difference in levels of trade does not have a price effect and, therefore, no adjustment is necessary.

The statute also provides for an adjustment to NV when NV is based on a level of trade different from that of the CEP if the NV is more remote from the factory than the CEP and if we are unable to determine whether the difference in levels of trade between CEP level and NV level affects the comparability of their prices. This latter situation can occur where there is no home market level of trade equivalent to the U.S. sales level or where there is an equivalent home market level but the data are insufficient to support a conclusion on price effect. This adjustment, the ''CEP offset,'' is identified in section 773(a)(7)(B) of the Act and is the lower of the following:

- The indirect selling expenses on the home market sale, or
- The indirect selling expenses deducted from the starting price used to calculate CEP.

The CEP offset is not automatic each time we use CEP. The CEP offset is made only when the level of trade of the home market sale is more advanced than the level of trade of the U.S. (CEP) sale and there is not an appropriate basis for determining whether there is an effect on price comparability.

To determine whether an level-of-trade adjustment was appropriate, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and the Mexican markets, including the selling functions, classes of customer, and selling expenses for CEMEX and CDC. Upon consideration of these factors, the Department determined that there is one level-of-trade in the home market—sales of cement shipped to end-users and ready-mixers in bulk and bagged form—and a different level-of-trade in the U.S. market—sales to affiliated importers. Because there was only one level of trade in the home market, we were unable to perform the analysis for a level of trade adjustment. We further determined that Respondent's sales to end users and ready-mixers in the home market are at a more advanced level of trade than sales to affiliated importers in the United States because CEMEX and CDC perform more selling functions for sales to end-users and ready-mixers in the home market than for sales to affiliated importers in the United States. As a result, the Department has preliminarily determined to grant Respondent an adjustment to normal value in the form of a CEP offset.

Preliminary Results of Review

As a result of our review, we preliminarily determine the dumping margin for CEMEX for the period August 1, 1995, through July 31, 1996, to be 35.88 percent.

Interested parties may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish its final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 180 days after the date of publication of this notice.

Upon completion of this review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries.

The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate determined in the final results of review; (2) for previously reviewed or investigated companies not mentioned 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 in 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) the cash deposit rate for all other manufacturers or exporters will be 61.85 percent, the all others rate from the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary 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 dumping duties.

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

Dated: September 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–24000 Filed 9–9–97; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–502]

Certain Welded Carbon Standard Steel Pipes and Tubes From India; Final Results of New Shippers Antidumping Duty Administrative Review

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

ACTION: Notice of final results of new shippers antidumping duty administrative review.

SUMMARY: On May 1, 1997, the Department of Commerce published the preliminary results of a new shippers administrative review of the antidumping duty order on certain welded carbon steel standard pipes and tubes from India. The review covers two manufacturers/exporters. The period of review is May 1, 1995 through April 30, 1996.

Based on our analysis of the comments received, we have made changes, including corrections of certain inadvertent programming and clerical errors, in the margin calculations for Rajinder Pipes Ltd. and Lloyd's Metals & Engineers Ltd. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''*Final Results of Review.*''

EFFECTIVE DATE: September 10, 1997.

FOR FURTHER INFORMATION CONTACT: Davina Hashmi or Kristie Strecker, at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; Telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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

Background

On May 1, 1997, the Department of Commerce (the Department) published the preliminary results of a new shippers administrative review of the antidumping duty order on certain welded carbon steel standard pipes and tubes from India (62 FR 23760) (Preliminary Results). On May 30, 1997, we received briefs on behalf of Allied Tube & Conduit Corp., Sawhill Tubular Division of Armco, Inc., Wheatland Tube Co., and Laclede Steel Co. (petitioners), and Rajinder Pipes Ltd. (Rajinder). We received rebuttal briefs from petitioners, Rajinder Pipes Ltd., and Lloyd's Metals & Engineers (Lloyd's) on June 6, 1997. The Department has conducted this new shippers administrative review in accordance with section 751(a)(2)(B) of the Act.

This review covers Rajinder Pipes Ltd. (Rajinder) and Lloyd's Metals and Engineers (Lloyd's), and the period of review is May 1, 1995 through April 30, 1996.

Scope of Review

The products covered by this review include circular welded non-alloy steel pipes and tubes, of circular cross-section, with an outside diameter of 0.372 inch or more but not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon-steel pipes and tubes within the physical description outlined above are included in the scope of this order, except for line pipe, oil-country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.

Imports of the products covered by this review are currently classified under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain corrections that changed our results. We have corrected certain programming and clerical errors in our Preliminary Results, where applicable; they are discussed in the relevant comment sections below.

Comment 1

Petitioners contend that, based on the record developed in this new shippers review, Rajinder is not entitled to a duty-drawback adjustment to constructed export price (CEP). Petitioners state that there is little supporting documentation on the record with respect to the duty-drawback program to which Rajinder subscribes and that the information that is on the record is vague. Petitioners also argue that the record is void of evidence that Rajinder applied for or received duty drawback from the government for materials imported and used as inputs for the finished product exported to the United States. Petitioners state that the only evidence on the record supporting Rajinder's claimed duty drawback is a statement by Rajinder that it received a duty-drawback license.

In addition, petitioners contend that the Department applies a two-part test for determining whether an adjustment for duty drawback is appropriate, which petitioners contend Rajinder did not meet. First, petitioners maintain that the record does not indicate that import duties and rebates were directly linked to and dependent on one another. Second, petitioners also maintain that the record does not demonstrate that there were sufficient imports of raw materials (citing *Far East Machinery Co.* v *United States*, 699 F. Supp 309, 311 (CIT 1988); *Carlisle Tire & Rubber Co.* v *United States*, 657 F. Supp. 1287 (CIT 1987)).

Petitioners further contend that the Advanced License program at issue is an export-incentive program rather than a duty-drawback program. Petitioners argue that, under the Indian Advanced License program to which Rajinder subscribed, eligibility for the benefit was based on the act of exporting rather than the act of importing. Petitioners indicate that, in its supplemental questionnaire response, Rajinder termed the duty-drawback program as an ''export incentive'' program and that Rajinder stated that payment was carried in its financial books as an export-incentive program. Petitioners assert that the Advanced License program operates in a manner similar to export-restitution payments. Petitioners maintain that, as in *Sorbitol From France; Final Determination of Sales at Less Than Fair Value*, 47 FR 6459, 6460 (February 12, 1982), the Department found that export-restitution payments did not constitute a proper duty-drawback program and that the Court of International Trade (CIT) upheld the Department's decision denying drawback in the case where exporters of sorbitol were eligible for an export payment whether or not any import duties were paid.

Petitioners also contend that Rajinder's export-incentive program does not meet the requirement for an adjustment under the statute. Citing *Huffy* v. *United States*, 632 F. Supp. 50, 53 (CIT 1986), petitioners argue that the payment of duties on imported material must be a prerequisite to receipt of the export rebate in order to qualify for a duty-drawback adjustment.

Rajinder maintains that, in its questionnaire response, it stated that its claimed duty drawback is ''on the record''. Rajinder further states that, not only is there information on the record that a duty-drawback program exists in India, but the Department examined such information when it conducted a verification of Lloyds' claimed duty drawback. Rajinder also states that, despite the absence of ''documentary evidence'' on the record, it was ready and willing to provide evidence of its duty-drawback program at verification.

Rajinder deems petitioners' comment meaningless that eligibility for the benefit was based on the act of exporting a finished product, not on the act of importing a dutiable product. Rajinder maintains that, under the Advanced License program, the drawback benefit never accrues unless the product is exported. If a company imports raw materials duty-free and then fails to meet its export obligation, the company would be required to pay the duty on the imported material. Rajinder also states that, under the Advanced License program, there is a direct link between the imported material and the exported finished product because duty-free materials that may be imported are specified in the license and the materials imported must conform to the materials used in the finished export product. Rajinder points out that the Department granted adjustments for duty drawback in Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From India, 60 FR 10545, 10547 (February 27, 1995), and Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India, 59 FR 66915, 66919–20 (December 28, 1994), although in these cases adjustments were made to constructed value (CV).

Rajinder contends that the Advanced License program is different from cases which generally relate to export-restitution payments. Rajinder maintains that the Department affirmed that the Advanced License scheme is equivalent to a duty-drawback system in Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review, 61 FR 64687 (December 6, 1996).

