs of the attachments. The Department could justifiably find that DC's cost allocation methodology was likewise unreliable because it is based on unreliable material costs. The Department was correct in applying FA to these sales.

Department's Position: We agree with petitioner. We specifically requested, in both the original and supplemental questionnaires, that DC report its actual further manufacturing costs. DC chose not to follow our instructions. DC claims that it lacked actual costs for its FM merchandise and would be unable to provide COP for these attachments within the time provided for answering. DC instead used affiliated party transfer prices from Daido Tsusho (DT) to DC to value the attachments. DC provided the Department with sampling data with which to test arm's-length pricing of its attachments, claiming that this data represented a substantial portion of FM sales.

Based on our analysis of verification findings, however, we found a significant proportion of this sample to be below COP (one out of six attachments), which compromised the reliability of the transfer price information. We therefore determined that Enuma's transfer prices did not reflect true market value and were thus not reliable.

In addition, Enuma used these transfer prices as the basis for allocating total production costs of the FM merchandise (*i.e.,* direct labor, factory overhead, G&A, and interest expense). Because we found the transfer prices unreliable, we determined this costing methodology is unreliable as well. We concluded that Enuma's further manufacturing costs and calculation methodology were unreliable.

Comment 9: Petitioner argues that Daido and Enuma are not entitled to a CEP offset because the Department erred in its analysis of LOT and overlooked Daido and Enuma's failure to make the required factual showings. Petitioner requests that the Department disallow Daido and Enuma's CEP offsets.

Petitioner asserts that in order to qualify for the LOT adjustment, Daido and Enuma must establish that price differences exist between sales at different levels of trade in the country in which NV is determined (*i.e.,* the home market). Petitioner argues that the CEP transactions, after ''deduction of expenses and profits,'' are ''at the same level of trade as resales by a trading company,'' rather than at the ex-factory sale's level. In support of its argument, petitioner points out that Daido and Enuma reported sales to home market customers, including trading companies, and described all such customers as occupying the same LOT in the home market.

Petitioner asserts that Daido and Enuma failed to establish that their home market sales were exclusively to end users, and that they submitted evidence on the record of sales to trading companies (as well as to OEMs and local distributors) which, petitioner asserts, were sales the Department incorrectly characterized as made exclusively to end users. Petitioner concludes that Daido and Enuma sold to Japanese trading companies, including DT (a trading company that sold to the United States), and that therefore the CEP transactions (after adjustment) were at the same LOT as DT's EP sales.

Further, petitioner argues that Daido and Enuma failed to establish that they performed different selling functions for sales to home market trading companies than they performed for sales to DT. Finally, petitioner analyzes the home market LOTs in comparison with that of CEP sales, concluding that the CEP sales, not home market sales, category is at a more advanced distribution stage (*i.e.*, more remote from the factory). Petitioner thus concludes that Daido and Enuma are not eligible for the CEP offset.

Daido and Enuma contest each of petitioner's points regarding a LOT adjustment and the CEP offset and argue that the Department's position in the preliminary results is correct. They claim that sales in the two markets took place at different levels of trade and that a CEP offset is justified. Daido and Enuma contest the petitioner's contention that the CEP transactions (after adjustment) in question were at the same LOT as DT's EP sales. Instead, they assert that their adjusted CEP sales were made at the ex-factory level of trade, not at the level of a trading company. Daido and Enuma argue that the Department's Proposed Rules (Antidumping Duties; Countervailing Administrative Reviews; Time Limits, 60 FR 56141 (November 7, 1995)), and the Department's decision in AFBs (Other than TRBs) from France et al; Preliminary Results of Antidumping Duty Administrative Review, 61 FR 35718 (July 8, 1996) support this position.

Daido and Enuma counter that the petitioner's discussion of their affiliated party, DT, is irrelevant for the purpose of identifying the level of trade of CEP sales, according to the definition of the term ''CEP'' sales pursuant to 19 U.S.C. 1677a(b) as well as *Refined Antimony Trioxide from the PRC.* Additionally, Daido and Enuma argue that although they sold to various trading companies (DT and others), their particular sales to the affiliated party, DT, cannot be classified as home market sales. They conclude from this analysis that petitioner's labeling of DT's sales as home market sales is erroneous. They assert that the law considers Daido, Enuma, DC, and DT (which are all affiliated to one another) ''as one entity,'' and that it is their associated U.S. sales which are to be adjusted by ''deducting expenses and profits.'' Therefore, according to Daido and Enuma, the LOT of their CEP transactions is ex-factory. They conclude that the CEP transaction is at a different LOT than DT's EP sales.

