Department's Polyvinyl Alcohol preliminary determination concurrence memorandum states that ''in the case of activated carbon, we compared the export and import statistics values to other available data and found that the import statistics values varied substantially greater from the other comparison values, as shown in the Attachment 1 chart. By comparison the export value varied by a lesser extent.'' See Polyvinyl Alcohol attachments to the Final Analysis Memorandum for Sulfanilic Acid from the PRC, September 9, 1997. Because the public price quotes submitted by respondents on the record of this sulfanilic acid review are contemporaneous to the POR, are supported by publicly available published information (*i.e.*, the export price), and are specific to the type and grade of activated carbon used by the Chinese producers, we have used the average of these prices as the surrogate value for this factor.

Clerical Errors

Respondents contend that the Department made one clerical error in its preliminary results. They state that, in calculating the surrogate value for activated carbon, the Department used incorrect wholesale price indices (WPI's) when it adjusted the sales prices for April 4, May 2, and May 16, 1995, for inflation. For the final results of review, we used price quotes contemporaneous to the time period. Therefore, the surrogate value for this factor will not be indexed for inflation using the WPI.

Final Results of Review

As a result of our review of the comments received, we have determined that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Yude Chemical Industry Company	8/1/95–7/31/96	0.00
Zhenxing Chemical Industry Company	8/1/95–7/31/96	0.00
PRC Rate [1]	8/1/95–7/31/96	85.20

[1] This rate will be applied to all firms other than Yude and Zhenxing, including all firms which did not respond to our questionnaire requests.
*Yude and Zhenxing have been collapsed for the purposes of this administrative review. See Preliminary Results of Antidumping Administrative Review of Sulfanilic Acid from the PRC (62 FR 25917) May 12, 1997. However, we have listed them separately on this chart for Customs purposes.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective upon publication of these final results for all shipments of sulfanilic acid from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rates for reviewed companies named above which have separate rates will be the rates for those firms listed above; (2) for all other PRC exporters, the cash deposit rate will be the highest margin ever in the LTFV investigation or in this or prior administrative reviews, the PRC-wide rate; and (3) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. 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 a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CR 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 terms of an APO is a sanctionable violation.

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

Dated: September 9, 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–24564 Filed 9–15–97; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–803]

Titanium Sponge From the Russian Federation; Notice of Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On May 12, 1997, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping finding on titanium sponge from the Russian Federation (Russia). This notice of final results covers the review period of August 1, 1995 through July 31, 1996. This review covers one manufacturer, AVISMA Titanium-Magnesium Works (AVISMA), and three trading companies, Interlink Metals & Chemicals, S.A. (Interlink), TMC Trading International, Ltd. (TMC), and Cometals, Inc. (Cometals). We gave interested parties an opportunity to comment on the preliminary results. We received comments from AVISMA, Interlink, TMC, and Titanium Metals Corporation (TIMET), a petitioner. A hearing was held on June 30, 1997 with both public and closed sessions. Based on our analysis of these comments, we have not changed the final results from those presented in the preliminary results of review.

EFFECTIVE DATE: September 16, 1997.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Mark Manning, Office of AD/CVD Enforcement, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone:

(202) 482–3965 and 482–3936 respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 353 (1997).

Background

On May 12, 1997, the Department published in the **Federal Register** (62 FR 25920) the preliminary results of the 1995–1996 administrative review of the antidumping finding on titanium sponge from Russia (33 FR 12138, August 28, 1968). This notice of final results covers the review period for August 1, 1995 through July 31, 1996, covering one manufacturer, AVISMA, and three trading companies, Interlink, TMC, and Cometals. The Department has conducted this review in accordance with section 751 of the Act.

Scope of the Review

The product covered by this administrative review is titanium sponge from Russia. Titanium sponge is chiefly used for aerospace vehicles, specifically, in construction of compressor blades and wheels, stator blades, rotors, and other parts in aircraft gas turbine engines. Imports of titanium sponge are currently classifiable under the harmonized tariff schedule (HTS) subheading 8108.10.50.10. The HTS item number is provided for convenience and Customs' purposes. The written description remains dispositive as to the scope of the product coverage.

The review period (POR) is August 1, 1995 through July 31, 1996, covering one manufacturer, AVISMA, and three trading companies, Interlink, TMC, and Cometals.

