Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

National Commission on Small Farms; Meeting

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of meeting.

SUMMARY: The Secretary of Agriculture by Departmental Regulation No. 1043–43 dated July 9, 1997, established the National Commission on Small Farms (Commission) and further identified the Natural Resources Conservation Service to provide support to the Commission. The purpose of the Commission is to gather and analyze information regarding small farms and ranches and recommend to the Secretary of Agriculture a national policy and strategy to ensure their continued viability. The Commission's next meeting is December 10, 11, and 12, 1997.

PLACE, DATE AND TIME OF MEETING: On December 10, the Commission will meet at the Days Inn Crystal City Hotel, 2000 Jefferson Davis Highway, Arlington, Virginia from 7:00 p.m to 10:00 p.m. On December 11 and 12, the Commission will meet at the U.S. Department of Agriculture, Jamie L. Whitten Building, Room 107A, 1400 Independence Avenue S.W., Washington, D.C. On each day the Commission will meet from 8:00 a.m. to 5:00 p.m. to conduct Commission business. The purpose of the meeting is to finalize the Commission's findings and recommendations for consideration by the Secretary of Agriculture. The meeting is open to the public.

ADDRESSES: National Commission on Small Farms, USDA, PO Box 2890, Room 5237, South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Jennifer Yezak Molen, Director, National Commission on Small Farms, at the address above or at (202) 690–0648 or (202) 690–0673. The fax number is (202) 720–0596.

SUPPLEMENTARY INFORMATION: The purpose of the Commission is to gather and evaluate background information, studies, and data pertinent to small farms and ranches, including limited-resource farmers. On the basis of the review, the Commission shall analyze all relevant issues and make findings, develop strategies, and make recommendations for consideration by the Secretary of Agriculture toward a national strategy on small farms. The national strategy shall include, but not be limited to: Changes in existing policies, programs, regulations, training, and program delivery and outreach systems; approaches that assist beginning farmers and involve the private sectors and government, including assurances that the needs of minorities, women, and persons with disabilities are addressed; areas where new partnerships and collaborations are needed; and other approaches that it would deem advisable or which the Secretary of Agriculture or the Chief of the Natural Resources Conservation Service may request the Commission to consider.

The Secretary of Agriculture has determined that the work of the Commission is in the public interest and within the duties and responsibilities of USDA. Establishment of the Commission also implements a recommendation of the USDA Civil Rights Action Report to appoint a diverse commission to develop a national policy on small farms. Individuals may submit written comments to the contact person listed above before or after the meeting.

Dated: November 19, 1997.

Pearlie S. Reed,

Acting Assistant Secretary for Administration.

[FR Doc. 97–30830 Filed 11–21–97; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Forest Service

Northwest Sacramento Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Northwest Sacramento Provincial Advisory Committee will meet on December 5, 1997 at the conference room in the Mendocino National Forest Supervisors Office, 825 N. Humboldt Avenue, Willows, California. The meeting will begin at 9:00 a.m. and adjourn at 3:30 p.m. Agenda items to be covered include: (1) Clear Creek Watershed Analysis Status, Community Proposal, and Grant Submittal; (2) Province Vegetation Mapping; (3) Effectiveness Monitoring Status; and (4) public comment periods. All PAC meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Kathy Hammond, USDA, Klamath National Forest, at 1312 Fairlane Road, Yreka, California 96097; telephone 916–842–6131, (FTS) 700–467–1360.

Dated: November 17, 1997.

Kathy L. Hammond,

PAC Coordinator.

[FR Doc. 97–30764 Filed 11–21–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–805]

Extruded Rubber Thread From Malaysia; Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On February 13, 1997, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of the administrative review of the antidumping duty order on extruded rubber thread from Malaysia (62 FR 6758). This review covers Heveafil Sdn. Bhd. (''Heveafil''), Rubberflex Sdn. Bhd. (''Rubberflex''), Filati Lastex Elastofibre (Malaysia) (''Filati''), Rubfil Sdn. Bhd. (''Rubfil'') and Rubber Thread International (Rubber Thread) (collectively ''respondents''), manufacturers/exporters of the subject merchandise to the United States. The period of review (POR) is October 1, 1993 through September 30, 1994. We gave interested parties an opportunity to comment on our preliminary results.

Petitioner and respondents submitted case briefs on March 10, 1997 and rebuttal briefs on March 17, 1997. No hearing was conducted in this review. Therefore, we have based our analysis on the comments received, and have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: November 24, 1997.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or James Terpstra, AD/CVD Enforcement Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4740 or (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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

Background

On October 7, 1992, the Department published in the **Federal Register** (57 FR 46150) the antidumping duty order on extruded rubber thread from Malaysia. In October 1994, the petitioner, North American Rubber Thread, and the following respondents requested the Department to conduct an antidumping administrative review covering the period October 1, 1993 through September 30, 1994: Heveafil Sdn. Bhd. (''Heveafil''), Rubberflex Sdn. Bhd. (''Rubberflex''), Filati Lastex Elastofibre (Malaysia) (''Filati''), and Rubfil Sdn. Bhd (''Rubfil''). In addition, petitioner requested a review of Rubber Thread International (Rubber Thread). On November 14, 1994, we published a notice of initiation of an administrative review of this order for the period October 1, 1993, through September 30, 1994 (59 FR 56459). We conducted a verification of Rubberflex in Malaysia from September 23, 1996 until October 5, 1996, and of its U.S. affiliate in Hickory, North Carolina from October 16 to 18, 1996. Our preliminary results of review were published in the **Federal Register** on February 13, 1997 (62 FR 6758). Petitioner, Heveafil, Filati, Rubfil and Rubberflex filed case briefs on March 10, 1997 and rebuttal briefs on March 17, 1997. Rubber Thread reported that it made no shipments of the subject merchandise during the POR. The Department has now completed this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classified under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and U.S. Customs purposes. Our written description of the scope of this review is dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments and rebuttal comments from North American Rubber Thread (petitioner), and Rubberflex, Rubfil, Heveafil and Filati (respondents).

Best Information Available (BIA) for Rubberflex

We found that responses provided by Rubberflex could not be verified within the meaning of section 776(b) of the Act. For a significant portion of the cost and expense items reviewed at verification, the information provided in the questionnaire responses was inaccurate or could not be verified. This includes, but is not limited to, information on indirect selling expenses, overhead, selling, general and administrative (SG&A) expenses, labor, materials, rebates, corporate structure, and the completeness of U.S. sales reporting. For numerous items, Rubberflex attempted to present revised information at verification. However, Rubberflex failed to disclose the numerous errors in its responses prior to, or at the start of, verification, as repeatedly requested by the Department. Rather, Rubberflex attempted to present its new information in a piecemeal manner, often late in the verification. This effectively precluded the Department from having adequate time to evaluate the scope and magnitude of the changes. Accordingly, we determined that Rubberflex failed to demonstrate the completeness and accuracy of its questionnaire responses at verification and thus failed verification.

As discussed in comments 1 through 27 below, we carefully reviewed Rubberflex's arguments in light of the February 14, 1997 verification report (verification report) and the supporting verification exhibits. This analysis reveals that Rubberflex's brief systematically mischaracterizes, and seeks to minimize the importance of, all of the myriad problems encountered at verification. As described below, and as in the preliminary results of review, we find that, pursuant to section 776(b) of the Act, the errors and problems found at verification render Rubberflex's questionnaire responses unusable for purposes of calculating a margin.

Section 776(b) of the Act requires the Department to use the best information available (BIA) if it is unable to verify the accuracy of the information submitted. In deciding what to use as BIA, the Department's regulations provide that the Department may take into account whether a party refuses to provide requested information. *See* 19 CFR 353.37(b). Thus, the Department may determine the appropriate BIA on a case-by-case basis.

In cases where we have determined to use total BIA, we apply a two tier methodology of BIA depending on whether the companies attempted to or refused to cooperate in these reviews. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 60 FR 10900 (February 28, 1995). When a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's proceedings, we assign that company first-tier BIA, which is the higher of: (1) The highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less-than-fair-value (LTFV) investigation or a prior administrative review; or (2) the highest calculated rate found in this review for any firm for the same class or kind of merchandise in the same country of origin.

When a company substantially cooperates with our requests for information including, in some cases, verification, but failed to provide complete or accurate information, we assign that company second-tier BIA, which is the higher of: (1) The highest rate (including the ''all others'' rate) ever applicable to the firm for the same class or kind of merchandise from either the LTFV investigation or a prior administrative review or, if the firm has never before been investigated or reviewed, the all others rate from the LTFV investigation; or (2) the highest

calculated rate for any firm in this review for the class or kind of merchandise from the same country of origin. *See Allied-Signal Aerospace Co.* v. *United States*, 996 F.2d 1185 (Fed. Cir. 1993).