Department's Position

Although we allowed it for the preliminary results, we have denied Rajinder's claimed duty drawback for these final results of review. In our supplemental questionnaire, we requested Rajinder to provide information demonstrating that it met our two-part test. In using this test, we consider: (a) whether the import duty and rebate are directly linked to, and dependent upon, one another; and (b) whether the company claiming the adjustment can show that there were sufficient imports of the imported raw materials to account for the drawback received on the exported product. This test has been upheld consistently by the Court of International Trade (CIT). See, *e.g., Federal-Mogul Corp.* v. *United States*, 862 F. Supp. 384, 409 (CIT 1994) (Federal-Mogul). Although we have recognized India's Advanced License program in other cases involving Indian companies exporting merchandise to the United States, Rajinder responded inadequately to our requests for further information regarding this claimed adjustment because its response did not contain the information we requested in our supplemental questionnaire. Rajinder only supplied a narrative description of the Advanced License program and a worksheet showing its duty-drawback calculations. Rajinder did not supply a copy of the Advanced License nor any evidence that a duty-drawback transaction occurred. Therefore, the record lacks any evidence supporting Rajinder's claimed duty drawback. Rajinder only stated that it applied for the license for duty drawback after the period of review (POR). Rajinder argued that we reviewed duty drawback at Lloyd's and, therefore, the adjustment should be granted to Rajinder. The program we reviewed at Lloyd's was the Passbook system, while Rajinder uses the Advanced License program and, therefore, this argument is not relevant.

Because we have denied Rajinder's claimed duty drawback on this basis, we have not addressed the other arguments concerning the program which petitioners raised.

Comment 2

Petitioners contend that Lloyd's is not entitled to a duty-drawback adjustment for its export price sales. Petitioners assert that Lloyd's failed to meet the Department's two-part test for a duty-drawback adjustment. Petitioners argue that the record fails to demonstrate that the payment of import duties was directly linked to and dependent upon receipt of the export rebate. Petitioners argue, in particular, that the payment of duties on imported material must be a prerequisite to receipt of the export rebate in order to qualify for a duty-drawback adjustment (citing *Huffy* v. *United States*). Petitioners maintain that, under India's Passbook system (a duty-drawback program), Lloyd's can apply for the export incentive even though it did not previously import raw material used in the production of the exported merchandise. According to petitioners, under the Passbook system, Lloyd's first exports products and then receives credit based on its volume of exports. Petitioners point out that, in its supplemental questionnaire response, Lloyd's states that the credit received may not be limited to the raw material used in the production of exported merchandise for which it received credit.

Petitioners assert that Lloyd's was free to import any type of hot-rolled steel product regardless of whether it was an input used in the production of the exported subject merchandise. Petitioners refer to the Input-Output (I-O) Norms, which identify on a product-specific basis the amount of raw material which may be imported compared to the amount of finished product which may be exported under the drawback program. Petitioners argue that Lloyds' response indicates that these norms allow for the importation of steel material that may not be used to produce the exported product.

Petitioners contend that the verification exhibit and Lloyds' supplemental questionnaire response demonstrate that, rather than operating as a duty-drawback system, the Passbook system is an export-incentive program. Petitioners state that the Passbook program is similar to that in Sorbitol From France, 47 FR 6459, 6460 (1982), in which the Department denied a duty-drawback adjustment because exporters of sorbitol were eligible for an export payment whether or not any import duties were paid, and the CIT upheld the Department's determination in *Roquette Freres* v. *United States*, 583 F. Supp. 599, 602 (1984). Petitioners conclude that, as in *Roquette Freres,* there is no evidence on the record in this case that accrual of the benefit is determined on the importation of an input product that could be used in the production of the exported merchandise from which the export benefit was calculated. Therefore, petitioners argue that the drawback adjustment should be denied.

Lloyd's responds that petitioners' arguments are baseless. Lloyd's contends that it has met both parts of the Department's two-part test. Specifically, Lloyd's argues that under the Passbook system there is a direct link between the import duty and the rebate of duties. Lloyd's explains that the credits recorded in the Passbook can only be given to the exporter upon exportation of certain items and the credit can only be used by the exporter to pay import duties. Lloyd's argues that, if a sufficient amount of credits exist in the Passbook, the Indian Customs Service does not collect duties. Lloyd's points out that the credit received is limited to the payment of customs duties by the exporter and that these credits are otherwise rendered useless. Lloyd's states that, in the instant case, it accrued benefits for import duties. Lloyd's further asserts that the verification documents provide evidence that there were sufficient raw materials on which Lloyd's paid duty and which were used in the production and subsequent export of subject merchandise.

Lloyd's states that the Passbook system is an international-trade incentive because it encourages and requires both imports and exports. Lloyd's states that the Passbook system requires the credits accrued to be applied toward import duties and the refund can be used for any purpose.

Lloyd's also indicates that the Passbook system allows Indian companies to select the most advantageous raw materials without regard to duties, which results in a savings in costs and sales prices.

Lloyd's argues that petitioners incorrectly characterize the Passbook program as an export-incentive program. Lloyd's explains that the Indian government changed its former system, the International Price Reimbursement Scheme, to its current Passbook system because it determined that the old scheme did not comport with the U.S. fair-trade statute. Lloyd's indicates that, under the new program, eligible export items and their corresponding import items are identified.

Lloyd's also rebuts petitioners' claim that Lloyd's I–O Norms allow for the importation of steel products that are not used in the production of the final exported merchandise. Lloyd's maintains that the products identified are steel products that are both authorized as qualifying goods and envisioned for use in the production of pipe and tube. Lloyd's asserts that it met the requirements that imports be sufficient to cover the amount of exports which Lloyd's argues it demonstrated at verification.

Lloyd's contends that the Passbook program can be easily distinguished from the program cited in *Roquette Freres*. In *Roquette Freres*, Lloyd's asserts, the Department denied the claimed drawback because the export credits were received regardless of whether the recipient had imported raw materials. Lloyd's maintains that, unlike the program cited in *Roquette Freres*, the credit Lloyd's received is dependent upon the identity and quantity of exported goods. Lloyd's further contends that, under the drawback program in *Roquette Freres*, imports were not required, whereas under the Passbook program, receipt of benefits are contingent upon the importation of materials.

Lloyd's maintains that the Passbook program meets the requirements under section 772(c)(1)(B) of the statute. Lloyd's states that this provision of the law applies to both rebates and the non-collection of duties. Lloyd's argues that there is no requirement in the statute that duties must first be paid and then rebated.

Department's Position

We disagree with petitioners. Section 772(c)(1)(B) of the Act provides that export price (or constructed export price) shall be increased by ''the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States' (emphasis added). As described in response to comment 1 above, we determine whether an adjustment to U.S. price for a respondent's claimed duty drawback is appropriate when the respondent can demonstrate that it meets both parts of our two-part test. There must be: (1) a sufficient link between the import duty and the rebate, and (2) a sufficient amount of raw materials imported and used in the production of the final exported product. Petitioners have not challenged the Department's determination regarding the second part of the test, that Lloyd's has demonstrated that it imported a sufficient amount of raw materials, or hot-rolled (HR) coils, used in the production of the final exported product. *See* Lloyds' Home-market Verification Report, at 11 (May 9, 1997).

As for the first part of the test, which petitioners have challenged, the Indian Passbook System presents the rare situation in which, rather than being rebated as is usually the case, the import duties were actually ''not collected, by reason of the exportation of the subject merchandise to the United States.'' This type of program falls within the express language of section 772(c)(1)(B). As described below, Lloyd's has demonstrated to our satisfaction that it met both parts of our two-part test.

The Indian Passbook system constitutes a proper drawback program. At verification, we examined Lloyd's claimed duty drawback and certain aspects of the Indian law which govern the application of the Passbook system. The system requires that the input used in the production of the final exported product be imported in order to obtain the drawback benefit. Under the program, the Indian government records all imports and exports in a ''passbook''. The government reduces the amount of duties owed on future imports, provided the final exported merchandise incorporates an amount of the input product equivalent to that which was previously imported and an equivalent amount of duties were previously suspended. As explained in our verification report, ''Lloyd's must show to the government that the exported product includes imported inputs in order to be credited the percentage charged for the imported goods' (emphasis added). Lloyds' Verification Report at 12.