Analysis of Comments Received

Comment 1: Application of Facts Available Against TMC

Petitioner argues that TMC has not acted to the best of its ability to comply with the Department's requests for information. Petitioner states, ''from the inception of the administrative review, TMC has orchestrated a prolonged deception in each of its responses, concerning its activities and the existence of affiliated parties.'' In addition, petitioner claims that TMC's submissions are ''only a partial accounting of its history and affiliations.'' Therefore, petitioner argues that the application of adverse facts available to TMC is warranted.

Petitioner argues that TMC is a false front. Petitioner claims that TMC is trying to have the Department believe that AVISMA would abandon experienced trading companies for TMC, which, petitioner claims, does not have experience in or knowledge of the worldwide titanium market. In addition, petitioner argues that TMC is not operated similar to any other company in the titanium sponge industry. For example, petitioner claims that TMC's reported sales and profit are not representative of a normal, arm's-length trading company being supplied by an unaffiliated producer. Petitioner points to the information on the record which demonstrates that TMC's profit is higher than the average commission income received by trading companies in the titanium sponge industry.

To support its argument that TMC is misrepresenting itself, petitioner points out that TMC only began providing more information on its activities, ownership, and affiliation after the deadline for submitting new information had expired. Petitioner asserts that the deadline for the submission for new information was March 16, 1997, in accordance with 19 CFR 353.31(a)(ii). Petitioner argues that the Department should reject TMC's April 3, 1997 submission, which petitioner argues provides new information that was not verified by the Department because it was provided on the last day of verification. Petitioner argues that all changes to submissions should be presented at the beginning of verification, which should have included the information in TMC's April 3, 1997 submission. Petitioner asserts that the information provided in this submission is ''new information and worthless for the purpose of determining affiliation'' and ''not susceptible to verification.'' Petitioner claims that none of these submissions were in response to a Departmental query, but new information submitted on its own. At a minimum, petitioner argues that the Department should return and disregard all of TMC's submissions dated after March 16, 1997. Also included in these untimely submissions, are TMC's audited financial statements, which were submitted on March 28, 1997.

Petitioner states that it believes that AVISMA controls and is affiliated with TMC and that TMC tried to manipulate the review process to prevent the Department from learning of this affiliation in order for AVISMA to indirectly obtain a zero dumping margin. Petitioner claims that the original questionnaire requested that TMC list all affiliated companies and TMC failed to disclose several affiliated parties. Given another opportunity through its supplemental questionnaires, petitioner claims that TMC still failed to fully disclose its affiliated companies, and TMC falsely certified that its responses were complete and accurate. Petitioner characterizes TMC as reluctantly deciding to disclose the true owner(s) of TMC once it realized that the Department would be questioning the distribution of TMC's profits on the last day of verification. Petitioner alleges that TMC's late disclosure of this owner indicates that TMC must believe that this disclosure is detrimental to its position.

Petitioner states that the Department has two choices for adverse facts available. We could either use the ''All Others'' rate of 83.96 percent or calculate a new rate by classifying TMC's dividend/royalty as a direct expense and allocate it only to the merchandise sold to the U.S. during the period of review. Finally, petitioner argues that TMC did not accurately and completely answer the questionnaire in a timely manner to the best of its ability.

Petitioner claims that the Department is unable to make a decision on affiliation due to the incomplete information on the record. Petitioner asserts that, ''the Department cannot simply assume benign neglect on TMC's part or that the omissions led to harmless error. Given the still incomplete record in this case, it is impossible to discern the extent to which TMC has prejudiced the final results. These problems render all of TMC's responses unreliable.'' Petitioner argues that if the Department chooses to use TMC responses, it would set a precedent for future respondents that if they fail to provide timely, complete, and accurate responses, there should be ''no fear of sanction.'' Therefore, petitioner argues that the evidence supports applying adverse facts available because TMC failed to cooperate with the Department and did not act to the best of its ability to comply with the Department's requests for information.

TMC argues that the application of facts available is unwarranted because of TMC's cooperation and timeliness in responding to the Department's requests for information and at verification.