We applied second-tier BIA to Rubberflex. While Rubberflex cooperated throughout the administrative review by submitting questionnaire responses and submitting to verification, we found that responses provided by Rubberflex could not be verified. Accordingly, we resorted to BIA pursuant to section 776(b) of the Act. The deficiencies are outlined in detail in the preliminary results of review and in the public version of the memorandum on Rubberflex's Failed Verification from Holly Kuga to Jeffrey P. Bialos, dated December 12, 1996.

In this case, the BIA rate is the highest calculated rate for any firm in this review for the class or kind of merchandise from the same country of origin. Thus, as a result of our review, we determined the dumping margin for Rubberflex to be 29.83 percent.

Comments Concerning Rubberflex

Rubberflex argues that the Department was not justified in disregarding its responses and assigning a total BIA rate in the preliminary results. Rubberflex contends that the Department verified Rubberflex's questionnaire responses, and that, at most, the Department should use partial BIA for certain aspects of its dumping calculations. Rubberflex made numerous detailed arguments refuting and rebutting the Department's preliminary results, verification report, and verification failure memo. We have addressed these to the greatest extent practicable in this notice. However, many of the comments are extremely detailed and many can only be completely addressed by reference to proprietary data. Accordingly, we addressed each comment in complete detail in a proprietary analysis memorandum to the file dated November 12, 1997.

Comment 1: Reconciliation of Sales, Profit and Expenses. Rubberflex maintains that it provided the Department with a reconciliation of its calendar year 1993 and 1994 trial balances to the appropriate audited, consolidated financial statements at verification. Rubberflex states that, contrary to the verification report, total sales, profit, financing expenses, and indirect selling expenses were reconciled to the audited financial statements.

DOC Position: We agree that Rubberflex was able to reconcile the total value of the expenses reported on the trial balance to its audited financial statements for the above-mentioned figures. We disagree that this had any bearing on the verification of the amounts reported in the questionnaire response. This reconciliation was not what was requested of the company at verification. Rubberflex voluntarily provided the reconciliation of sales, cost and profit from the trial balance to the audited financial statement in response to the Department's request that it demonstrate that the indirect selling expenses figures provided in the revised response provided at verification tied to the audited financial statements. Rubberflex did not demonstrate that the figures reported in its revised response for indirect selling expenses and G&A tied to its audited financial statements.

Comment 2: Reconciliation of Rubberflex's Affiliates' Financial Statements. Rubberflex disputes the Department's determination that its home market indirect selling expenses did not reconcile to its current financial statement due to the fact that indirect selling expenses incurred in Rubberflex's U.K. and German branch offices (expenses which account for differences between the home market indirect selling expenses and the financial statement) could not be verified. Rubberflex contends that during verification it demonstrated how total sales, expenses, and profits of the U.K. and German branches accounted for differences between consolidation totals and totals for Rubberflex in Malaysia. Further, Rubberflex claims that it should not be held accountable for providing original copies of the auditors' consolidation worksheets in the short time permitted at verification. Rubberflex also contends that it stressed during verification that information involving its U.K. and German branches could only be accurately verified on site in those particular countries.

DOC Position: We disagree. It is one of the primary requirements of verification that a company is required to tie the information in its questionnaire response to its audited consolidated financial statements. Rubberflex failed to do so at verification. Rubberflex is essentially arguing that we should accept their attempt, but ultimate failure. We disagree. Given the circumstances of this review, where Rubberflex provided numerous, inadequately explained or documented revisions to its questionnaire response, Rubberflex's failure in this regard undermines the entire verification.

Comment 3: Italian Sales List. Rubberflex states that the Department verified that all Italian sales were reported. Moreover, Rubberflex contends that the Department noted no discrepancies when Rubberflex tied Italian sales to its 1993/94 audited financial statements and other ledger balance accounts. Rubberflex claims that the sales prices and quantity for all third-country sales reviewed by the Department tied to source documents presented by Rubberflex, except for one minor discrepancy in the quantity reported in the sales list.

DOC Position: The Department did not note any discrepancies in its verification report with respect to the volume and value of sales to Italy. However, we did not verify the price of Italian back-to-back sales or inventory sales, since the proof of payment information is kept in Italy.

Comment 4: Foreign Inland Freight, and Brokerage and Handling. Rubberflex contends that these expenses were reported on a transaction-specific basis, and charged on a flat-rate based on the size of the container or the bill of lading. Although Rubberflex was unable to present original invoices for these expenses, or proof of payment on two preselected sales, Rubberflex contends that it was able to demonstrate that the flat fee allocated according to the actual quantity shipped tied to amounts reported in its response.

DOC Position: We agree that Rubberflex was unable to present original invoices for these expenses, or proof of payment on two preselected sales. In addition, our December 12, 1996 memorandum *Rubberflex Sdn. Bhd.: Reasons for a determination of failed verification for the 1993–1994 and 1994–1995 reviews of extruded rubber thread from Malaysia (A–557–805)* (December 12, 1996 memorandum) states that, Rubberflex was missing a number of freight invoices and/or the batch statements tying the invoices to the financial statements, and as a result, [we] could not document freight expenses from the factory to the port. Therefore, we disagree that Rubberflex was able to demonstrate that the flat fee allocated according to the actual quantity shipped tied to amounts reported in its response.

Comment 5: Ocean Freight. Rubberflex claims that the Department verified ocean freight on sales to Italy on a transaction-specific basis, and found no discrepancies in the information presented with respect to pre-selected sales.

DOC Position: We agree with Rubberflex's characterization of the verification of ocean freight.

Comment 6: Credit Expenses in the Home Market. Rubberflex states that its original response contained the

information needed to calculate credit expenses for third-country sales and that this response was neither revised nor found to contain any significant errors during verification.

DOC Position: Our verification report notes that Rubberflex reported the appropriate expenses for its net interest expense in the cost response, but omitted certain expenses related to export credit refinancing (EAR) expenses from its calculation of the interest rate used in home market sales. Therefore, we disagree with Rubberflex's contention that credit expenses for third-country sales were verified as reported.

Comment 7: Packing Expenses Incurred in the Home Market. Rubberflex claims that at the beginning of verification, it disclosed to the Department that it had erroneously allocated the cost of all factory workers' benefits in the category of fixed overhead costs, rather than allocating that cost among direct labor costs, fixed overhead costs, and packing labor costs. Rubberflex stated that a corrected worksheet reflecting this reallocation was submitted to the Department at the beginning of the cost verification, and subsequently verified. Rubberflex contends that a comparison of the original to the corrected worksheets reveals only minor changes in the calculation of packing labor costs. Further, Rubberflex also contends that it submitted an additional worksheet which proved that the reallocation did not affect the total cost of production (COP) or constructed value (CV).

DOC Position: We agree with Rubberflex that we found only minor discrepancies in Rubberflex's calculation of packing material and labor expenses. However, we disagree that Rubberflex presented any documentation at the beginning of verification to demonstrate what changes it made to the classification of labor expenses in its sales and cost response. Rubberflex did make a general oral statement that it had reallocated some labor costs across packing, indirect overhead and factory labor, but it did not spell out those changes. The Department then directly and repeatedly requested Rubberflex to provide this information in writing, which it said it would do. However, Rubberflex failed to report any of its changed allocations until each subject arose in the course of the verification.

Comment 8: Indirect Selling Expenses Incurred in the Home Market. Rubberflex states that the worksheets provided in its questionnaire response regarding home market indirect selling expenses and general and administrative expenses (G&A) were based on its auditor's presentation of G&A expenses, which in turn were based on Rubberflex's trial balance and general ledger. Rubberflex contends that the titles of the concepts listed in the auditor's presentation did not always relate directly to the titles of the accounts used by Rubberflex in the ordinary course of business because the auditor collapsed several accounts into a single concept. Rubberflex further contends that while preparing for verification, it discovered that the worksheets in its response required two corrections. However, Rubberflex maintains that: (1) It disclosed these changes on the first day of verification, (2) the Department reviewed these revisions, and (3) these revisions were tied to the financial statements.