We disagree with petitioners that payment of duties on the imported material is a prerequisite to receipt of benefits. As noted, section 772(c)(1)(B) requires either that the import duties be rebated or that they not be collected by reason of the exportation of the subject merchandise to the United States. Consequently, the Department has never established a strict prerequisite that import duties must actually be paid and subsequently rebated in order for there to be the necessary link justifying an adjustment to U.S. price. Nor have the courts established such a requirement. It is true, as petitioners note, that the CIT stated in *Far East Machinery* that payment of import duties is a ''prerequisite to receipt of an export rebate'' to qualify for an adjustment. 699 F. Supp. at 313. However, petitioners have taken the CIT's discussion of this issue out of context. In *Far East Machinery,* as in other cases, the respondent had actually paid duties upon importing the input and had received some amount of rebate upon exporting the subject merchandise. The question concerned only whether the government drawback program at issue established the necessary link between actual payment of the duties and receipt of the rebate. *See id.*; see also *E.I. DuPont de Nemours & Co.* v. *United States*, 841 F. Supp. 1237, 1242–43 (CIT 1993); *Huffy Corp., supra,* 632 F. Supp. at 53. The Department is not aware of any case in which the CIT has ruled upon a government drawback program, such as the Indian Passbook system, under which duties are suspended on imported inputs, provided the company subsequently exports merchandise containing an equivalent amount of the input as was imported, all of which is monitored by way of a credit-debit system. Therefore, these cases do not address the Department's present determination.

In this case, the Indian government has effectively suspended collection of duties on imported steel contingent upon the same company later exporting pipe containing an equivalent amount of steel. The Department has reviewed this type of program before. For instance, in Silicon Metal From Brazil; Final Results of Antidumping Duty Administrative Review, 62 FR 1970, 1976 (January 7, 1997), the Department found that a certain Brazilian duty-drawback program suspended the payment of taxes or duties that ordinarily would have been due upon importation. The Department granted a duty-drawback adjustment to export price pursuant to section 771(c)(1)(B) of the Act. In Extruded Rubber Thread From Malaysia; Final Results of Antidumping Duty Administrative Review, 62 FR 33588, 33598–99 (June 20, 1997), a duty was imposed upon imported goods sold in the home market but not collected when the subject merchandise incorporating those imported goods was exported. The Department ''add[ed] the amount of the uncollected duty to the U.S. price.''

Therefore, the issue in this review remains whether Lloyd's has established the necessary link between the government's collection—or, in this case, suspension—of import duties and the rebate, which in this case is a credit. The Department is satisfied that this link exists.

Further, we disagree with petitioners' contention that the Passbook system constitutes an export-restitution program rather than a duty-drawback program. For instance, the Passbook program differs from the export-substitution program administered by the European Community in *Sorbitol From France*. There, the Department denied the claimed drawback because export-restitution payments were received by exporters regardless of whether they used inputs that were imported or sourced domestically. The CIT upheld this determination in *Roquette Freres, supra,* 583 F. Supp. at 602–03. By contrast, the Indian Passbook program requires that the final exported product contain an equivalent amount of the input as was imported. At our verification of Lloyd's, we examined the provision of the Indian law requiring that a company ''show to the government that the exported product includes imported inputs.'' The raw materials referred to in this provision of the Indian law are the ''. . . imports of the input used in the exported product.'' Lloyds' Verification Report at 11.

Comment 3

Petitioners argue that the Department should reject Rajinder's reported steel costs, which petitioners contend contain numerous problems and deficiencies. Petitioners allege that (1) Rajinder's reported steel prices may not include freight costs; (2) although Rajinder made purchases from other suppliers, it reported its steel prices only on the prices based from the Steel Authority of India (SAIL) and the Department was not able to verify purchases made from other suppliers because Rajinder did not provide invoices for other suppliers; (3) the cost of steel reported in Rajinder's 1996 annual report is higher than the rates listed on the invoices at verification; (4) Rajinder never provided supporting documentation for its assumed scrap rate and, based on the verification report, it appears that the Department never verified the actual scrap rate; and (5) Rajinder grossly overstated the scrap value of steel. For these reasons, petitioners urge the Department to value scrap based on the ratio of the reported scrap price per metric ton to the average price of steel consumed and apply this ratio to the price of steel reported in the cost response.

Rajinder argues that its cost response indicates that transportation costs, along with other selling expenses, were included in the steel price. Rajinder also maintains that the Department verified its freight costs and found no discrepancies.

With respect to the issue of Rajinder's other suppliers, Rajinder argues that, although the verification report indicates that ''on rare occasions'' Rajinder purchased from other suppliers, it is unlikely that these rare purchases were made at prices higher than those made from SAIL. Rajinder also points out that not every invoice is required to be provided at verification. Rajinder maintains that the Department, nonetheless, found no discrepancies with Rajinder's reported steel costs.

Rajinder contends that petitioners have used an invalid approach to conclude that, on average, the cost of steel reported in Rajinder's annual report is higher than the price it reported. Rajinder also argues that there is nothing on the record or in the verification report that suggests that Rajinder's scrap rate is unreasonable or should not have been used. Rajinder states that the scrap value was verified and, therefore, should be accepted for the final results of review.

Department's Position

We agree with petitioners that freight costs are not included in the cost of steel, and we have added freight costs to Rajinder's reported steel costs for these final results of review. Although Rajinder reported the correct amount for steel costs, it neglected to include the amounts for freight which are clearly indicated on its invoices. Therefore, we have adjusted Rajinder's reported steel prices for freight costs. See Section B response, October 7, 1996, page B–7; Section D Supplemental Questionnaire response, March 18, 1997, page 8; and verification exhibit 22.

Concerning Rajinder's reported steel prices, we have accepted them for these final results of review. See Memo to the File, August 29, 1997.

Petitioners are incorrect that the cost of steel reported in Rajinder's 1996 annual report is higher than the rates listed on the invoices at verification. Petitioners compared the average cost of steel consumed for year-end 1996 to individual steel invoice prices. Petitioners determined an average cost of steel consumed by dividing the total value, in rupees, of iron and steel consumed by the total quantity of iron and steel consumed. This equation contains general values that are comprised of both steel and iron. However, iron is not a material used in the production of merchandise covered by the scope of this order. Further, the steel inputs in the numerator are not limited to the production of subject merchandise. Therefore, petitioners have incorrectly made a comparison between a broad spectrum of merchandise reported in Rajinder's financial statements and the individual steel invoice prices that are materials Rajinder used to produce merchandise subject to this review.

Petitioners' argument that the scrap value is too high, as well as petitioners' suggested alternative method for calculating the scrap value, are equally misplaced. Petitioners determined that the scrap value was too high by dividing a scrap resale value by the invoice value of a single transaction. This method is incorrect because the numerator is based on both subject and non-subject merchandise, whereas the denominator reflects subject merchandise only. However, scrap value can be easily and correctly derived by dividing the quantity of merchandise (*i.e.,* iron and steel) by the value of such merchandise (*i.e.,* iron and steel). Based on this method, the scrap value for either category of merchandise in the financial statement (i.e., material consumed or ending inventory) provides reasonable values upon which we can rely. Moreover, we verified these amounts and found no discrepancies. Therefore, there is no reason to suspect the reported scrap rate.

Comment 4

Petitioners argue that the Department should reject Rajinder's reported zinc costs. Petitioners argue that the zinc price and zinc scrap value Rajinder reported in its questionnaire response were understated and overstated, respectively, compared with the zinc price and zinc scrap value Rajinder reported in its annual report. Petitioners contend that, for the final results of review, the Department should make the necessary changes to the reported zinc price and zinc scrap value.

Rajinder states that, with respect to zinc costs, there is no reason to suspect that Rajinder overvalued its scrap adjustment. Rajinder states that virtually all cost data were verified and the Department found no discrepancies with the zinc cost data. Rajinder further maintains that the difference between amounts reported by Rajinder and the average cost for zinc that the

Department and the petitioners calculated can be attributed to the adjustments for excise and sales tax, as noted in the Department's verification report.

Department's Position

We disagree with petitioners. Reference to the amounts in the financial statement is not necessary here because we verified the reported amounts and are satisfied that use of these amounts is appropriate.

Rajinder also confuses the issue by arguing that the difference between the amount of zinc it reported and the average cost of zinc that the Department and petitioners calculated can be explained by an adjustment for excise and sales tax. As we stated in the verification report, excise and sales tax account for the difference between the cost per metric ton, reported in Indian rupees, and the average cost per metric ton of zinc purchased during the period of review (POR), also reported in Indian rupees. The comparison of these zinc costs to which Rajinder referred in its reply brief is different from the comparison of zinc costs that petitioners made, which focused on the figures reported for zinc price, zinc scrap value, and zinc consumed.

In conclusion, we are satisfied that the reported amounts were verified and accurately reflect Rajinder's costs. For the final results, we have accepted Rajinder's reported zinc price and scrap value.