With regard to timeliness, TMC claims that it responded to the

Department's initial and six supplemental questionnaires within the deadlines established by the Department and submitted additional factual information within the 180-day regulatory deadline. In addition, TMC claims that it submitted its audited financial statements as soon as the company's first audit was completed, in advance of verification. TMC points out that the Department's verification report reveals ''no material inaccuracies in the information submitted by TMC, nor does it indicate that there were any items that could not be verified.''

TMC cites CAFC court rulings which rule that facts available may be warranted when a large portion of the questionnaire response is submitted past the Department's deadline or when the respondent did not comply with a Department's request for information. See *Ansaldo Componenti S.p.A.* v. *U.S.*, 628 F.Supp. 198, 205 (CIT 1986); *Olympic Adhesives, Inc.* v. *U.S.*, 708 F.Supp. 344 (CIT 1989), *rev'd*, 899 F.2d 1565 (Fed. Cir. 1990); *Daewoo Elec. Co.* v. *U.S.*, 712 F.Supp. 931, 944 (CIT 1989). TMC states that its actions are consistent with the CAFC court rulings in that facts available are not justified in this case.

TMC also argues that TIMET had several opportunities to comment on any inadequacies found in TMC's supplemental questionnaire responses and in the verification report, but chose not to comment.

TMC asserts that TIMET's argument that the Department should reject TMC's March 5, 1997 and April 3, 1997 submissions because they are untimely is misplaced. First, TMC claims that it submitted the April 3, 1997 by the Department's established deadline and during, not after, verification, stating that verification took place April 3–4, 1997 (noting a typographical error in the verification report). In addition, TMC's March 5, 1997 submission was submitted well within the 180-day deadline established by the Department for supplemental submissions.

TMC also argues that information presented in its April 3, 1997 submission was verified. TMC argues that, at verification, the Department requested information regarding TMC's affiliations, which included the information contained in TMC's April 3, 1997 submission. TMC asserts that the Department is not required to verify every piece of information, as stated in 19 CFR 353.36(c).

TMC argues that petitioner inaccurately characterizes TMC's experience in the titanium sponge industry and AVISMA's rationale for hiring TMC as its distributor for marketing titanium sponge. In addition, TMC argues that petitioner's suggestion that the Department could classify TMC's dividend/royalty as a direct expense as adverse facts available is not consistent with Departmental practice. TMC asserts that, in these instances, the Department's practice is ''to assume related party payments are not at arm's length and, consequently, not adjust for them in its antidumping calculations.'' See *Outokumpu Copper Rolled Products AB* v. *U.S.*, 850 F.Supp. 16, 22 (CIT 1994).

TMC argues that TIMET's arguments about TMC's profits are inappropriate and ''should not be viewed as signifying anything other than a well-run company.'' TMC characterizes TIMET's comparison of TMC's profits to those of a commission agent, who takes no risk, as unrealistic and inappropriate.

Finally, TMC argues that if the Department determines that TMC and AVISMA are affiliated, the final results would not change, citing the Department's discussion of affiliation in the preliminary results. TMC points out that TIMET has not challenged this aspect of the preliminary results.

Department's Position

While we are concerned that TMC did not fully disclose the nature of its relationship to AVISMA in its initial questionnaire responses, we have determined that this deficiency did not materially impair our review in this case. Therefore, we have not used adverse facts available against TMC.

In its response to our first questionnaire, TMC stated that it is a wholly owned subsidiary of TMC (Holdings), Limited, whose share capital is owned by Valmet S.A. The ultimate parent of Valmet S.A. is Valmet Group Limited. Bank Menatep of Russia is a minority shareholder of Valmet Group Limited. We note and are concerned by TMC's failure to initially disclose, in response to our questionnaire, the fact that Bank Menatep has a major presence on AVISMA's board of directors. Such facts clearly are material to our consideration of the nature of any relationship between TMC and AVISMA. Although we did not specifically ask TMC whether any of its parent companies were affiliated with AVISMA, either directly or indirectly through another affiliated company, we did ask questions aimed at obtaining a complete picture of the relationship between TMC and AVISMA. To the extent TMC was aware that Bank Menatep was affiliated with AVISMA and failed to report it, we would view that as impeding this review. On the other hand, the record of this case is not clear on this point. The questions asked did not specifically seek this information; rather, the questions focused on the structure and operations of Valmet Group Ltd., Valmet S.A., and TMC. Moreover, the record of this case indicates that Bank Menatep is a minority non-controlling shareholder of Valmet Group Limited. As such, it is not clear how much TMC knew or should have known about Bank Menatep's various operations. Indeed, Bank Menatep's financial statement, later submitted by TMC, shows it to be a large commercial bank with extensive holdings in numerous entities. Additionally, as discussed below, TMC's substantial cooperation and compliance with our numerous questionnaires indicate that rejecting TMC's response *in toto* is not warranted. Therefore, on balance, we do not believe it reasonable to reject TMC's entire response. We also note that, as stated in the preliminary results, we do not believe it is necessary to address this issue of possible affiliation between TMC and AVISMA for purposes of this review because the determination will not affect our analysis. We must rely on TMC's sales to the United States regardless of a determination on affiliation.