DOC Position: As we explained in the Best Information Available for Rubberflex section of this notice and the Department's position to Comments 1 and 2, Rubberflex failed to demonstrate that it reported all of the appropriate indirect selling expenses and G&A expenses to the Department, despite three separate submissions, and that it failed to tie the reported expenses to its audited financial statements. It failed to provide a worksheet, or any other type of document, reconciling the titles and concepts used in its trial balance to those on the audited financial statements. (*See* page 2 of the Department's December 12, 1996 memorandum concerning the verification failure for Rubberflex.) Therefore, Rubberflex failed to demonstrate that it included all appropriate indirect selling expenses and G&A expenses in its revised exhibit, and that those expenses tied to the total amount of expenses recorded for Rubberflex Malaysia on Rubberflex's financial statements.

Comment 9: U.S. Sales Listing. Rubberflex contends that it demonstrated at the verification in Malaysia that (1) all purchase price (PP) sales entered into the United States during the review period were reported; (2) it accurately reported the date of sale for PP sales as the Malaysian bill of lading date; and (3) it accurately reported foreign inland freight, packing, indirect selling expenses, brokerage and handling, international freight and marine insurance pertaining to U.S. sales that were incurred in Malaysia.

DOC Position: We disagree with Rubberflex's characterization of the verification of the U.S. sales. Our review of Rubberflex's U.S. sales reporting during the U.S. portion of the verification revealed a great deal of confusion concerning the date of sale and the accuracy of the computer sales listing. Rubberflex was unable to demonstrate that the price, quantity and date of sale were accurately reported on the computer sales listing. At verification in Malaysia, and in the questionnaire response, the date of sale for all PP sales was identified as the Malaysian bill of lading date. However, in the United States, company officials stated that for certain consignment sales, which were made prior to importation, Rubberflex used the date on which the rubber thread is withdrawn from Rubberflex's customer's inventory as the date of sale. Thus, the questionnaire response, and the Malaysian verification findings, were contradicted. Moreover, because Rubberflex failed to indicate on its computer tape which sales were consignment sales, it was not possible to know what date of sale was operative for any of the sales listed on the computer tape.

With respect to the accuracy of the other expenses: (1) The problems with foreign inland freight and indirect selling expenses are discussed elsewhere, and (2) we found only minor discrepancies with ocean freight, marine insurance or brokerage and handling.

Comment 10: The Total Volume and Value of PP and Exporter's Sales Price (ESP) Sales. Rubberflex argues that the Department was able to reconcile the quantity and value of Rubberflex's sales to the response after certain adjustments were made at the U.S. verification. Rubberflex contends that, at the U.S. verification, Rubberflex provided worksheets that traced the reported quantities and values of the U.S. sales to Rubberflex's audited financial statements.

DOC Position: We disagree. The verification report establishes that Rubberflex was never able to conclusively demonstrate that its U.S. sales were correctly reported. Rubberflex was not able to demonstrate the validity of the information provided on the computer tapes by the end of the verification.

As Rubberflex explains in its case brief, it presented a reconciliation of the volume and value of sales from its financial statements to the response. We found a number of clerical errors and omissions, such as credit memos that were initially omitted from the reconciliation exercise because they were omitted from the response. We found that: (1) Certain sales were reported in two review periods; (2) others were misclassified between PP and ESP sales; (3) the date of sale for certain PP sales was misreported; and (4) Rubberflex could not reconcile its

credit memos to the specific line items on the computer tape. Given that we found errors in almost every phase of the numerous attempted reconciliations of U.S. sales, it is not accurate to claim, as does Rubberflex, that the quantity of U.S. sales was in any way reconciled completely. Consequently, we found that these errors and omissions undermined the integrity of the response and made the computer tape unusable for the purpose of calculating a margin.

Comment 11: Date of Sale Methodology for U.S. Sales. Rubberflex notes that the Department's December 12, 1996 memorandum stated that Rubberflex failed to use the appropriate date of sale methodology for purchase price sales in the 1993–1994 review. Rubberflex contends that the terms of sale sometimes changed between purchase order and the bill of lading date; thus the essential terms were not set on the purchase order date. It notes that the reporting methodology for this review is consistent with the methodology used in both the original investigation and the prior reviews. Rubberflex contends that the verifiers confirmed that no entries had been improperly omitted in the beginning of the 1993–1994 period of review.

DOC Position: We disagree that Rubberflex reported all of its sales to the United States that were required by the questionnaire. Page 33 of our questionnaire asked Rubberflex to report all purchase price sales that caused the entry of the subject merchandise during the period of review, regardless of whether the sale date occurred during the period of review, or prior to the period of review. Rubberflex claimed at verification both in Malaysia and in the United States that the terms of the sale, that is, the price and quantity of the sale, were fixed on the purchase order date, and that the purchase order was required either to initiate production or shipment. The verification points to few, if any, changes in the terms of the sale after the purchase order date. Therefore, by using the Malaysian bill of lading date as date of sale for PP sales, and by reporting only those sales that were shipped from Malaysia during the period of review, rather than all purchase price sales that caused the entry of the subject merchandise during the review period, (which it had the ability to report) Rubberflex failed to report all the sales required by the Department's questionnaire. In addition, at verification, Rubberflex claimed that all consignment sales that entered the U.S. during the review period, but were withdrawn from Rubberflex's customer's inventory after the review period, should have been reported during the subsequent (1994–1995) review period using the U.S. invoice date as the date of sale. This date of sale methodology does not agree either with what was reported in the response, or what was requested in the Department's questionnaire.

Comment 12: Review Classification According to Date of Entry. Rubberflex states that its inadvertent error of classifying 37 sales under two different review periods can be easily rectified, and should not form the basis for the assignment of total BIA. Rubberflex disputes the Department's contention that Rubberflex was not able to state with any clarity for which review the 37 sales should have been reported. Rubberflex claims that the Department verified the entry dates for the sales in question and noted no discrepancies. Therefore, Rubberflex requests that the Department revisit this issue and reclassify those 37 sales into the appropriate review period according to date of entry.

DOC Position: At verification, Rubberflex was unable to appropriately classify all of its sales to the United States with regard to review period and type of sale (PP or ESP). We asked Rubberflex to properly classify 37 of the approximately 125 PP sales that we found reported in both reviews. Rubberflex claimed that all consignment sales should be classified in the 1994–1995 review. However, this classification did not coincide with the narrative of its response which indicated that it used the Malaysian bill of lading date as the date of sale. Some of these consignment sales had U.S. entry dates which occurred during the 1993–1994 review period. Therefore, since the U.S. entry date always follows the bill of lading date in Malaysia (since the ship arrives in the U.S. after it leaves Malaysia), these sales could not properly be classified in the 1994–1995 review. When the Department tried to examine the rest of the computer sales listing for the treatment of the date of sale in consignment sales, it found that Rubberflex did not indicate which sales were consignment sales on the computer sales listing submitted to the Department. Consequently, the Department cannot determine whether the rest of the sales reported on the computer tape were appropriately classified with respect to review period, and therefore, we have no basis by which to accurately reclassify these 37 sales or to verify the accuracy of respondent's classification of the remaining U.S. sales as reported by respondent.

We note again that it is Rubberflex's responsibility, not the Department's, to prepare the questionnaire response. The errors we found at verification in the preparation of Rubberflex's U.S. sales data were so wide-spread and pervasive that the Department could not ensure that any of the reported information was correct unless we were to undertake the task of reconstructing the questionnaire response ourselves.

Comment 13: ESP and PP Sales. Rubberflex disputes the Department's determination that it misreported or duplicated the reporting of certain sales (*i.e.,* certain sales classified as both ESP and PP). Rubberflex explains that it clarified during verification the reason why certain invoices were referenced under different review periods and classified under different U.S. databases. As an example, Rubberflex states that sales must be reported under various U.S. classifications because certain consignment sales and sales made out of inventory normally result in a number of invoices issued by the U.S. affiliate, whereas the container corresponding to those sales is recorded in Rubberflex's books as a single invoice. Moreover, Rubberflex claims that during verification, the Department examined a few invoices having similar circumstances and indicated its satisfaction with Rubberflex's explanations, and did not request to view additional invoices. Rubberflex contends that it properly reported all U.S. sales.

Petitioner contends that Rubberflex confused the standard for when sales are PP versus ESP. If a subsidiary is fully responsible for setting the terms of the sale (as Rubberflex's U.S. subsidiary is for all U.S. sales), that alone makes the sales ESP sales according to *Final Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China*, 62 FR 9171, 9171–72 (February 28, 1997)(Comments 14 and 16).

DOC Position: We disagree with Rubberflex. Pages 27 and 28 of the verification report note that company officials were confused about the classification of Rubberflex's U.S. sales with respect to ESP and PP and with respect to review period. At the conclusion of the verification, company officials were still unable to determine which sales should or should not be reported, or whether they were PP or ESP sales.