Comment 5

Petitioners argue that the Department should reject Rajinder's reported variable, labor, and fixed overhead costs. Petitioners also contend that the Department should disregard Rajinder's response and apply adverse facts available because Rajinder refused to comply with the Department's request to provide labor and overhead costs on a product-specific basis. Petitioners point out that Rajinder stated in its supplemental questionnaire response that it could not provide the requested product-specific information because it does not maintain costs in the manner requested by the Department. Petitioners assert that, because Rajinder did not provide the requested information, costs for products with different physical characteristics were not differentiated. Petitioners further state that labor and overhead costs will be affected because pipes with different sizes and finish have different processing times and the number of pieces to handle will also be different. Petitioners also maintain that galvanized pipe will have higher labor and overhead costs than black pipe as a result of the pipe undergoing an additional galvanizing process.

Petitioners argue that respondents are often required to provide information in an antidumping proceeding that is different from the manner in which they maintain their records in the ordinary course of business. Petitioners also state that, because Rajinder requested this review, it should be held to the standard of providing information that conforms to the manner in which the Department calculates dumping margins. Petitioners maintain that, without the product-specific labor, variable, and overhead costs, the Department cannot perform accurate cost-of-production (COP) and CV analyses and difference-in-merchandise (difmer) adjustments.

Petitioners contend that, with respect to steel prices, steel scrap prices, zinc values, and zinc scrap values, the Department was unable to reconcile with Rajinder's financial statements information that was collected at verification. Petitioners argue that this provides additional grounds, in addition to Rajinder's refusal to provide labor, variable, and overhead cost information on a product-specific basis, for disregarding Rajinder's response and applying adverse facts available.

Rajinder states that it did not refuse to comply with the Department's request to report its labor, variable, and fixed overhead costs on a product-specific basis. Rather, Rajinder states, it did not have the necessary data in its cost system. Rajinder states that the verification report further supports its inability to provide the information as requested by the Department. For instance, Rajinder states that the verification report notes that labor and overhead costs were reported for one type of pipe; it also notes that Rajinder allocated costs on a mill-specific basis which Rajinder believes is more reasonable than if it had allocated the costs over all production from the various mills. Further, Rajinder contends that petitioners erroneously suggest that black pipe was used in Rajinder's calculations because galvanized pipe will have higher labor and overhead costs. Rajinder maintains that its labor and overhead costs were calculated for galvanized pipe only.

Rajinder maintains that it cooperated fully in this review, that it provided information based on its available records, and that the Department should accept its response. Rajinder concludes that it makes no sense for the Department to verify Rajinder's costs, find no discrepancies, use the information for the preliminary results of review, and then disregard the entire response because petitioners feel these costs should have been calculated differently.

Department's Position

We have determined that Rajinder's allocation of its reported labor and overhead costs (variable and fixed) was reasonable. The Department generally prefers that respondents report costs on a product-specific basis. However, in accordance with section 773(f)(1)(A) of the Act, our practice is to adhere to an individual firm's recording of costs, provided we are satisfied that such costs reasonably reflect the costs of producing the subject merchandise and are in accordance with the generally accepted accounting principles (GAAP) of the firm's home country. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan, 61 FR 38139, 38154 (July 23, 1996).

Rajinder provided its labor and overhead costs on a mill-specific basis. Rajinder used this methodology to record and allocate these costs in the company's ordinary course of business during the POR. See Rajinder's Supplemental Cost Response at 12, 26 (March 18, 1997). As we noted in the verification report, Rajinder produces merchandise at several mills. Black and galvanized pipe, merchandise subject to this review, were produced at two of these mills. Moreover, as stated in the verification report, black and galvanized pipe were also produced at separate mills. See Rajinder's Cost Verification Report, at 7 (May 9, 1997). The three home-market models of pipe that proved to be the most comparable matches to the models sold in the United States were all galvanized pipe. Each of these models passed the sales-below-cost test and were within the Department's twenty-percent difmer threshold. The record demonstrates that all of these comparable models were produced at the same mill. See Rajinder's Cost Questionnaire Response at 5 (January 22, 1997); Rajinder's Section B Questionnaire Response, Exhibit B–1 and B–2 (October 7, 1996); and Rajinder's Cost Verification Report at 7. In addition, all of the pipe exported to the United States was produced in the same mill. See id. Therefore, because we matched galvanized pipe sold in the United States to galvanized pipe of comparable size sold in the home market and because black pipe was not produced at the same mill at which the comparable models were produced, our calculations do not rely on any averaging of costs for galvanized and black pipe.

Therefore, we have accepted Rajinder's allocation of its reported labor and overhead costs. We are satisfied that Rajinder's allocation methodology reasonably reflects its costs of producing the subject merchandise and it is in accordance with Indian GAAP.

Comment 6

Petitioners argue that the Department failed to include any sales from Rajinder's affiliate, Rajinder Steels Ltd. (RSL), in the preliminary margin calculations. Petitioners maintain that, for the final results of review, the Department should include RSL's sales in the price comparison because RSL manufactured and sold subject merchandise during the POR and RSL's reported sales transactions had control numbers that matched Rajinder's reported U.S. sales.

Rajinder responds that the Department properly excluded RSL's sales transactions from the margin calculation. Rajinder contends that only Rajinder sold subject merchandise to the United States. Rajinder also argues that its sales in the United States were comparable in size to home-market sales. Rajinder maintains that the Department is not required to use RSL's sales in the price comparisons or cost test because, as verified, the facilities of Rajinder and RSL are separate. Further, Rajinder states that there is no indication of price manipulation.

Department's Position

For purposes of the final results, we have treated RPL and RSL as a single entity, as described below.

As a precondition to ''collapsing'' two companies in an antidumping analysis, the Department must determine that the parties are ''affiliated'' within the meaning of section 771(33) of the Act. Section 771(33) provides several bases for finding affiliation. Subsection (F) of section 771(33) is applicable here. It provides that the definition of ''affiliated persons'' includes ''[t]wo or more persons directly or indirectly controlling, controlled by, or under common control with, any person.'' Section 771(33) further explains that control exists when one person is ''legally or operationally in a position to exercise restraint or direction over another person.''

The Department's final regulations implementing the URAA elaborate upon the meaning of ''control'' under section 771(33). See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27380 (May 19, 1997) (§ 351.102(b)) (Final Regulations); see also Statement of Administrative Action (SAA), H.R. Doc. 103–316, at 838 (1994). The final regulations are not directly applicable to this review because the review was initiated prior to the date the regulations took effect. However, these new regulations do provide a concise and accurate statement of the Department's practice and the type of evidentiary criteria the Department has determined are relevant to a collapsing determination.

Section 351.102(b) of the Final Regulations provides that, in determining whether control exists for the purpose of finding affiliation, the Department will consider, among other things, corporate or family groupings, franchise or joint-venture agreements, debt financing, and close supplier relationships. See also SAA at 838. Rajinder refers to RPL and RSL as ''affiliated'' but also claims that they are ''independent'' companies, with their operational responsibilities managed by different sets of people. Rajinder argues that this is because the two companies have separate shareholders and separate operations—including accounts, commercial, manufacturing, and sales activities. As explained below, however, we find that these are immaterial differences and that RPL and RSL are affiliated on the basis of control.

The record demonstrates that RPL and RSL are ''manufacturing units'' within the ''Rajinder Group.'' See Rajinder's Supplemental Section A Response, Nov. 13, 1996, at 2–6 & Appendix 1 (Section A Supplemental); Rajinder's Section A Response, Aug. 20, 1996, at 10 (Section A Response). The two companies share four members of their boards of directors out of a total of seven board members for RPL and nine for RSL. RPL and RSL also share the same top-level management. Respondent also identified numerous other management and operational functions performed jointly on behalf of the entire Rajinder Group. Therefore, we determine that RPL and RSL, and the Rajinder Group as a whole, constitute a single ''corporate grouping,'' as contemplated in our final regulations and the SAA, which is under the common control, directly or indirectly, of the same person or persons, who are legally or operationally in a position to exercise restraint or direction over the entire Rajinder Group. Furthermore, we find that this ''relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise of foreign like product.'' Final Regulations, 62 FR at 27380 (§ 351.102(b)). On this basis, we determine that RPL and RSL are affiliated pursuant to section 771(33)(F) of the Act.

Section 351.401(f)(1) of the final regulations provides that, consistent with the Department's practice, the Department will collapse two or more affiliated producers (1) which have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and (2) the Department concludes that there is a significant potential for the manipulation of price or production. See Final Regulations, 62 FR at 27410 (§ 351.401(f)). Regarding the first requirement, Rajinder acknowledges that, like RPL, RSL produces and sells subject merchandise in the home market. Section A Supplemental at 2 and 6. According to Rajinder, this merchandise is ''similar'' to that exported by RPL to the United States. On this basis, we determine that RPL and RSL have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities.