With regard to the timeliness of TMC's questionnaire responses and submissions, we believe that TMC has provided its submissions in a timely manner because its submissions were provided earlier than the 180-day regulatory deadline for the submission of new information, in accordance with 19 CFR 353.31(a)(ii) (i.e., March 17, 1997), and its questionnaire responses were submitted within deadlines established by the Department. The Department's regulations at 19 CFR 353.31(b) state that the Department ''may request any person to submit factual information *at any time* during a proceeding'' (emphasis added). TMC's April 3, 1997 submission was provided on the first day of verification in response to the Department's April 1, 1997 supplemental questionnaire. Therefore, at verification, we accepted the new information provided in TMC's April 3, 1997 submission because it was requested by the Department at a previous date.

In addition, TMC cooperated with the Department's requests for information and at verification. As noted by TMC, the Department's April 16, 1997 verification report does not refer to any lack of cooperation on the part of TMC when questioned on its affiliations.

With regard to whether or not the information in TMC's April 3, 1997 submission was verified, we disagree

with the petitioner. As the verification report indicates, TMC's responses were verified without any major discrepancies. As a normal part of our verification procedures, and in particular because of the question of affiliation in this case, we examined TMC's corporate structure and the nature of any affiliation with other partners in great detail. This exercise necessarily involves asking for and collecting additional support documentation. Given the completeness and success of the verification, and the fact that the collected information did not materially affect our analysis, we chose not to visit another location to further evaluate this matter.

Petitioner's speculations on the existence of an affiliation between AVISMA and TMC are not relevant to this proceeding. The Department issued several supplemental questionnaires on this issue and analyzed each submission with regard to whether further information should be requested. In addition, at verification, we examined documents relevant to the affiliation issue, and noted at the time that ''we found no documentation that would lead us to believe that AVISMA and TMC have other dealings besides what was presented in its response.'' *Id.* at 4. Should this question become relevant in our analysis in future administrative reviews, we may further examine the issue of affiliation between TMC and AVISMA. For purposes of this review, the information on the record indicates that an affiliation determination is not relevant to our determination of the dumping margins for TMC and AVISMA. As stated in our preliminary results, because AVISMA did not export to the United States and did not have knowledge of the ultimate destination of the merchandise sold through TMC, ''all relevant sales to the United States are captured in our analysis without making an affiliation determination.'' See Preliminary Results of Antidumping Duty Administrative Review: Titanium Sponge from the Russian Federation, 62 FR 25920, 25921 (May 12, 1997).

Comment 2: Reported Entered Values

Petitioner alleges that Interlink may have used the price that Interlink paid to AVISMA as the entered value of the imported titanium sponge reported to the U.S. Customs Service (Customs). Petitioner states that the reported entered values are not equivalent to the gross sales prices less moving expenses. Petitioner claims that Interlink appears to have undervalued its entries and, therefore, underpaid the dumping cash deposits and Customs duties.

If this is the case, petitioner argues that this price may not be used because the merchandise was not clearly destined for export to the United States (given that AVISMA did not have knowledge of the final destination of the merchandise), as stated in *Nissho Iwai* decision. See *Nissho Iwai American Corp.* v. *U.S.*, 982 F.2d 505,509 (Fed.Cir. 1992). Therefore, petitioner states that AVISMA-Interlink sales may not be used as the basis for entered values.