Comment 14: Credit Memos in the U.S. Market. Rubberflex contends that the Department overstates the impact of the omitted credit memos during the POR. Rubberflex claims that its U.S. affiliate identified the omitted credit

memos, most of which had no effect on unit price, and thus no effect on dumping margins of any U.S. sales. Rubberflex disputes the Department's determination that the omitted credit memos made it impossible to tie the U.S. sales listing to the U.S. affiliate's financial statements.

DOC Position: We disagree. Rubberflex reported the U.S. price and quantity net of credit notes, despite instructions in the questionnaire to record price and quantity adjustments separately. Therefore, it is not possible to determine which sales have price and quantity adjustments attributed to them by examining the computer tape.

At verification, Rubberflex was unable to reconcile the credit memos to the computer sales listing. First, Rubberflex failed to have its reconciliation (via the mechanism of credit memos) of the PP sales value from the financial statements to the response prepared at the beginning of the verification. Second, Rubberflex initially failed to report all of its credit memos with respect to ESP sales on the reconciliation from the financial statements to the computer sales listing. Further examination revealed that Rubberflex had also failed to revise the computer sales listing to account for these missing credit memos. Finally, Rubberflex company officials in the United States stated that they did not know how to tie the credit memos listed in the verification exhibit 52 to the questionnaire response since Rubberflex company officials in Malaysia prepared that portion of the response.

Comment 15: U.S. Inland Freight. Rubberflex claims that it tied its U.S. average freight expense to its financial statements for a sample month, except for a small amount due to accruals.

DOC Position: We agree with Rubberflex's characterization of the U.S. inland freight verification.

Comment 16: Inventory Carrying Costs. Rubberflex contends that it established the accuracy of all of the figures used to calculate inventory carrying costs in the United States: the cost of goods sold in the U.S. and time on the water.

DOC Position: We were unable to examine Rubberflex's inventory turnover rates and U.S. interest rates during verification and, therefore, disagree with Rubberflex's contention that we established the accuracy of all the figures necessary to calculate inventory carrying costs in the United States. We agree that we found no discrepancies in the verification of the cost of goods sold in the United States and time on the water, which are the two other figures required to verify the inventory carrying costs.

Comment 17: Corrected Worksheets Should Be Part Of The Record. Rubberflex contends that given the time constraints, it was unable to present corrected worksheets on the first day of verification, and therefore, those worksheets, which Rubberflex contends were subsequently submitted and verified, should not be disregarded. Rubberflex disputes the Department's finding that it had no worksheets to demonstrate how the original responses were prepared or why they were changed or what the relationship was between the original and revised submissions. Rubberflex contends that corrected worksheets were submitted during verification, are referred to in the Department's verification report and are found in the verification exhibits. Rubberflex states that a side-by-side comparison of the original to the revised worksheets clearly reveals the relationship between the documents.

Rubberflex also contends that on the first day of verification, it suggested to the Department that any corrected worksheets be included as part of the verification exhibits normally submitted after verification and that the Department did not object to its proposal. Rubberflex also states that it repeatedly requested to submit revised computer tapes to reflect corrections it claims to have presented during the beginning of verification. However, Rubberflex claims that the Department never responded to its request.

Petitioner emphasized that Rubberflex did not submit to the Department a listing of reporting errors at the commencement of verification, nor was petitioner served such a list, as required by the Department's regulations. Petitioner contends that Rubberflex's claim that the Department was advised at the commencement of verification of certain errors in its submissions should be of no consequence.

DOC Position: As stated in our preliminary results, we found that the responses provided by Rubberflex could not be verified. The inaccuracies which render the response unusable for purposes of margin calculations include the fact that Rubberflex attempted to provide revised questionnaire responses at verification for home market indirect selling expenses, direct labor and packing labor expense, variable overhead, financing expenses and the cost of goods sold; for these same expenses Rubberflex could not demonstrate how the original response was supported by documentation, nor could it document the difference between the original and revised submission for these items.

Rubberflex failed to provide written disclosure of changes made to its questionnaire response on the first day of verification, although it was asked to do so. Rather, it provided verification exhibits which constitute revised questionnaire responses throughout the course of the verification. Rubberflex also failed to explain and/or quantify the effects of these revisions, rendering the Department unable to assess the significance or impact of these changes. As we stated in *Elemental Sulphur From Canada: Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 969, 970 (January 7, 1997), the Department can accept new information at verification only when (1) the need for that information was not evident previously, (2) the information makes minor corrections to information already on the record, or (3) the information corroborates, supports, or clarifies information already on the record.

Rubberflex states in its brief that it submitted such revisions at the beginning of the verification. This is directly contradicted by the facts on the record. There were 38 verification exhibits covering the verification in Malaysia. The document concerning packing costs is exhibit number 18, that regarding direct labor is exhibit number 22 and that regarding fixed overhead is exhibit number 33. As such, the record clearly demonstrates that the information was provided piecemeal, and late in the verification exercise.

We also disagree with Rubberflex's contention that the Department engaged in any discussion during verification concerning a suggestion that Rubberflex file any corrected worksheets with the exhibits normally filed after verification. We further disagree that Rubberflex engaged in any discussion concerning the provision of a revised computer tape. Moreover, given the pervasive errors and changes made to the questionnaire response and the difficulties verifying those changes, the Department has no reason to believe that a new computer tape, submitted after verification, would accurately represent the changes to the response that were presented during the verification. Under the circumstances of this case, the Department would undermine its purpose in verifying the questionnaire response by accepting such new information after verification.

Comment 18: Corporate Structure. Rubberflex disputes the Department's finding that Rubberflex failed to identify the owners of its company and the existence of an affiliated European

company. Rubberflex claims that it demonstrated the identity of its parent company through its annual return to the Government of Malaysia, which reports information regarding its shareholders and directors. Further, Rubberflex contends that it tied the shareholdings from the annual return to a corporate structure worksheet provided in its response.

In addition, regarding any European affiliates, Rubberflex contends that it could not provide documentation regarding the sale of these companies, which it explained to the Department at verification. Rubberflex further states that, regardless, the sale of affiliated European resellers have no relevance to Rubberflex's sales verification in the home and U.S. markets.

DOC Position: We disagree with Rubberflex that corporate structure was adequately verified. Rubberflex provided new information at verification by introducing the existence of a previously unreported corporate owner. We asked Rubberflex to provide information regarding whether this company had any affiliation with Rubberflex's customers or suppliers. However, Rubberflex declined to produce such information. Rubberflex merely stated, as it does in its case briefs, that the affiliated European resellers have no relevance to Rubberflex's sales in the home market and the United States. Consequently, the Department was unable to satisfy itself regarding whether any related-party sales, loans, equipment purchases or raw material purchases occurred during the POR. As the U.S. Court of International Trade stated in *Krupp Stahl A.G.* v. *United States*, 17 CIT 450; 822 F. Supp. 789, 792 (1993), it is inappropriate for respondents to limit or control which information they present to the Department in a way that impedes the Department's ability to confirm the accuracy of the questionnaire response or forces the Department to use information most beneficial to them.

Comment 19: Direct Material Costs. Rubberflex claims that the Department verified the direct material costs used in its COP and CV submissions. Rubberflex contends that the Department examined the following steps Rubberflex used to calculate the direct material costs: (1) The compound recipes of direct materials latex and chemicals used as the basis for determining product-specific cost of productions for all types of rubber thread; (2) the budgeted costs used to derive the standard per-unit costs; (3) the actual cost of materials used; and (4) the variance between standard and actual material costs. Rubberflex argues that the Department verified the steps by examining batch records (computer listings which aggregate a number of invoices that appear as a single line item in the general ledger), testing inventory formulas, and determining that Rubberflex accurately captured and reflected all direct material costs incurred during the review period.

Rubberflex notes that the Department questioned the budgeted costs because they were derived in 1991 and differed from the weighted-average costs of materials in inventory. Rubberflex stated that these budgeted costs had not been revised since 1991 because they were still a reasonable estimation of the costs of the various materials used to produce rubber thread and none of the costs had changed significantly. Rubberflex argues that the budgeted costs are a reasonably accurate tool for predicting costs over time.

DOC Position: We disagree with Rubberflex that per-unit direct materials cost was verified. We did verify the total material cost during the POR as well as the actual quantity of materials used. However, neither of these figures alone is sufficient to calculate the per-unit cost reported in the questionnaire response. Rubberflex reported its per-unit material cost by multiplying actual material used per product by standard material prices to arrive at a standard cost. To calculate a variance, Rubberflex calculated the total material cost at standard; it then made a factory-wide adjustment for the difference between total actual material cost and the total material cost at standard. This methodology is not, in itself, a problem.