Finally, Daido and Enuma argue that they performed selling activities for their home market sales which differed in quantity and type from activities performed for CEP sales, and that these differences establish their eligibility for a CEP offset.

Department's Position: We agree with the petitioner that Daido and Enuma have not demonstrated their eligibility for a CEP offset. As we described in the ''Level of Trade'' section of this notice, in order to determine whether different levels of trade exist within or between the U.S. and home markets, the Department examines the selling functions performed by Daido, Enuma, and other affiliates, if appropriate, as well as other factors that establish whether different phases of marketing exist in or between those markets.

Based on our analysis of Daido and Enuma's questionnaire responses, we identified the phase of marketing in the home market to be that of a distributor. Daido and Enuma stated that all three of its home market customer groups—trading companies, distributors, and original equipment manufacturers (OEMs)—made up ''only one channel of distribution in the home market'' (see Daido and Enuma Chain Questionnaire Response (March 20, 1995) at A–8, A–9), and that they performed the same selling services for all such customers. See Daido and Enuma Comments (July 15, 1996) at 2–3. As discussed below, however, Daido and Enuma provided no details as to the exact selling functions performed for each of these customer categories.

We found that Daido and Enuma sell to the U.S. market only through an affiliated, multi-party chain made up of DT, their affiliated trading company, and DC, their affiliated U.S. master distributor. For all CEP sales, Daido and Enuma sell to DT, which in turn resells to DC.

In addition, in calculating CEP for our preliminary results, we erroneously deducted indirect selling expenses (DINDIRSU) and inventory carrying costs (DINVCARU) incurred by DT and did not consider the selling activities of DT in determining the LOT of the CEP. However, these DT expenses are not ''associated with economic activities occurring in the United States'' (SAA at 823). Therefore, for these final results, we did not deduct these expenses in calculating CEP. Accordingly, we considered the selling activities of DT, as well as those of Daido and Enuma, in determining the LOT of the CEP.

Based on this analysis, we determined that CEP sales to DC constituted one phase of marketing (*i.e.*, that of sales to a distributor) and one level of trade. In comparing the home and U.S. markets, our analysis also indicated that Daido and Enuma's sales were at the same phase of marketing (*i.e.*, that of a distributor).

We proceeded to analyze the selling functions performed at the identified level of trade in each market. First, Daido and Enuma stated that they performed the same selling functions for all home market sales which ''include maintaining an inventory, technical consultations, arranging delivery to the customer,'' as well as preparing chain for shipment, processing sales orders, and billing.

In the U.S. market, we considered all selling activities of all affiliated parties for CEP sales, after disregarding selling activities associated with the selling expenses deducted under section 772(d) of the Act. For CEP sales, in addition to selling functions provided by Daido Corporation, we found that Daido/DT and Enuma/DT performed the additional selling functions of preparing chain for shipment, arranging its transportation from their plants to a Japanese port, carrying or maintaining inventory, administering sales, and billing.

We concluded that Daido and Enuma have not demonstrated that selling functions performed with respect to sales to the home market distributors were significantly different from those performed with respect to sales to distributor DC (*i.e.*, those associated with the CEP). Taken in conjunction with other indications of similar phases of marketing, we do not consider the CEP to be at a different level of trade than that of home market sales.

Further, even if different levels of trade were to be found, we agree with petitioner that, based on the facts on the record, home market sales have not been established to be at a LOT which constitutes a more advanced stage of distribution than the LOT of the CEP.