Regarding the second requirement, whether ''there is a significant potential for the manipulation of price or production,'' section 351.401(f) explains that the factors the Department may consider include (1) the level of common ownership; (2) whether managerial employees or board members of one of the affiliated producers sit on the board of directors of the other affiliated person; and (3) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. See also *FAG Kugelfischer* v. *United States,* 932 F. Supp. 315 (CIT 1996); Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews, 61 FR 42833, 42853 (August 19, 1996). Not all of these criteria must be met in a particular case; the requirement is that the Department determine that the affiliated companies are sufficiently related to create the potential of price or production manipulation. See, e.g., Final Regulations, 62 FR at 27346 (preamble); Flowers From Colombia, 61 FR at 42853.

We note that when affiliation is based upon control, as in the present review, there may be substantial overlap between the evidence relied upon to determine affiliation and that relied upon to determine whether there is a significant potential for the manipulation of price or production. The decision of whether to collapse is normally dependent to one extent or another upon the potential of one or more persons or a part of a company to control another. As we have often stated, in collapsing, we look at the ''level of inter-relatedness between parties'' or the ''type and degree'' of the parties'' relationship or affiliation. See, e.g., Sulfanilic Acid from the PRC: Final Results of Antidumping Duty Administrative Review, 61 FR 53,711, 53,712 (1996) (citing *Nihon Cement* v. *United States,* 17 CIT 400, 426 (1993)); Final Results of Antidumping Duty Administrative Review; Iron Construction Castings From Canada, 59 FR 25,603, 25,603–04 (1994); Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, 54 FR 18,992, 19,089 (1989).

We determine that this requirement is met as well. For the most part, we have based this determination upon the same evidence upon which we relied to determine that the two companies are affiliated. We consider the evidence regarding control and the overlap between the two companies' boards of directors and management sufficient to warrant concluding that RPL and RSL pose a significant potential for the manipulation of price or production. As detailed above, the boards of directors of the two companies broadly overlap. Moreover, three of the four overlapping directors also jointly manage the two affiliated companies. Along with the other evidence of control in the record, this evidence supports a finding that the two companies essentially function or have a significant potential to function as a single entity. There is also proprietary information on the record of common ownership and inter-company transactions within the Rajinder Group. This evidence is not complete, however, and we have not relied upon it in reaching our determination.

Based upon our analysis of the evidence on the record, we determine that RPL and RSL are affiliated pursuant to section 771(33)(F) of the Act; the two companies have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and, because of the extent of common control between the two companies, RPL and RSL pose a significant potential for manipulation of price or production. Therefore, we have collapsed and treated RPL and RSL as a single entity for purposes of calculating the appropriate dumping margin in these final results of review.

Comment 7

Petitioners requested that the Department conduct sales and cost verifications of the responses submitted by Lloyd's and Rajinder. Petitioners contend that the Department's failure to verify Lloyds' cost response and Rajinder's sales response is contrary to law. Petitioners state that, while the Department enjoys ''a degree of latitude in implementing its verification procedures,'' these procedures must be reasonable.

Petitioners state that, given the large number of inaccuracies in Lloyds' sales response presented to the Department officials at the outset of verification and the fact that Lloyd's is a first-time participant, it is plausible that Lloyds' cost response also contains numerous deficiencies. Petitioners assert that Lloyd's did not provide corrections to its cost response knowing that its cost response would not be verified. Petitioners conclude that the Department should either verify Lloyds' cost response prior to the final results of review or apply facts available.

As for Rajinder, petitioners argue that the company's failure to provide supporting documentation of price adjustments, its failure to allocate costs on a product-specific basis, and inaccuracies found at verification should have compelled the Department to conduct a more complete verification and are grounds to base the final results on adverse facts available.

Lloyd's states that the Department conducted a thorough five-day verification of Lloyds' response and there was no reason to suspect or find inadequate the verified information. Lloyd's argues that the Department's verification report is filled with conclusions of ''no discrepancies''. Lloyd's also asserts that it is unreasonable to throw out Lloyds' cost response because it presented minor corrections of its sales response at the outset of verification.

Lloyd's responds that the law does not require the Department to verify every aspect of a response. Lloyd's maintains that the Department has the discretion to determine which items it wishes to examine at verification. Further, Lloyd's asserts that it is common practice for a respondent to present corrections to its response that were discovered during the preparation for verification. Lloyd's also asserts that the corrections presented at verification were minor and did not undermine the reliability of Lloyd's response. Lloyd's adds that, as far as it knew, the Department intended to conduct a cost verification since the verification outline contained procedures for a cost verification. Lloyd's further states that its cost information was accessible for examination during the verification.

Rajinder responds that no verification is required in a new shipper review. Rajinder also states that the Department's decision to conduct only a cost verification of Rajinder's response is not contrary to law because no verification was required. Rajinder also argues that, because there were no discrepancies found with the verified data, there is no reason to assume that discrepancies would be found with non-verified data.

Department's Position

We have conducted this new shippers review in accordance with section 751(a)(2) of the Act and our regulations. Although a verification was not required by statute, the Department decided to verify the accuracy of both parties' submissions.

The courts have long agreed that verification is a selective procedure and the Department's ability to verify complete responses is constrained by limitations on time and resources. See, *e.g., Bomont Indus.* v. *United States,* 733 F. Supp. 1507, 1508 (CIT 1990). As in this case, it is not always practicable for the Department to conduct both sales and cost verifications of every company during every review. The Department has considerable latitude in picking and choosing which items it will examine in detail. See *Monsanto Co.* v. *United States,* 698 F. Supp. 275, 281 (CIT 1988) (citing *Hercules, Inc.* v. *United States,* 673 F. Supp. 454, 469 (CIT 1987)). It is enough for the Department ''to receive and verify sufficient information to reasonably and properly make its determination.'' *Hercules,* 673 F. Supp. at 471; see also Certain Internal-Combustion Industrial Forklift Trucks From Japan: Final Results of Antidumping Duty Administrative Review, 62 FR 5992, 5602 (February 6, 1997).

Therefore, contrary to petitioners' assertions, the fact that the Department could not devote the resources necessary to verify Rajinder and Lloyds' entire responses does not, standing alone, call those responses into question. Moreover, to the extent we found problems with those portions of the responses that we did verify, these problems were relatively minor and did not seriously call the responses into question, neither with respect to the portions we did verify nor those which we did not. See Forklift Trucks From Japan, 62 FR at 5602. For these reasons, we have continued to rely upon both respondents' complete responses, except where indicated.

Comment 8

Rajinder contends that, for the final results of review, the Department should make a level-of-trade adjustment for the Channel One sales that were compared to U.S. sales because a pattern of price differences exists at the different levels of trade. Rajinder also contends that the Department should use the weighted-average price differences provided in Rajinder's questionnaire response. Rajinder states that the Department's inability to determine a pattern of consistent price differences should not work to the disadvantage of respondents, particularly since the information has already been provided on the record. Further, Rajinder maintains that, until the Department formulates a satisfactory methodology of determining consistent price differences, the pricing differences presented by a respondent should be valid indicators that such differences exist at the different levels of trade and should be used by the Department as the pricing differences between the different levels of trade.

Petitioners respond that the Department should not grant a level-of-trade adjustment. Petitioners claim that Rajinder has not demonstrated that a pattern of different price levels exists. Petitioners assert that Rajinder's calculation of the price differential is flawed and that the statute requires more than the comparison of two average prices. According to petitioners, the statute requires that prices be reviewed on a product-specific basis. Petitioners also argue that the difference in prices must be measured against net prices, exclusive of all statutory adjustments, in order to ensure no double counting occurs. Citing Certain Carbon Steel Pipe and Tube From Turkey, 61 FR 69,067 (December 31, 1996), petitioners maintain that the Department has applied these minimum standards in other cases.

Department's Position

Rajinder reported two channels of distribution in the home market: (1) Sales to government agencies, original equipment manufacturers, and end-users (Channel One); and (2) sales to local distributors and trading companies (Channel Two). In our preliminary results, we determined, based on an analysis of the selling functions performed and the point in the chain of distribution where the sale takes place, that these two channels constituted two different levels of trade in the home market.

With respect to the U.S. market, Rajinder reported that all sales were made through one channel of distribution, a local distributor. For our preliminary results, we determined that the CEP sales constituted a single level of trade. Further, we found that, although there were differences in terms of selling activities performed in Channel Two in the home market and the CEP sales in the United States, these differences in selling functions were not alone sufficient to establish a difference in the level of trade. We did find that a difference in the level of trade existed between Rajinder's CEP sales and Channel One sales in the home market. For certain CEP sales where we found that sales of identical matches took place only at the Channel One level of trade, we matched these sales to sales at the Channel One level of trade. However, because we were unable to determine the extent of any pattern of consistent price differences between the two home-market channels of distribution, we did not make a level-of-trade adjustment. We did, however, apply a CEP-offset adjustment in the preliminary results.