There are two problems which arise from Rubberflex's use of the 1991 standard prices. The first is that Rubberflex was unable to substantiate how those prices were calculated in 1991 and what those figures represent. Therefore, it is not possible to evaluate the accuracy of the per-unit cost calculations. Rubberflex made no attempt to demonstrate that these prices were reasonable, or that the use of 1991 prices to calculate costs for 1995 products was non-distortive.

The second problem is that the actual material prices paid by Rubberflex during the POR have changed relative to the 1991 standard prices that were used as the basis for the company's standard costs and variance allocation. As the verification report on page 17 states, we compared the 1991 standard prices with the actual POR prices and found that the prices of individual materials increased or decreased at different rates. In several instances the changes were substantial. Because each product uses a different mix of materials, the cost of producing each different product would change relative to the cost of other products produced in the factory. Thus, by neglecting to update its standard material prices to reflect changes in the actual cost of materials, Rubberflex failed to accurately capture the per-unit materials cost for the subject merchandise, both in terms of its standard cost and for its variance allocation.

Comment 20: Direct Labor Costs. Rubberflex contends that the Department verified its labor costs in full. Rubberflex argues that it used the following steps to calculate the direct labor costs reported in its COP/CV submissions: (1) Calculate actual direct labor cost per minute of production by dividing total direct labor costs during the review period by the total production time during the review period; (2) allocate the cost per minute to specific products based on the standard number of minutes required to produce particular types of rubber thread; and (3) adjust the product-specific costs calculated using the standard yield for the variance between actual and predicted factory operation.

Rubberflex notes that at the beginning of verification, it disclosed certain minor revisions, and provided a corrected worksheet, to the Department. Rubberflex claims that a side-by-side comparison of the original and corrected worksheets reveals only minor corrections. In order to verify the corrected worksheet, Rubberflex states that it traced all of the reported expenses to its trial balance, and traced from the trial balance to the general ledger and relevant source documentation.

DOC Position: We agree that Rubberflex followed the method it outlined to determine direct labor expenses. However, we disagree with Rubberflex's characterization that these expenses were fully verified. *See DOC Position* to comment 17. Rubberflex failed to clearly demonstrate the impact of these changes on the calculations in the questionnaire response. For example, Rubberflex contends that the revised data reflected merely a reclassification of certain labor costs. Despite the fact that much of Rubberflex's explanation is *post hoc*, their own exhibits belie their assertions. An examination of the exhibits placed side-by-side in exhibit 3 of Rubberflex's brief reveals numerous and significant differences in the exhibits, differences that Rubberflex failed to account for.

A second problem arose during the verification of labor expenses. As we explain on page 15 of our verification report, Rubberflex failed to provide

supporting documentation for managerial labor expenses, despite the Department's request, thus placing control * * * in the hands of uncooperative respondents who could force Commerce to use possibly unrepresentative information most beneficial to them. *Krupp Stahl,* 822 F. Supp. at 792.

Comment 21: Variable Overhead Costs. Rubberflex contends that at the beginning of verification, it disclosed to the Department two minor errors concerning its variable overhead costs: (1) Rubberflex reported the salary of the factory supervisor and manager as variable overhead costs, rather than fixed overhead costs; and (2) certain components of variable overhead needed to be corrected to reflect year-end adjustments. Rubberflex stated that a corrected worksheet reflecting this reallocation was submitted to the Department during the cost verification. Rubberflex claims that a side-by-side comparison of the original and corrected worksheets reveals only minor changes. Rubberflex states that the costs were verified by the Department and that final expense figures used were appropriately recorded in monthly accounts, according to the Department's verification report. In addition, Rubberflex states that these minor changes were necessitated by adjustments made by the auditors after performing a physical inventory of materials.

DOC Position: We disagree. *See DOC Position* to Comment 17.

Comment 22: Fixed Overhead Costs. Rubberflex contends that at the beginning of verification, it disclosed to the Department several minor errors concerning its fixed overhead costs: (1) Rubberflex reported the salary of the factory supervisor and manager as variable overhead costs, rather than fixed overhead costs; (2) the cost of all benefits for workers in the factory was included in fixed overhead cost, rather than being allocated among direct labor costs, fixed overhead costs, and packing labor costs; and (3) Rubberflex's auditor made a provision for writing-off finished goods inventory, which did not exist at the time of the original questionnaire response. Rubberflex stated that it provided a corrected worksheet reflecting this reallocation during the cost verification. Rubberflex contends that the magnitude of any corrections made with regard to the original worksheet were minor. Rubberflex contends that the Department verified the corrected worksheet by tracing expense amounts to source documents, the trial balance and the general ledger.

DOC Position: We disagree. *See DOC Position* to Comment 17.

Comment 23: Depreciation. Rubberflex claims that the Department verified the reported depreciation figures by tracing the figures to the trial balance, general ledger, asset schedules, and selected purchase invoices for assets. Rubberflex disputes the Department's finding in the verification report that it could not rely on the accuracy of reported depreciation expense due to the fact that the original cost basis for certain assets acquired prior to 1990 could not be traced to the appropriate asset schedule in the year of purchase. Rubberflex justifies its inability to produce original cost basis information on certain assets by claiming that: (1) It is unreasonable for accounting or tax purposes to maintain accounting documents for more than five years, particularly where Malaysian tax authorities do not require the retention of these documents for that period of time; (2) Rubberflex was not notified that such documents may be needed for verification purposes; and (3) the Department traced the annual depreciation for assets purchased before 1990 to trial balances and asset schedules for fiscal years 1993, 1994, and 1995, and could plainly see that the assets were being depreciated in a systematic manner, which was reviewed and approved by its auditors. Therefore, Rubberflex claims that its inability to provide original asset schedules for years prior to 1990 does not provide grounds for the Department to question the accuracy of the reported costs.

DOC Position: We disagree with Rubberflex that its inability to provide original asset ledgers for certain items requested is not a verification problem. The verification report specifies that we became aware that Rubberflex purchased certain major pieces of capital equipment from an affiliated party. Examples of these purchases are recorded on verification exhibit 36. Pages 18 and 19 of the verification report note that we attempted to determine whether the transfer price of such equipment, and the associated depreciation expenses, represented arm's-length transactions. Rubberflex failed to provide information responsive to our request. Thus, we were unable to satisfy ourselves in this regard.

We agree that Rubberflex reported the depreciation expenses on its books and records, which were audited and in accordance with Malaysian GAAP. Normally we use the costs and expenses recorded on the company's books and records, provided that we are satisfied that such costs are non-distortive. In this case, we had reason to question whether the depreciation expenses recorded on Rubberflex's books where under-or overstated (*i.e.* distortive) by reason of an affiliated party transaction.

Finally, it is reasonable to request Rubberflex to document the figures that it used to record its depreciation expense on its books and records. Rubberflex depreciates certain machines and buildings for more than 5 years and reflects those figures on its books and records. It is standard verification practice to ask companies to demonstrate the figures, and to keep documentation supporting information submitted in an antidumping proceeding, for the purpose of verification. The U.S. Court of International Trade held in *Krupp Stahl,* 822 F. Supp. at 792, that, despite the fact that the German authorities did not require the company to maintain business records for more than five years, it did not absolve a respondent in an antidumping proceeding of the responsibility of providing source documents to support its questionnaire response.

Comment 24: General and Administrative (G&A) Expenses. Rubberflex states that at the beginning of verification, it submitted a revised worksheet which properly captured certain G&A expenses. Some of these expenses were misclassified as G&A expenses in the original questionnaire response and, therefore, were not properly included in the worksheet for indirect selling expenses. Rubberflex further explains that it provided worksheets and source documentation which substantiated its allocation methodology with regard to indirect selling expenses and G&A expenses. Rubberflex contends that the Department traced the amounts shown in the revised worksheet to relevant trial balances, source documentation, and the general ledger.

DOC Position: We disagree. *See DOC Position* to Comment 17. The G&A expenses in the original questionnaire response were presented in a different format from the G&A expenses in the revisions presented at verification, so direct comparisons are not possible. Rubberflex never presented a systematic explanation of how individual elements of G&A were affected by the revisions, nor how or why the totals changed. Rather, as with variable overhead, the Department was left with insufficient time and information to evaluate the magnitude of the change. Again, this was a situation where a company's failure to reconcile its submitted costs to its normal books and records prevents us from quantifying the magnitude of the distortions which exist in its

submitted data. *Certain Cut-to-Length Carbon Steel Plate From Sweden: Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 51898, 51899 (October 4, 1996) (the Department's position adopted in the final results of review, 62 FR 18396 (April 15, 1997)).