Comment 10: Enuma argues that the Department improperly applied its affiliated party sales test (sales test), and in so doing, improperly deleted home market sales to a certain affiliated home market customer. Enuma agrees that the sales test, which measures the ratio of prices charged to unaffiliated parties to prices charged to unaffiliated parties, results in a ratio below, albeit ''not much below'', the 99.5% level. Enuma argues that the Department is required to either formally promulgate the sales test as a rule pursuant to the Administrative Procedures Act (APA), or more fully explain its basis for disregarding affiliated party sales. Enuma asserts that this test is an official action taken by the Department similar to the *de minimis* rule at issue in *Carlisle Tire and Rubber Company* v.

United States, 872 F. Supp. 1000, 1003–1004 (CIT 1994) (*Carlisle*). Enuma contends that *Carlisle* held that prior to applying the *de minimis* rule, the Department was required to either conform to the APA or explain, in each instance, the rule's use. (Enuma contends that the Department subsequently complied by taking the former action). Enuma argues that since the Department failed to take the required actions, we should include affiliated sales in calculating NV.

Petitioner contends that the Department's position is correct. First, petitioner points to *Usinor Sacilor, Sollac and GTS* v. *United States,* 872 F. Supp. 1000, 1003–1004 (CIT 1994) (*Usinor*), where the CIT upheld the affiliated sales test. Secondly, petitioner asserts that the Department may rely on longstanding practice as it has in this review in making antidumping calculations.

Department's Position: Regarding the use of the 99.5 percent test, our regulations state that ''[i]f a producer or reseller sold such or similar merchandise to a person related as described in the Act, the Secretary ordinarily will calculate foreign market value based on that sale only if satisfied that the price is comparable to the price at which the producer or reseller sold such or similar merchandise to a person not related to the seller.'' 19 CFR § 353.45(a). Accordingly, our 99.5 percent test is a means of determining whether or not the price charged to affiliated customers is ''comparable'' to the price charged to unaffiliated customers. Implicit in both our regulations and the 99.5 percent test is a concern that prices charged to affiliated customers may not be based on market considerations. Thus, as we have stated elsewhere, ''if the customer-specific (affiliated/unaffiliated) price ratio was less than 99.5 percent, we determined that all sales to that (affiliated) customer were not arm's length transactions because, on average, that customer was paying less than [unaffiliated] customers for the same merchandise.'' See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, 58 FR 7066, 7069 (Feb. 4, 1993). We further note that this test has been upheld by the CIT, see *Usinor Sacilor* v. *United States,* 872 F. Supp. 1000, 1003 (CIT 1994), and we have continued to apply this test for these final results of review.

Comment 11: Petitioner, Daido, and Enuma assert that the Department made clerical errors in the margin programs for Daido and Enuma by comparing gross unit prices, instead of net sales prices, to the foreign unit prices in U.S. dollars (FUPDOL). These three parties request that the Department correct these errors in the final results of review.

Department's Position: We agree with petitioner, Daido, and Enuma. For these final results, we have made the corrections to the relevant portions of the margin programs for Daido and Enuma.

Comment 12: Petitioner requests that the Department revisit the rates assigned to Daido and Enuma as partial FA for certain U.S. sales, including those which were unreported, lacked model match and difference in merchandise information, as well as all further-manufactured sales.

Department's Position: We have revisited the rates assigned to Daido and Enuma as partial FA for certain U.S. sales, including those which were unreported, lacked model match and difference in merchandise information, as well as all further-manufactured sales. We have concluded that it is appropriate to continue to use as FA for these final results the highest rate calculated in this review for another company (11.18 percent).

Comment 13: Daido and Enuma argue that the Department erred in assigning FA to certain EP sales which the Department determined did not have contemporaneous matches in the home market. According to Daido and Enuma, ''matches for these sales almost certainly exist'' within their respective sales data submissions for the prior POR. Daido and Enuma argue that, in place of FA, we should match these EP sales with home market sales from the previous POR or delete them from the 1994–95 POR sales data base entirely.

Department's Position: We disagree with Daido and Enuma. First, Daido and Enuma had the opportunity to submit the sales data in question on the record of this proceeding. However, they failed to do so in a timely manner.

Second, the courts have long recognized that antidumping administrative reviews are separate and distinct proceedings and the results of the current review must be based on substantial evidence in the record of that review. See *e.g., NSK Ltd.* v. *United States,* 788 F. Supp. 1228, 1229 (CIT 1992). We decline to examine sales data from Daido and Enuma's submissions for the previous POR and continue to find that Daido and Enuma failed to report home market matches for the EP sales in question.