AVISMA and Interlink argue that this issue was raised in the last administrative review and concerns Interlink and Customs, not the Department or TIMET. AVISMA and Interlink report that Interlink is working with Customs, ''the United States government agency that is, by law, responsible for these matters, to resolve any issues related to the proper valuation of consumption entries.''

Department's Position

We agree with AVISMA and Interlink that any questions concerning the proper valuation of consumption entries is a matter to be resolved by the Customs Service. The Department has conveyed petitioner's allegations to Customs.

Regarding the appropriate basis for export price in this review, our concern is that we have the correct sales price (i.e., the price between the exporter who had knowledge that the shipment was destined to the U.S. and the first unaffiliated U.S. customer). The record of this case indicates that AVISMA did not have prior knowledge that the final destination of the shipment in question was the United States. Because there is no affiliation between Interlink and the U.S. customer, we are satisfied that the reported sales price is the appropriate basis for the export price.

Comment 3: Interlink's U.S. Sales

Petitioner alleges that the Interlink sales used in the calculation of its dumping margin are not bona fide sales for commercial purposes and should be disregarded. Petitioner alleges that Interlink sales which entered the United States under temporary importation bonds (TIBs) are priced lower than the Interlink sales entered for consumption which are used to calculate the dumping margin. In addition, petitioner states that these sales are considerably higher than U.S. and world prices of titanium sponge for the review period. Petitioner states that the Department has disregarded sales when the prices were significantly higher than world market prices and it believed that the respondent had artificially set prices. See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China, 60 FR 56045, 56046 (November 6, 1995); *Chang Tieh Industry Co., Ltd.* v. *U.S.*, 840 F.Supp. 141, 146 (CIT 1993). Insofar as petitioner argues that Interlink's sales used to calculate the dumping margin were not made on commercial terms, it asserts that Interlink's sales should be disregarded and the Department should apply adverse facts available as Interlink's dumping margin.

AVISMA and Interlink disagree with petitioner's characterization of Interlink's sales. AVISMA and Interlink argue that the sales in question were made on different sales terms than sales that entered under TIBs (*i.e.*, Interlink assumed responsibility for all expenses and was the importer of record). AVISMA and Interlink argue that the sales entered under TIBs were sold on an ''in warehouse in Europe'' basis, where the customer took possession in Europe and was responsible for payment for all additional movement expenses, including the movement expenses to the United States.

Department's Position

We disagree with petitioner that there is a basis for disregarding the sales in question. There is no evidence that these sales involve ''artificially set prices.'' Moreover, it is apparent that the higher prices merely reflect the fact that the sales in question were made on different terms of sale. Interlink submitted the sales and entry documentation for the sales in question in response to the Department's February 4, 1997 request. *See* Letter from Wilmer, Cutler & Pickering to Robert S. LaRussa, February 11, 1997. We note that the documentation reports the price charged to Interlink's customer and the sales terms are reported as ''delivered, duty paid.'' In addition, the Customs entry document reports that Interlink paid the 83.96 percent antidumping cash deposit for the sales in question. The customs duty and antidumping cash deposit account for much of the difference between these prices and the ''in warehouse in Europe'' price level. See Analysis Memorandum for the Final Results of 1995/1996 Administrative Review of the Antidumping Finding of Titanium Sponge from the Russian Federation for further discussion of our analysis.

Comment 4: Future Entries of Subject Merchandise

Petitioner argues that the Department should establish a single cash deposit rate for all respondents in this review. Although the Department did not

establish a single rate in the 1994/1995 review, petitioner argues that the circumstances differ in this review because AVISMA changed its selling practices and made sales under this new sales structure, and the record states that TMC became the sole distributor of AVISMA's titanium sponge in November 1995. Petitioner adds that respondents acknowledge that TMC knows the ultimate destination of merchandise it sells through resellers, and, therefore, TMC is the true exporter. Petitioner refers to cases where the Department has applied a ''knowledge test,'' which determines whether the non-NME reseller qualifies as an exporter. See Final Results of Antidumping Duty Administrative Reviews; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, 57 FR 28360, 28427 (June 24, 1992); Final Determination of Sales at Less Than Fair Value; Ferrovanadium and Nitrided Vanadium From the Russian Federation, 60 FR 27957, 27959 (May 26, 1995).