Finally, contrary to Rubberflex's assertion, it was unable to tie the specific line items from its revised worksheets to the audited financial statements. The fact that total profit, sales, and cost of goods sold (COGS) figures were traced is irrelevant. It is precisely the items which could not be traced—the components of G&A—which were under evaluation at verification.

Comment 25: Financing Expense. Rubberflex states that while preparing for verification it discovered slight errors related to the amounts reported for bank charges and interest on bills refinanced. Rubberflex further states that these corrections were presented to the Department at verification and that it demonstrated the accuracy of the revised worksheet by tying the total financing expenses and interest received to the total expenses stated in the trial balance for financing expenses and interest received, respectively.

DOC Position: We disagree. *See DOC Position* to Comment 17 and pages 20 and 21 of the verification report.

Comment 26: Conduct of the review. Rubberflex contends that it fully cooperated under difficult circumstances during this proceeding and that the Department must bear a significant portion of the responsibility for any problems that arose at verification. In addition to the short preparation time given to Rubberflex prior to the verification, Rubberflex enumerates a list of Departmental procedural errors, which Rubberflex contends unfairly prejudiced its interests and resulted in the use of BIA in the preliminary results. According to Rubberflex, these procedural errors were due to the Department's untimely handling of the case. Rubberflex stated that it did the best it could under these circumstances to cooperate fully and that it submitted its responses and verification exhibits in a timely manner, and prepared for the verification to the extent possible given the time available.

DOC Position: We agree with Rubberflex that there was a great deal of case activity within a relatively short period in 1996. However, we disagree that we unfairly prejudiced Rubberflex by our conduct of the case. The supplemental questionnaires for this and the 1994–1995 review were relatively short and not overly demanding and Rubberflex was given adequate time to respond. The record reflects that Rubberflex was given several extensions of time to submit its data; in fact, Rubberflex was granted every extension request it made. Finally, Rubberflex was given sufficient notice of the timing of verification, and the Department followed the same standard procedures, and issued a standard verification outline which was substantially similar for the verification of information in both the 1993–1994 and 1994–1995 reviews. These procedures were similar to those followed in the original investigation, when Rubberflex underwent verification. Thus, there is little evidence that the Department's conduct of the case placed an unreasonable burden on Rubberflex. Rather, in this case, as in virtually every case the Department conducts, the burden on respondents is to provide accurate and timely data which can be verified. To the greatest extent possible, the Department strives to be flexible with deadlines for respondents; ultimately, however, it is respondents' responsibility to meet this burden. Nevertheless, we took into account Rubberflex's level of cooperation in this case in our selection of the appropriate BIA rate for Rubberflex's antidumping margin. (*See Best Information Available for Rubberflex* section above.)

Comment 27: Partial BIA. Because of the arguments presented, Rubberflex claims that the application of a total BIA is not warranted. Rubberflex contends that during verification, it tied all information submitted in its original response to its trial balance, and ultimately, to its audited financial statements. Further, Rubberflex emphasizes that because the Department verified virtually all of the submitted sales and cost data, the fact that a few minor errors were disclosed at the commencement of verification should not provide the legal basis for the Department to disregard its entire response and resort to BIA. Rubberflex cites to prior Departmental determinations in which the Department states that it will resort to BIA only for those specific items of the response that it was not able to verify. *See Notice of Preliminary Results of Antidumping Duty Review; Roller Chain, Other Than Bicycle, From Japan,* 61 FR 28171, (June 4, 1996); *Final Results of Antidumping Duty Review and Revocation in Part of Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China,* 62 FR 6189, (February 11, 1997). Rubberflex concedes that it did not submit an error-free response. However, Rubberflex states that minor errors and corrections were presented to the Department during verification. Rubberflex argues that the fact that some corrections were not presented on the first day of verification does not provide the Department reasonable grounds for disregarding them because Rubberflex was provided only two days for verification preparation. Therefore, in light of the above-mentioned circumstances, Rubberflex's cooperation in this review, and Rubberflex's claims that the Department was able to verify its responses, Rubberflex argues that the Department does not have legal grounds to use total BIA.

Petitioner contends that because the Department determined during verification that Rubberflex's questionnaire responses were wholly deficient and unverifiable, Rubberflex should therefore be assigned a total BIA rate. Petitioner cites to the Department's Analysis Memorandum of December 12, 1996 and the verification report, which document Rubberflex's uncooperativeness due to misreportings, inaccuracies and omissions of certain information. Petitioner therefore argues that the Department should assess a margin which corresponds to criteria outlined in the Department's Antidumping Manual; * * * when a substantial amount of a response does not verify, the Department will normally assign the highest margin for the relevant class or kind of merchandise among (1) the margins in the petition, (2) the highest calculated margin of any respondent within that country * * * *See U.S. Department of Commerce, Antidumping Manual,* July 1993, Ch. 6, at 3. Further, Petitioner disputes that Rubberflex's claimed errors are minor. Petitioner contends that Rubberflex's purported justification for such errors, which Rubberflex claims were the result of year-end accounting adjustments, are unsubstantiated, and unpersuasive. Petitioner contends that any year-end adjustments should have been reported long before verification. Petitioner emphasizes that even minor errors would nevertheless generate an inaccurate margin calculation, which would place the U.S. industry at a disadvantage, given that extruded rubber thread is a commodity, price-sensitive product.

Petitioner emphasizes that Rubberflex did not submit to the Department a listing of errors at the commencement of verification, nor was petitioner served such a list, as required by the Department's regulations. Petitioner contends that Rubberflex's claim that the Department was advised at the

commencement of verification regarding certain errors in its submissions is therefore of no consequence.

DOC Position: We disagree with Rubberflex that the Department was able to verify Rubberflex's questionnaire response and tie all of the information provided in the original response to the trial balance, and ultimately to the audited financial statements. We have addressed this issue in the *Best Information Available for Rubberflex* section of this notice.

Comments Concerning Other Respondents

Comment 28: ESP versus PP Sales. The petitioner alleges that Heveafil's back-to-back sales are ESP, and not PP sales, as reported in the questionnaire response. The petitioner argues that the name back-to-back sales indicates that the U.S. subsidiary makes the sale and determines the price of the merchandise in the United States. Petitioner also notes that both Heveafil's and Filati's April 24, 1995 questionnaire responses indicate that the company's per-unit price is not fixed until the U.S. subsidiary issues the invoice to the U.S. customer.

Petitioner further contends that the Department has found that sales made under circumstances like those made by Heveafil and Filati are ESP sales. Petitioner notes that in *Brake Drums and Brake Rotors from the PRC: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 61 FR 53190, 53194 (October 3, 1996), the Department stated that the responsibilities of the U.S. affiliates go well beyond those of a processor of sales related documentation or a communication link and therefore designated the sales in question as ESP sales. Petitioners note that in *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea; Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 51882, 51885 (October 4,1996), the Department found it more appropriate to determine that sales were CEP sales where: (1) The U.S. subsidiary was the importer of record and took title to the merchandise; (2) the U.S. subsidiary financed the relevant sales transactions; (3) and the U.S. subsidiary assumed the seller's risk. Petitioner argues that Heveafil's and Filati's sales meet these criteria.

Heveafil and Filati contend that the Department has repeatedly treated back-to-back sales as PP sales in the original investigation and in all prior administrative reviews. They note that Commerce verified that the characterization of the sales is correct in both the original investigation and the first administrative review.

Specifically, respondents argue that back-to-back sales must continue to be treated as purchase price sales, in accordance with the Department's practice for determining indirect PP/EP sales as set forth in *Certain Corrosion-Resistant Carbon Steel Flat Products from Korea; Final Results of Antidumping Duty Administrative Review,* 61 FR 18547 (April 26, 1996). Heveafil and Filati argue that because petitioner has not submitted any new factual information that would warrant altering the treatment of these sales, the Department must not depart from its position in previous determinations. Accordingly, Heveafil and Filati argue that back-to-back sales conform to the Department's practice in the following ways: (1) Sales were made prior to importation; (2) the subject merchandise was shipped directly to the unrelated customer without entering the inventory of the related selling agent; (3) direct shipment to the unrelated buyer was the customary commercial channel for sales of this merchandise between the parties involved; and, (4) the related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers. For the sales made prior to importation, Filati and Heveafil further note that date of sale was reported as the bill of lading date, which occurred before importation, a methodology argued to be consistent with the Department's past determinations.