As we stated in the preliminary results, we continued to examine the issue of level of trade in this review. After a more in-depth analysis, we confirm our preliminary findings that there are two different levels of trade in the home market and that sales to Channel Two are made at the same level as the sales to the United States. Since some products did not have a match at the same level of trade, we reexamined the issue of whether we should have granted Rajinder a level-of-trade adjustment.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment if the difference in levels of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. If we find a pattern of consistent price differences, we use the average difference in net prices to adjust normal value when normal value is based on a level of trade different from that of the export sale. If there is no pattern of consistent price differences, the difference in levels of trade does not have a price effect and, therefore, no adjustment is necessary. See Preliminary Results of Antidumping Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom, 62 FR 31566 (June 10, 1997).

In its October 7, 1996, submission Rajinder presented its calculations of a level-of-trade adjustment. However, Rajinder provided no evidence that the prices it used for its analysis were net prices or that the calculations were done on a model-specific basis.

Therefore, we determined whether there was a pattern of consistent price differences between the different levels of trade in the home market. We made this determination by comparing, for each model sold at both levels, the average net price of sales made in the ordinary course of trade at the two levels of trade. If the average prices were higher at one of the levels of trade for a preponderance of the models, we considered this to demonstrate a pattern of consistent price differences. We also considered whether the average prices were higher at one of the levels of trade for a preponderance of sales, based on the quantities of each model sold, in making this determination. For Rajinder, we found a pattern of consistent price differences. We applied the average percentage difference to the adjusted normal value as the level-of-trade adjustment. See Final Results of Antidumping Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom, 62 FR 2081, 2105 (January 15, 1997).

Comment 9

Rajinder argues that, if the Department uses a CEP-offset adjustment for the final results of review, it must correct the home-market indirect selling expenses figure the Department used in this calculation. Rajinder explains that, while the Department's CEP-offset amount is intended to represent home market indirect selling expenses in dollars per metric ton, it did not calculate it correctly. Rajinder states that the Department divided the total reported indirect selling expenses by the total sales quantity to obtain the numerator in rupees per metric ton. However, Rajinder notes that the total indirect selling expenses were already reported on a per-metric-ton basis, causing the

Department to make a lower CEP-offset adjustment. Rajinder states that record evidence shows that the rupee figure is already reported on a per-metric-ton basis and that the Department should correct this error for the final results of review.

Petitioners respond that, should the Department change the calculation of home-market indirect selling expenses as Rajinder requests, it must make several other changes to the calculations as well. Petitioners repeat their comment concerning commissions (discussed in comment 13, below). Petitioners assert that the Department must ensure that deductions from normal value for indirect selling expenses are also deducted from the home-market price in the below-cost-sales analysis.

Department's Position

We agree with Rajinder that the amount it reported for indirect selling expenses was already on a metric-ton basis. We have corrected this clerical error for the final results.

Further, in conducting the cost test, we adjust normal value and do not include all deductions that we make to the weighted-averaged normal value. In doing this we adjust normal value to a level comparable to the reported COP, not to a level comparable to U.S. sales. In particular, although adjusted normal value reflects all actual deductions, it does not include deductions for expenses such as credit or inventory carrying cost. Moreover, both parties' comments concerning commissions and appropriate CEP offset are irrelevant since the Department has determined not to use a CEP offset as described in response to comment 8, above.

Finally, we have addressed petitioners' argument concerning commissions and the appropriate CEP offset in response to comment 13, below.

Comment 10

Petitioners state that, for Rajinder's U.S. sales, the Department incorrectly calculated gross unit price on a metric-ton basis. Further, they state that the Department used the incorrect conversion factor to translate net-ton gross unit prices into metric-ton gross unit prices which, according to petitioners, resulted in an overstatement of gross unit prices. Petitioners provide instructions on how to calculate gross unit price properly on a metric-ton basis for the final results of review.

Rajinder agrees that the Department applied the incorrect conversion factor to translate net-ton gross unit prices into metric-ton gross unit prices. Rajinder also claims, however, that, aside from the gross unit price, many other deductions were overstated because the Department used the incorrect conversion factor to convert all U.S. expenses to a metric-ton basis. Rajinder recommends that the Department correct all deductions, in addition to the gross unit price, that were affected by this conversion error. Rajinder states that the Department also incorrectly converted the adjustment for "Inland Freight-Plant to Distribution Warehouse" into metric tons because it had reported this adjustment on a metric-ton basis.

Department's Position

We agree with both petitioners and Rajinder that we converted the gross unit price and selling expenses incorrectly for the preliminary results. We have examined all conversions, including Inland Freight-Plant to Distribution Warehouse, as recommended by Rajinder and petitioners and have corrected them for the final results.

Comment 11

Petitioners state that, although the preliminary analysis memo indicated a deduction, the Department failed to deduct Rajinder's U.S. commissions from CEP. Petitioners request that the Department make this deduction for the final results of review.

Rajinder agrees that the Department failed to deduct U.S. commissions from CEP. Rajinder explains that the Department's failure to make this deduction has no effect on the margins, however, because the Department inadvertently did not make the deduction for commissions in calculating normal value. Rajinder suggests that, if the Department makes a deduction from CEP starting price for U.S. commissions, it must offset that deduction with a corresponding deduction from normal value for commissions or, as appropriate, indirect selling expenses, in accordance with 19 CFR 353.56(b)(1). Thus, Rajinder claims, the net effect of this adjustment would be zero.

Department's Position

The Department agrees with both parties. In the preliminary results, we neglected to deduct commissions from either CEP or normal value. In accordance with 19 CFR 353.56(a)(2), the Department makes reasonable allowances for differences in circumstance of sale, including commissions. For the final results, we have deducted commissions from both CEP and normal value, using the amounts reported in the response. Where Rajinder has a commission on the U.S. sale but no home-market commission, we have adjusted normal value by using home-market indirect selling expenses as an offsetting commission to the commission in the U.S. market. See our response to comment 13.

Comment 12

Petitioners claim that the Department incorrectly calculated the CEP-profit ratio by dividing the total selling expenses reported by Rajinder and RSL in their financial statements by the profit reported in the financial statements. Petitioners state that, to calculate total expenses in accordance with section 772(f)(2)(C) of the Act, the Department should use the expenses incurred in order of preference (1) on subject merchandise sold in the home and U.S. markets, (2) the narrowest category of merchandise sold in the United States and home market that contains the subject merchandise, or (3) the narrowest category of merchandise sold in all countries that contains the subject merchandise. Petitioners claim that the Department should have used the sales and profit data for the foreign like product as a basis for the CEP-profit calculation, as required by the statute, instead of relying on data at the overall sales level from the financial statements, which is the third choice under section 772(f)(2)(C) of the Act.

Additionally, petitioners claim that the CEP ratio used by the Department in the preliminary margin calculation contained a misplaced decimal point which should be corrected. Petitioners also contend that the Department must include commissions in the U.S. selling expenses when it calculates CEP profit for the final results of review.

Rajinder states that, because the Department made a clerical error in applying the calculated CEP-profit ratio, the ratio the Department applied is grossly different than the CEP ratio that the Department actually calculated. Provided the CEP ratio for the final results of review does not change, Rajinder contends that the Department should use the ratio that it actually calculated. Rajinder explains that any change the Department makes to the calculation of the CEP ratio may produce lower, if not *de minimis*, CEP-profit figures than the ratio that the Department actually calculated for the preliminary results of review.

Department's Position

We agree with the petitioners in part. We used information from the financial statements to determine CEP profit in our preliminary results, which is the third preference under section 772(f)(2)(C) of the Act. Because COP information was reported for only an extraordinarily small portion of its pipe sales in the home market, in this case, we have continued to use profit levels which we calculated from the financial statements.

We agree that there were several ministerial errors in the calculation of CEP profit which caused us to understate CEP profit. We have reexamined Rajinder's financial statements and have made several changes to the profit calculation. We added the amounts listed as ''variation in stock'' to the total revenue amounts. We added interest expense and depreciation expense to total cost and then subtracted an amount for change in inventory from total cost. We divided total revenue by total cost to arrive at the CEP-profit figure. Additionally, when applying this percentage to U.S. expenses, no change is necessary as petitioners suggest because we have already included commissions in the denominator.