In addition, petitioner claims that Interlink will never again be the exporter and the Department will not be able to calculate a separate margin for Interlink, unless Interlink purchases from another entity which does not have knowledge of the ultimate destination. Therefore, petitioner argues that because TMC will be the only exporter for future entries of titanium sponge, the dumping margin found for TMC should be the cash deposit rate for all future entries by any respondent until the next final results of review are published.

AVISMA and Interlink argue that TIMET is incorrect regarding: (1) The meaning of the marketing arrangement between Interlink and TMC; (2) what TMC knew about the destination of the Interlink sales covered by this review; and (3) the future AVISMA/TMC/Interlink marketing arrangements for titanium sponge sales. AVISMA and Interlink argue that TMC had only a general awareness of Interlink's sales plans and did not know the destination of each sale made by Interlink (an arrangement similar to TMC's sales relationship with AVISMA). In addition, AVISMA and Interlink state that, because of the circumstances of the sale, TMC could not and did not know who or in what country the customer was located. Finally, AVISMA and Interlink argue that petitioner is incorrect in asserting that Interlink will never again be an exporter because, as stated in the last review, the relationship between AVISMA and its resellers is continuing to evolve and sales may be based on a different distribution approach in the future.

Department's Position

We disagree with petitioner's assertion that Interlink will never again be an exporter of the subject merchandise and that the application of a single dumping margin for all exporters is appropriate. Speculation on the future relationships between AVISMA and its resellers is not relevant to this administrative review. What is relevant is that during this review, AVISMA was able to sell directly to TMC, Interlink, and Cometals. Due to the proprietary nature of the information on the record, please see the Analysis Memo for a further discussion of the Department's position.

Comment 5: U.S. Credit Expense

Petitioner claims that the Department may have committed a ministerial error by not including credit cost in its margin calculations. Petitioner argues that the Department should make an adjustment for credit based on the terms of sale.

AVISMA and Interlink argue that petitioner is referring to a citation to the Department's regulations which would only apply to reviews based on requests filed with the Department on or after July 1, 1997 (section 351.701; 62 FR 27296, 27416–17 (May 19, 1997)). In addition, AVISMA and Interlink claim that the Departmental practice is to not make circumstance of sale adjustments in cases involving non-market economies. See Final Determinations of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans from the People's Republic of China, 56 FR 55271, 55276 (October 25, 1991); Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China, 58 FR 48833, 48839 (September 20, 1993) (Lock Washers); Final Determination of Sales at Less Than Faire Value: Saccharin from the People's Republic of China, 59 FR 58818, 58823 (November 15, 1994); Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China, 60 FR 56045, 50–51 (November 6, 1995).

Department's Position

We disagree with petitioner that we should make an adjustment for credit based on the terms of sale. If this proceeding occurred in a market-economy country, we would adjust normal value for the imputed credit calculated on the sales to the United States, in accordance with section 773(a)(6)(C)(iii) of the Act. However, in cases involving non-market economies (NMEs), Departmental practice is to not adjust for differences in the circumstances of sale (COS), such as imputed credit. See *Lock Washers, DOC Position* to *Comment 4* at 48839.

Section 773(a)(6)(C) of the Act states that COS adjustments to normal value are only required upon a sufficient showing that differences in circumstances of sale exist justifying the adjustment. In this case, the only information we have regarding credit costs in the Brazilian home market is the financial statements of the Brazilian producers. These statements do not specify whether Brazilian home market sales include any particular selling expenses. Therefore, we do not have any basis upon which to determine whether adjustment to the surrogate expenses is appropriate. Given the imprecise nature of the information on selling expenses, we have no basis to conclude that such adjustments are warranted in this case. See Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China, *DOC Position* to *Comment 1*, 61 FR 19026, 19031 (April 30, 1996).

Comment 6: Value of Steel Sheet

AVISMA and Interlink argue that the Department's value for steel sheet is far in excess of the cost that one would expect to pay for this ''relatively minor input,'' and the SITC category used by the Department is incorrect and should not be used in the calculation of normal value. AVISMA and Interlink provided: (1) Information regarding the types of steel covered by the SITC classification used by the Department; (2) alternative HS classifications which AVISMA and Interlink believe are more appropriate; and (3) Brazilian import data for the HS classifications for steel.