DOC Position: We agree that Heveafil's and Filati's back-to-back sales are properly treated as PP sales. Each company explained in its questionnaire response that the back-to-back sales were made prior to importation, and shipped directly to the unrelated buyer without ever entering a branch office warehouse. They noted that the branch office served only as a processor of sales related documents. Section 772(b) of the Act states that: The term 'purchase price' means the price at which merchandise is purchased, or agreed to be purchased, prior to the date of importation, from a reseller or the manufacturer or producer of the merchandise, for exportation to the United States. Heveafil's and Filati's back-to-back sales fall within the criteria for purchase price sales set forth in section 772(b) of the Act. Since there has been no record evidence submitted in this segment of the proceeding that would cause us to alter our treatment of these sales as PP sales, we are not making any changes to our calculations.

Comment 29: Adjustments for Countervailing Duties (CVDs) Paid. Heveafil, Filati and Rubfil contend that the Department must increase the U.S. price for certain countervailing duties paid on imports of the subject merchandise pursuant to the CVD order. In accordance with section 772(d)(1)(D) of the Act, the Department should increase U.S. price by the amount of any countervailing duty imposed on the subject merchandise to offset an export subsidy. The Department, however, has not made adjustments nor increased U.S. price for export subsidies if foreign market value (FMV) has been based on CV. Respondents note that the Department has declined to make adjustments when FMV is based on CV, on the grounds that any benefit conferred through the export subsidy is reflected in the production costs as well as in U.S. price. (*See Notice of Final Results of Antidumping Duty Administrative Review: Extruded Rubber Thread from Malaysia,* 61 FR 54767 (October 22, 1996).

Respondents assert that export subsidies, specifically income tax holidays and income tax abatements, are not reflected in a company's production costs and must be included in an adjustment to U.S. price. They note that income taxes are not an element of the cost of production. Respondents note that the following Malaysian export subsidy programs found in the second and third countervailing duty reviews, qualify as income tax holidays or income tax abatements and thus, should be used in an adjustment to U.S. price: (1) Pioneer Status; (2) Abatement of Income Tax based on Ratio of Export Sales to Total Sales; (3) Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports; (4) Industrial Building Allowance; and, (5) Double Deduction for Export Promotion Expenses.

DOC Position: We agree with respondents that the programs: (1) Pioneer Status, (2) Abatement of Income Tax Based on the Ratio of Export Sales to Total Sales, (3) Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports, (4) Industrial Building Allowance, and (5) Double Deduction for Export Promotion Expenses have been found countervailable and classified as export subsidies in the most recently completed countervailing duty review, *Extruded Rubber Thread from Malaysia; Final Results of Countervailing Duty Administrative Review,* 60 FR 55272 (October 25, 1996).

Therefore, in accordance with section 772(d)(1)(D) of the Act, we increase U.S. price by the amount of any

countervailing duty imposed on the merchandise * * * to offset an export subsidy. The two most recently completed CVD reviews, *Extruded Rubber Thread from Malaysia; Final Results of Countervailing Duty Administrative Review,* 61 FR 55272 (October 25, 1996) for calendar year 1993 and *Extruded Rubber Thread from Malaysia; Final Results of Countervailing Duty Administrative Review,* 60 FR 51982 (October 4,1995) covering calendar year 1994, apply to this review. The calendar year 1993 CVD review found country-wide *ad valorem* net subsidies of 1% for all companies, of which 0.28% consisted of export subsidies. Since this total net subsidy rate is not *de minimis* within the meaning of 19 CFR 355.7 (section 355.7 of the Department's regulations), countervailing duties will be imposed and we must increase U.S. price by the amount of any countervailing duty imposed on the merchandise * * * to offset an export subsidy. In the CVD review covering calendar year 1994, we found company-specific *ad valorem* net subsidies of 0.23% for Heveafil, 0.19% for Rubberflex, 0.38% for Rubfil and 1.39% for Filati (of which 0.15% constituted export subsidies). These net subsidy rates, with the exception of Filati's, are *de minimis* within the meaning of section 355.7 of the Department's regulations, and thus, duties will not be imposed within the meaning of section 772(d)(1)(D) of the Act. Since Filati's rate during both of these two CVD review periods was not *de minimis* within the meaning of section 355.7 of the Department's regulations, we therefore increased U.S. price in the antidumping duty calculation for Filati by the amount of the countervailing duty imposed on the subject merchandise to offset the export subsidies. The amount of duty imposed to offset export subsidies is 0.28% for the period October 1, 1993 through December 31, 1993, and 0.15% for the period January 1, 1994 though September 30, 1994. We made no adjustments for Rubberflex since we used BIA to determine the margin.

However, we do not increase U.S. price under section 772(d)(1)(D) of the Act when, like the U.S. price, the foreign market value already reflects the benefit of the export subsidies, such as in the case of Heveafil and Rubfil. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from India,* 60 FR 10545, 10550 (February 27, 1996). FMV for both Rubfil and Heveafil was based on third-country sales and CV in this review. With respect to exports to third-country markets, respondents receive the same benefits from export subsidies as with exports to the United States. Therefore, the benefits from the export subsidies were reflected in both the U.S. price and the FMV and no adjustment was made to U.S. price. For those sales where CV was used as the basis for FMV, we used third-country SG&A expenses, as well as third-country profit in determining CV for both companies. Since third-country SG&A and profit reflect the benefits from the export subsidies, we have similarly made no adjustment to U.S. price for the benefits from export subsidies.

Comment 30: Import Duties. Filati claims that the Department erred in not making an adjustment for TAXH, which represents the impact of a duty imposed on imported inputs used to produce rubber thread which will later be exported, and is collected only on home market sales. Filati notes that TAXH is not collected on export sales. It claims that TAXH is included in the price of its home market sales and is passed on to its Malaysian customers, and, therefore, constitutes an indirect tax imposed directly upon the foreign like product which has not been collected on the subject merchandise. Therefore, Filati argues that TAXH must be added to U.S. price in accordance with section 772(d)(1)(C) of the Act. Alternatively, Filati proposes that the Department treat TAXH as a difference in circumstances of sale, and make a downward adjustment to FMV, in accordance with section 773(a)(4)(B) of the Act.

Petitioner disputes Filati's arguments. It claims that Filati did not claim that the home market prices it reported to the Department include these indirect taxes. Petitioner notes that, as a general matter, respondents usually report home market prices to the Department already exclusive of indirect taxes. As a result, petitioner argues that TAXH should not be netted from reported home market sales.

DOC Position: We disagree that these expenses represent a tax within the meaning of section 772(d)(1)(C). Filati's April 24, 1995 questionnaire response identifies the expense reported in the TAXH column as a duty on imported merchandise. It is imposed when the goods are sold in the home market, and remains uncollected when the subject merchandise is exported. Consequently, contrary to the Filati's characterization of the expense, the expenses recorded in the TAXH columns represent a duty, and not a tax. Filati explains that it includes the amount of this duty in its home market price and passes it on to its customers. The duty is neither added to nor included in the price of the export goods. Because this duty is only collected on home market sales, and not on export sales, we have determined it to be an uncollected duty within the meaning of section 772(d)(1)(B) of the Act, rather than an uncollected tax within the meaning of section 772(d)(1)(C) of the Act. Consequently, pursuant to section 772(d)(1)(B) of the Act, we have revised our calculations by adding the amount of the uncollected duty to the U.S. price.