Comment 13

Petitioners state that, according to the analysis memorandum prepared for Rajinder for the preliminary results, the Department deducted both the indirect selling expenses and the CEP offset from normal value and, as a result, some indirect selling expenses were deducted twice. Petitioners claim that indirect selling expenses should not be deducted from the home-market gross unit price to calculate net home-market price because these expenses can only be deducted as a CEP offset when comparing sales at different levels of trade. Petitioners state, that as a circumstance-of-sale (COS) adjustment, commissions and indirect selling expenses may be deducted from net home-market price up to the amount of U.S. commissions. Petitioners contend that, when a COS adjustment is based on the amount of home-market indirect selling expenses (limited by the U.S. commission amount), the CEP offset cannot include those expenses that were already deducted from the net home-market price through the commission-offset step.

Rajinder responds that, contrary to petitioners' assertion, the preliminary calculations demonstrate that home-market indirect selling expenses were not deducted from net home-market price. Therefore, these expenses were not double counted. Rajinder states that home-market inventory carrying costs were not deducted from normal value and, since they are post-sale expenses, they are direct costs and normal value should be adjusted to account for these costs.

Department's Position

Since the Department has determined that a CEP-offset adjustment is not appropriate, both petitioners' and Rajinder's comments are moot. *See* our response to comment 8 above.

Comment 14

The petitioners state that the Department must apply a difmer adjustment because the products sold in the United States and home market are not identical.

Rajinder claims that the petitioners' assertion that the Department should have adjusted normal value upward is incorrect. Rajinder states that evidence on the record indicates that the total cost of manufacture for pipe sold in the United States is less than the cost of manufacture for the comparable pipe sold in India. Rajinder adds that, if the Department adjusts for difmer, the adjustment should be a deduction from, not an addition, to normal value.

Department's Position

We agree with the petitioners that a difmer adjustment should be applied because the products are not identical. The third matching characteristic, wall thickness, varies slightly for the subject merchandise sold in the United States. Therefore, in accordance with section 773 (a)(6)(C)(iii), a difmer adjustment is appropriate to account for this difference.

We have calculated the difmer adjustment by subtracting the variable cost of manufacture for the closest model match in the home market from the variable cost of manufacture for each U.S. sale. We then added the difmer amount to normal value.

Comment 15

Petitioners state that the Department incorrectly calculated Rajinder's interest expense in the COP calculation. Petitioners claim that it not clear where the Department obtained the figures it used to calculate COP. According to petitioners, the COP figures the Department used were different from those which Rajinder reported in its supplemental cost-questionnaire response. Petitioners recommend that the Department correct its COP analysis based on the more recent supplemental cost-questionnaire response Rajinder submitted.

Rajinder disagrees with petitioners. Rajinder explains that the Department's COP calculation is different from the COP reported by Rajinder in its supplemental cost-questionnaire response because the reported HM gross unit prices do not include taxes, whereas the data reported in the supplemental cost-questionnaire response do include taxes. Rajinder claims that the Department properly calculated COP because the taxes excluded from gross unit price must also be excluded from the cost calculation for comparison purposes.

Department's Position

We disagree with both parties. In its supplemental cost response, Rajinder reported separate interest-expense calculations for Rajinder and its affiliated party, RSL. In situations involving affiliated parties, it is sometimes appropriate for the Department to calculate the interest expense based on the operations of the consolidated corporation. See Ferrosilicon From Brazil: Final Results of Antidumping Duty Administrative Review, 61 FR 59407, 59412 (Nov. 22, 1996); Certain Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review, 61 FR 18547, 18567 (April 26, 1996). This is because ''debt is fungible and corporations can shift debt and its related expenses toward or away from subsidiaries in order to manage profit.'' Ferrosilicon From Brazil, 61 FR at 59412. Therefore, the Department calculates COP using the consolidated financing expenses of the corporation or the affiliated parties whenever the parent or the controlling entities have ''the power to determine the capital structure of each member company within the group.'' Final Determination of Sales at Less Than Fair Value: New Minivans From Japan, 57 FR 21937, 21946 (May 26, 1992). This is particularly the case when the Department determines to collapse two or more affiliated parties, as here. See our response to comment 6, above.

Therefore, in this case, we used the combined financial statements of Rajinder and RSL to recalculate the interest expense by dividing the reported interest expense by the sum of the cost of goods sold plus the depreciation. This yields an applicable ratio representative of the interest expenses of both companies combined. Contrary to petitioners' recommendation to use the reported amounts in the supplemental response, the Department has used the recalculated amounts that it used in the preliminary results. Rajinder's argument that taxes were excluded from this calculation is irrelevant.

Comment 16

Petitioners claim that there were serious deficiencies in Lloyds' cost response which the Department never examined. Petitioners claim that Lloyd's purchased coils from an affiliated party and, while Lloyd's claims the purchases were at arm's length, the transfer price of coils from unaffiliates were on average seven percent higher than prices from the affiliate. Petitioners recommend that the Department disregard the steel prices from Lloyds' affiliate and use the average from unaffiliated parties.

Additionally, petitioners assert that Lloyd's did not report labor and overhead costs to account for differences in physical characteristics. Petitioners explain that Lloyd's allocated all costs by tonnage which failed to differentiate the costs for products with different physical characteristics. Petitioners state that pipes with different sizes and finish have different processing times and the number of pieces to handle will be different which ultimately affects labor and overhead costs. Petitioners explain that, since Lloyds' COP and CV calculations are based on inherently flawed and distorted data, the Department is unable to perform an accurate COP analysis. Petitioners reason that respondents are often required to provide information in an antidumping review that is different from the manner in which they maintain their records in the ordinary course of business. Petitioners claim that, since Lloyd's requested this review, Lloyd's should be held to the standard of providing information that conforms to the manner in which the Department calculates dumping margins. Petitioners remark that the Department requested that Lloyd's provide information on a product-specific basis and declined to do so; therefore, Lloyd's has withheld information and impeded this review which is grounds for applying facts available. Petitioners state that, absent this information, the Department cannot perform accurate COP and CV analyses and difmer adjustments.

Lloyd's responds that petitioners have no basis to question that purchases from affiliated suppliers were priced lower than purchases from unaffiliated suppliers. Lloyd's argues that petitioners merely make an observation from one exhibit on the record which demonstrates price fluctuation. Lloyd's points out that prices from affiliated suppliers were not consistently higher or lower than prices from unaffiliated suppliers. Lloyd's claims that, in fact, several purchases from affiliated suppliers were priced lower than purchases from unaffiliated suppliers. Lloyd's states further that these fluctuations in price are indicative of price negotiation and that seven percent is not a meaningful difference in price.

Lloyd's states that, contrary to petitioners' claim, it properly reported labor and overhead costs. Lloyd's claims that it sold only one type of pipe in the United States and that the variable costs for producing pipe do not vary significantly depending on the type of steel pipe reported. Lloyd's maintains that, since the Department agreed with Lloyds' choice of home-market sales to report (black, plain end, non-galvanized pipe), there were no significant differences in physical characteristics such as size, surface finish or end finish and, accordingly, no significant differences in labor and overhead costs to report. Lloyd's explains that it differentiates and allocates its costs in the normal course of business, a methodology the Department accepts when the allocation of costs is reasonable (citing Final Determination of Sale at Less Than Fair Value: Fresh Cut Roses From Colombia, 60 FR 6980, 7015 (Feb. 6, 1995)). Lloyd's claims that petitioners make reference to the higher costs associated with galvanizing steel pipe and manufacturing threaded and coupled pipe, but that petitioners fail to take into account that Lloyds' reported sales did not included galvanized, threaded or coupled pipe. Additionally, Lloyd's explains that it did report a difference in U.S. packing costs which were approximately 30 percent higher than home-market packing costs, due to extra costs associated with packing for international shipment.

Department's Position

We agree in part with both parties. Concerning the costs of hot-rolled coil, we have used the average price listed for other home-market suppliers from Exhibit 3 of the March 17, 1997 submission. We found that the purchases from Lloyd's Steel Industries Ltd. (LSIL), Lloyds' affiliated supplier, were nearly all lower in price than those from the other home-market suppliers. While Lloyd's claims that its purchases of hot-rolled coil from LSIL were at arm's-length prices, the evidence on the record indicates otherwise. When, as here, the transfer price between affiliated parties is significantly lower than the price from unaffiliated suppliers, the respondent bears the burden to provide evidence that the affiliated-party's transfer prices were at arm's-length. *See* section 773(f)(2) of the Act. Lloyd's failed to provide such evidence. Therefore, we have not relied upon Lloyds' steel prices from LSIL and have instead relied entirely upon the price from the unaffiliated home-market suppliers in our calculations of steel material values.