AVISMA and Interlink claim that, although the Department used the same SITC category in the prior review, there was apparently an arithmetic error for this input which AVISMA and Interlink did not recognize because the value appeared to be reasonable. In the current review, although now the calculation is arithmetically correct, AVISMA and Interlink claim that the cost for steel sheet far exceeds any reasonable expectation of a cost for a minor input. Therefore, AVISMA and Interlink argue that the Department must reject its value for steel sheet because it clearly overstates the value of steel and does not produce a reasonable result.

AVISMA and Interlink state the SITC classification used by the Department is comprised of two HS categories: 7208.44 and 7208.45. AVISMA and Interlink state that the difference between the two HS categories is the thickness of the

sheet. AVISMA and Interlink argue that the more narrow thickness category is more appropriate because lighter drums are preferred in the titanium sponge industry since they are easier to handle and are less expensive to make and transport. Further, AVISMA and Interlink argue that the U.S. Department of Transportation's Research and Special Programs Administration issued regulations which state that steel drums which contain hazardous wastes must meet a minimum thickness requirement of 0.92 mm and have a nominal thickness of 1.0 mm. AVISMA and Interlink report that the greatest thickness of steel in the regulations is 1.9 mm.

AVISMA and Interlink further argue that the HS classification 7208.45 contains specialty steel sheet, while HS classification 7208.35, the only other HS category of hot-rolled steel sheet with a thickness of less than 3 mm, contains the commodity type hot-rolled steel sheet. Therefore, AVISMA and Interlink believe that the Department should value steel sheet from HS classification 7208.35 or a weighted-average of HS categories 7208.35 and 7208.45.

Department's Position

We disagree with AVISMA and Interlink that the SITC category used to value steel sheet is incorrect, given the evidence on the record. AVISMA did not provide any specifications of the steel sheet used for producing steel drums in any of its questionnaire responses. Because of the absence of this information, the Department determined in the preliminary results that the SITC category for steel sheet used in the previous administrative review would be appropriate to value steel sheet for this instant review. Parties did not file comments on the Department's use of the SITC category for steel sheet in the previous review.

AVISMA's and Interlink's argument that there was an arithmetic error in the previous review should have been raised in the previous review. Because there is no information on the record of this case describing the specifications of the steel sheet used by AVISMA, we are not in the position to make a determination on the thickness of the steel used. Therefore, we determined that the use of the basket SITC category to value steel sheet is appropriate for this review.

Final Results of Review

As a result of the comments received, we did not revise our preliminary results and determined that the following margins exist:

Manufacturer/exporter	Review period	Margin (percent)
Russia-wide rate	8/1/95–7/31/96	83.96
Cometals, Inc	8/1/95–7/31/96	28.31
Interlink Metals & Chemicals	8/1/95–7/31/96	0.00
TMC Trading International	8/1/95–7/31/96	0.00

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The following deposit requirement will be effective for all shipments of titanium sponge from Russia entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for merchandise manufactured and exported to the United States directly by AVISMA will be the Russia-wide rate established in these final results of review; (2) the cash deposit rates for merchandise exported to the United States by Interlink, TMC, or Cometals will be those rates established for Interlink, TMC, or Cometals in these final results of review; (3) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original LTFV investigation or a previous review and have a separate rate, the cash deposit rate will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (4) for Russian manufacturers or exporters not covered in the LTFV investigation or in this or prior administrative reviews, the cash deposit rate will continue to be the Russia-wide rate; and (5) the cash deposit rate for non-Russian exporters of subject merchandise from Russia that were not covered in the LTFV investigation or in this or prior administrative reviews will be the rate applicable to the Russian supplier of that exporter. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Further, because the rates for Interlink and TMC have been determined to be zero, we will instruct Customs to liquidate all exports of the subject merchandise during the POR by Interlink and TMC, without regard to the antidumping duty. As stated in the preliminary results, we found that AVISMA's and Cometals' exports during the POR entered the United States under temporary importation bonds, which are not subject to the antidumping order. The Department will issue appraisement instructions directly to the U.S. Customs Service.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26(b) 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 order (APO) in this review of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: September 9, 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

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