Additional Clerical Errors

In addition to the changes we made in response to the parties' comments above, we have corrected two inadvertent clerical errors as follows:

(a) We erroneously calculated the weighted-average indirect selling expense factor for Izumi's preliminary margin program, due to a decimal placement error; we made the appropriate correction.

(b) In analyzing Izumi's similar merchandise in the model match section of the program, we inadvertently failed to use the absolute values for the differences in merchandise percentage valuations. We have made the necessary correction.

Final Results of Review; Determination Not To Revoke the Antidumping Finding in Part

As a result of this review, we have determined that the following margins exist for the period April 1, 1994 through March 31, 1995:

Manufacturer/exporter	Margin (percent)
Izumi	11.18
R.K. Excel	0.16
Daido	1.14
Enuma	1.35

Based upon the fact that Daido and Enuma have not demonstrated three consecutive years of sales at not less than NV, we further determine that these companies have not met the requirements for revocation set forth in 19 CFR 353.25(a)(2)(i). Therefore, the Department is not revoking the finding with respect to these companies.

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

Furthermore, the following deposit requirements shall be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise from Japan that are entered or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the 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 less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 15.92 percent, the all others rate based on the first review conducted by the Department in which a ''new shipper'' rate was established in the final results of antidumping finding administrative review (48 FR 51801, November 14, 1983).

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 serves as the only 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 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulation 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 Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: November 25, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–30875 Filed 12–3–96; 8:45 am]

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[A–588–028]

Roller Chain, Other Than Bicycle, From Japan; Final Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of final results of antidumping duty administrative reviews.

SUMMARY: On June 4, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative reviews of the antidumping finding on roller chain, other than bicycle, from Japan. The reviews cover two manufacturers/exporters, Daido Kogyo, Ltd. (Daido), and Enuma Chain Mfg. Co., Ltd. (Enuma), of the subject merchandise to the United States during the period April 1, 1992 through March 31, 1993, and six manufacturers/exporters, Daido, Enuma, Hitachi Metals Techno Ltd. (Hitachi), Izumi Chain Manufacturing Co., Ltd. (Izumi), Pulton Chain Co., Ltd. (Pulton) and R.K. Excel, of this merchandise to the United States during the period April 1, 1993 through March 31, 1994.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and the correction of certain clerical errors, we have made certain changes to the final results of each review period. We will instruct U.S. Customs to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: December 4, 1996.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich, Jack Dulberger, Ron Trentham or Zev Primor, AD/CVD Enforcement, 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 June 4, 1996, the Department published in the Federal Register (61 FR 28171) the preliminary results of the above mentioned administrative reviews of the antidumping finding on roller chain, other than bicycle, from Japan. At the request of petitioner and five respondents, we held a hearing on July 22, 1996.

Applicable Statute and Regulations

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

Imports covered by the reviews are shipments of roller chain, other than bicycle, from Japan. The term ''roller chain, other than bicycle,'' as used in these reviews includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyer chain.

These reviews also cover leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. These reviews further cover chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7315.11.00 through 7619.90.00. HTSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The reviews cover the periods April 1, 1992 through March 31, 1993, and April 1, 1993 through March 31, 1994. The Department has now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Analysis of Comments Received

We invited interested parties to comment on the preliminary results of these administrative reviews. We received timely comments from the petitioner and all respondents except Hitachi.

Comment 1: Izumi claims that sales made to its related party were made at arm's-length. Izumi asserts that there is no statutory or regulatory requirement which mandates a certain threshold percentage of unrelated party sales in order to conduct an appropriate arm's-length test. Izumi therefore requests that the Department conduct an arm's-length test on its related party sales. If the Department cannot determine whether sales to its related party were made at arm's-length, Izumi argues that those sales should be disregarded for the purpose of calculating foreign market value and constructed value in the Department's margin calculations.

Department's Position: We disagree with Izumi. An arm's-length test in this proceeding would not produce reliable results because there was an insufficient number of unrelated party sales available for comparison to related party sales. While nothing in the statute