Concerning the reporting of labor and overhead costs, we agree with Lloyd's. We found that Lloyds' allocation of its labor and overhead costs was reasonable. Because Lloyds' U.S. sales consisted of only one type of pipe (black, plain-end pipe), the Department permitted Lloyd's to limit its home market data base to those sales which Lloyd's considered most similar to the sale made in the United States, conditioned upon the Department agreeing with Lloyds' model-match selections. The appropriate model matches submitted by Lloyd's were all black, plain-end pipe. Therefore, contrary to petitioners' assertion, Lloyd's was not required to differentiate costs for products with different physical characteristics; such products were simply not used for matching purposes.

Lloyd's reported its costs for the home market, including labor, on a product-specific basis. This reflects Lloyd's cost-recording methodology used in its ordinary course of business. *See* Section D Questionnaire, January 22, 1997, page 21. Furthermore, petitioners incorrectly claim that Lloyd's allocated its costs by tonnage. Lloyd's explained that it allocated the product-specific costs associated with the production of the subject merchandise on the basis of the quantity and time required in the mill to produce the product. *See* Section D Supplemental Response, March 17, 1996, page 8.

Comment 17

Petitioners state that the Department should deduct U.S. customs duties indicated in verification exhibit 10 from export price. Petitioners claim that, because Lloyd's is the importer of record, it is responsible for the payment of the duties.

Lloyd's responds that it did not pay the U.S. customs duties. Lloyd's explains that, with respect to most commercial imports, the buyer typically pays U.S. customs duties and then seeks reimbursement from the party contractually responsible. Lloyd's points to its supplemental questionnaire response which states that in this case, the buyer of Lloyds' merchandise was responsible for paying the U.S. customs duties. Lloyd's concludes that the Department should not deduct import duties from export price.

Department's Position

We agree with petitioners. Lloyd's is the importer of record and, therefore, ultimately responsible for the payment of duties. Although record evidence indicates that Lloyd's sent a letter to the U.S. buyer making the buyer responsible for paying the U.S. customs duties, we have no evidence that the customer either accepted these terms or paid the duties. We, therefore, determine that Lloyd's was responsible for the payment of the U.S. duties, and we have deducted the regular duties from the export price.

Comment 18

Rajinder contends that the Department improperly failed to deduct certain expenses from home-market sales prices. Rajinder maintains that the Department's preliminary analysis memorandum states that the Department intended to deduct, among other things, commissions, advertising and inventory carrying costs in the calculation of normal value. However, Rajinder argues, the printouts released at disclosure indicate that the Department failed to make these deductions, and Rajinder requests that the Department correct this error for the final results of review.

Petitioners respond that the Department may deduct from normal value commissions and advertising expenses as circumstance-of-sale adjustments. Petitioners also respond that the Department may deduct from normal value indirect selling expenses, such as inventory carrying costs, as a CEP offset where two markets are being compared at different levels of trade.

Department's Position

We agree with both parties that we should have adjusted home-market prices for advertising and commission expenses. With respect to advertising expenses, Rajinder reported these expenses as direct in nature although it was not able to tie these expenses to the specific models of merchandise under review. Rajinder states in its response that, ''advertising expenses are incurred only to advertise the merchandise to small farmers, retailers, and households.'' Hence, the advertising expenditures are aimed at the Rajinder's customer's customer and, therefore, the reported expenses are direct.

We agree with Rajinder that commissions should be treated as direct expenses which we have deducted from normal value. Where Rajinder reported commissions in only the U.S. market, we have offset this expense by deducting the home-market indirect selling expenses by an equivalent amount.

Because we have not applied a CEP offset to normal value, the inclusion of inventory carrying costs in Rajinder's indirect selling expenses pool is irrelevant.

Comment 19

Rajinder states that the Department improperly deducted inland freight from U.S. prices for the distance from the plant to the warehouse in India. Rajinder explains that the Department incorrectly converted the inland freight expense into rupees per metric ton, thereby overstating the deduction of inland freight from U.S. price. According to Rajinder, the record provides evidence that this expense was already reported on a per-metric-ton basis. Rajinder states that the Department should correct this error for the final results.

Petitioners respond that the Department should ensure that all adjustments are properly converted on a per-metric-ton basis for both the price-to-price and below-cost-sales analyses.

Department's Position

We agree with Rajinder that by making the wrong conversion we improperly calculated the deduction of inland freight from plant to warehouse. We have corrected this error for these final results. Additionally, as suggested by petitioners, we have reexamined all of the adjustments for normal value, U.S. price, and the below-cost-sales analysis to ensure that we have converted them to the correct units.

Final Results of Review

As a result of our analysis, we have determined that the following weighted-average margins exist for the period May 1, 1994, through April 31, 1995:

Manufacturer/exporter	Margin (percent)
Rajinder	25.45
Lloyd's	0.00

The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by these final results and for future deposits of estimated duties. The posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Act and section 353.22(h)(4) of the Department's regulations, will no longer be permitted for these firms.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an exporter/importer-specific assessment rate for both companies. For each respondent we have divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales. We will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of respondents' entries during the review period. While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of Indian pipe and tube entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates shown 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 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. In accordance with the CIT's decisions in *Floral Trade Council* v. *United States*, Slip Op. 93–79, and *Federal-Mogul* v. *United States*, Slip Op. 93–83, the cash deposit rate for all other manufacturers or exporters will be 7.08 percent, the rate determined in the original less than fair value investigation (51 FR 9089, March 17, 1986).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also 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 the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). 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. Failure to comply is a violation of the APO.

This administrative review and this notice are in accordance with section 751(b) of the Act (19 U.S.C. 1675(b)(1)) and 19 CFR 353.22(h)(1997).

Dated: August 29, 1997.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–23994 Filed 9–9–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–073. Applicant: Research Foundation of The City University of New York, 79 Fifth Avenue, New York, NY 10003. Instrument: Electron Paramagnetic Resonance Spectrometer, EMX Series. Manufacturer: Bruker Instruments, Germany. Intended Use: The instrument will be used for studies of Lithium-transition metal insertion compounds; prefluorinated polymers prepared by chemical or radiation crosslinking. Investigations will be conducted to determine the correlation between EPR spectroscopic parameters and electrical properties of the materials, the goal of which is to better understand the atomic/molecular level processes associated with electrical conductivity. Application accepted by Commissioner of Customs: August 21, 1997.

Docket Number: 97–074. Applicant: Case Western Reserve University, School of Medicine, Department of Biochemistry, 10900 Euclid Avenue, Cleveland, OH 44106. Instrument: Stopped-Flow Spectrometer, Model SX.18MV. Manufacturer: Applied Photophysics Ltd., United Kingdom. Intended Use: The instrument will be used to investigate the kinetics of the interaction between biological macromolecules and ligands in experiments conducted to: (1) Monitor the interaction between RNA polymerase and double stranded DNA, (2) monitor the interaction of cinnamoyl-CoA substrates with enoyl-CoA hydratase and (3) monitor the interaction of transcription factors with ribosomes. Application accepted by Commissioner of Customs: August 22, 1997.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–23996 Filed 9–9–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–508–605]

Industrial Phosphoric Acid From Israel: Preliminary Results and Partial Recission of Countervailing Duty Administrative Review

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

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on industrial phosphoric acid from Israel for the period January 1, 1995 through December 31, 1995. For information on the net subsidy for each reviewed company, as well as for all non-reviewed companies, please see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review.* Interested parties are invited to comment on these preliminary results. See *Public Comment* section of this notice.

EFFECTIVE DATE: September 10, 1997.

FOR FURTHER INFORMATION CONTACT: Christopher Cassel or Lorenza Olivas, Office CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4847 or (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1987, the Department published in the **Federal Register** (52 FR 31057) the countervailing duty order on industrial phosphoric acid from Israel. On August 12, 1996, the Department published a notice of ''Opportunity to Request Administrative Review'' (61 FR 41768) of this countervailing duty order. We received a timely request for review, and we initiated the review, covering the period January 1, 1995 through December 31, 1995, on September 17, 1996 (61 FR 48882).

In accordance with 19 C.F.R. 355.22(a), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers Rotem-Amfert Negev Ltd. (Rotem) and Haifa Chemicals Ltd. (Haifa). Haifa did not export the subject merchandise during the period of review. Therefore, we are rescinding the review with respect to Haifa. This review also covers nine programs.

Pursuant to section 751(a)(3) of the Tariff Act of 1930, as amended, we extended the preliminary results to no later than September 2, 1997, and the final results to 120 days from the date on which these preliminary results are published. See Certain Industrial Phosphoric Acid from Israel; Extension of Time Limit for Countervailing Duty Administrative Review, 62 FR, 23220.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act.