Comment 31: Assessment for Filati with Respect to Re-exports of Covered Merchandise. Filati notes that the Department determined a rate of 0.00% for the preliminary results of review. It claims that, should the Department determine a margin for the final results of review, it should take Filati's re-exports of covered merchandise into account when determining the assessment rate. Filati contends that it is the Department's long-standing policy, which has been upheld by the U.S. Court of Appeals for the Federal Circuit (*The Torrington Company* v. *United States,* 82 F.3d 1039 (Fed. Cir. 1996)), not to calculate or collect antidumping duties on subject merchandise that is re-exported without any sale to unaffiliated parties in the United States. Filati contends that the Department cannot calculate or collect antidumping duties regarding such imports, because in the absence of sales in the United States, there is no basis for calculating United States price. Thus, Filati explains, where a respondent provides evidence that merchandise has been re-exported, the Department has modified its assessment methodology formula to account for the re-exports. Filati argues that it provided evidence of such entries in its September 23, 1996 supplemental response and that there were no computer programming instructions in the preliminary results of review to accommodate such re-exports. Filati further argues that the Department should structure its assessment instructions along the lines outlined in the Department's proposed regulations (by dividing the total duties calculated for the period of review (PUDD) by the entered value of the sales during the POR, and directing Customs to apply the resulting *ad valorem* rate to entries in the POR) as modified by the ''per-unit'' methodology used in the Department's August 31, 1992 memorandum to Richard W. Moreland, *First Administrative Review of 3.5 Inch Microdisks and Coated Media Thereof from Japan (Microdisks), Decisions Made with Respect to Issuing Assessment Instructions for all Five*

Japanese Companies which had an either PP and ESP Sales Transactions of 3.5-Inch Microdisks and Coated Media. Filati argues that this new *ad valorem* assessment rate should be calculated by dividing PUDD by the entered value of sales and then multiplying the result by the value of entries minus the value of re-exports divided by the value of entries (PUDD/entered value of sales* (value of entries-value of re-exports)/ value of entries).

DOC Position: We have recalculated the margin for Filati and found that none of the sales were made at prices that incurred a margin. Therefore, the cash deposit rate and the assessment rate is zero and this issue is moot.

Comment 32: The Calculation of the Average Actual Profit for Constructed Value. Petitioner contends the Department erroneously used Heveafil's, Filati's and Rubfil's average actual profit on both profitable and unprofitable sales for the profit figure in the CV calculation. Petitioner argues that only profit on profitable sales should be used in the calculation.

Respondents dispute petitioner's contention, arguing that the Department calculates profit for CV without excluding below-cost sales. In support of its argument, respondents rely on *Federal-Mogul Corp.* v. *United States*, 918 F. Supp. 386, 403 (CIT 1996) and *Torrington Co.* v. *United States*, 881 F. Supp. 622, 633 (CIT 1995), as well as a number of results of reviews of *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts thereof.*

DOC Position: We agree with respondents. Section 773(e)(1)(B)(ii) of the Act states that the amount of profit in the constructed value of the imported merchandise shall not be less than 8 percent of the sum of such general expenses and cost. The Act does not require the Department to use only above cost sales in its calculation of profit for CV. This position has been upheld in the court cases mentioned above. Therefore, we have made no change to our calculations.

Comment 33: The Use of Color as a Model Match Criterion. Petitioner argues that color should be excluded as a matching criterion. Petitioner cites *Melamine Institutional Dinnerware from Taiwan: Final Determination of Sales at Less Than Fair Value (Melamine),* 62 FR 1726, at 1773 (January 13, 1997), in which the Department stated that [c]olor is not a matching criterion in this investigation; thus, it is inappropriate to treat these products, if otherwise identical, as identical for purposes of model matching.

According to respondents, color should not be excluded as a matching criterion. Since color was used in the original investigation and subsequent reviews, the Department must apply the same matching criteria in this period of review.

DOC Position: We agree with respondents that color is an appropriate model matching criterion in this case. The Department has consistently used color as a product matching criteria in the investigation and reviews of the AD order. As we stated in our response to Comment 3 in the *Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia,* 57 FR 38465, 38468 (August 25, 1992) because color can materially affect cost and be important to the customer and the use of the product, the Department determined at an early stage of this investigation that color should be included among the several product matching criteria. *See, Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia,* 57 FR 38465, (August 25, 1992). At this time, petitioner supported this decision and has since not offered any substantive reasons for changing the matching criteria. Moreover, color is a characteristic fully in accordance with the matching criteria as outlined in the January 26, 1994 memorandum to the file, entitled *Changing the Department's Questionnaire Order of the Product Concordance.* Petitioner did not comment on this memo which ranked color as third in the level of importance for the product matching criteria. With respect to *Melamine,* this determination covers a product with different physical characteristics, different uses and different expectations by the ultimate purchasers and, therefore, is irrelevant to this case.

Comment 34: Heveafil's Reported Cost Figures. Petitioner notes that Heveafil reported more than one cost figure for a number of products without providing any explanation for the provision of more than one weighted-average cost. In addition, petitioner notes that in its preliminary results of review, the Department erred in using the average of these cost figures to calculate the cost of production for Heveafil. Petitioner argues that by using this average cost, rather than the highest available cost, Heveafil benefits from the unexplained ambiguity in the response.

DOC Position: We disagree. Heveafil reported more than one per-unit cost of production for certain products in the 1994–1995 review, but did not have this data problem in the 1993–1994 review. Therefore, we have made no change to our calculation.

Comment 35: Rebates in the Calculation of a Home Market Price for comparison to COP. Petitioner asserts that the Department failed to deduct Heveafil's rebates from home market prices prior to conducting the sales below cost test.

DOC Position: As indicated on lines 76 and 97 of the third-country sales program issued in the preliminary results of review, we have taken rebates and discounts into account in our determination of the appropriate third-country price to be compared with the cost of production in our cost test. Therefore, we have made no change to our calculation.

Comment 36: Marine Insurance. Petitioner asserts that Rubfil did not explain how it calculated its reported cost of marine insurance. Accordingly, it cannot be determined if marine insurance was correctly calculated. Petitioner therefore contends that the Department should use, as BIA, the highest unit U.S. marine insurance cost of U.S. sales by Rubfil.

Rubfil responds that in its April 27, 1995 response, it explained that marine insurance was paid according to the terms of a global insurance policy that covers all risks associated with the shipment of merchandise from Rubfil's factory to its customers throughout the world. Rubfil provided a copy of the insurance agreement in exhibit C–1, which did not explicitly spell out the per-shipment terms of the policy.

DOC Position: In its December 19, 1996 *Analysis Memorandum for the Preliminary Results of Review* for Rubfil, the Department noted that Rubfil did not fully explain its calculations for marine insurance. However, we used the information provided in the questionnaire response to calculate our margins. We did not request Rubfil to submit further information, and there is no basis for making adverse inferences as suggested by petitioner. Therefore, we have not changed our calculations in this regard.

Final Results of Review

As a result of comments received we have revised our preliminary results and determine that the following margins exist for the period October 1, 1993 through September 30, 1994:

Manufacturer/exporter	Percent margin
Heveafil Sdn. Bhd	0.36
Rubberflex Sdn. Bhd	29.83
Rubfil Sdn. Bhd	29.83
Filati Lastex Elastofibre (Malaysia)	0.00

Manufacturer/exporter	Percent margin
Rubber Thread International	(**)

** There were no shipments or sales of covered merchandise that were subject to this review. The company was not investigated/reviewed for earlier periods.

The Department shall determine, and the Customs service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service. Since the final results for the more current review period, October 1, 1994 through September 30, 1995 were published on June 20, 1997, the cash deposit instructions contained in that notice will apply to all shipments to the United States of subject merchandise entered, or withdrawn from warehouse, for consumption on or after June 20, 1997. The dumping margins established for the October 1, 1993 through September 30, 1994 period will have no effect on the cash deposit rate for any firm.

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

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of 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)), section 771(i) of the Act (19 U.S.C. 1677f(i)) and 19 CFR 353.22.

Dated: November 12, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–30834 Filed 11–21–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 97–00003.'' A summary of the application is as follows.

Summary of the Application

Applicant: The Association for the Allocation of Rice Quotas, Inc. (''AARQ''), 3200 Trammell Crow Center, 2001 Ross Avenue, Dallas, Texas 75201–2997.

Contacts: M. Jean Anderson, Esquire, Telephone: (202) 682–7217; Robert M. Bor, Esquire, Telephone: (202) 371–5730.

Application No.: 97–00003.

Date Deemed Submitted: November 14, 1997.

Members (in addition to applicant): Affiliated Rice Milling, Inc., Alvin, Texas; American Rice, Inc., Houston, Texas; Brinkley Rice Milling Company, Brinkley, Arkansas; Broussard Rice Mill, Inc., Mermentau, Louisiana; Busch Agricultural Resources, Inc., St. Louis, Missouri; Cargill Rice Milling, Greenville, Mississippi; Connell Rice & Sugar Co., Westfield, New Jersey; Continental Grain Company, New York, New York; El Campo Rice Milling Company, Louise, Texas; Farmers' Rice Cooperative, Sacramento, California; Farmers Rice Milling Company, Inc., Lake Charles, Louisiana; Gulf Rice Milling, Inc., Houston, Texas; Liberty Rice Mill, Inc., Kaplan, Louisiana; Louis Dreyfus Corporation, Wilton, Connecticut; Newfield Partners Ltd., Miami, Florida; Producers Rice Mill, Inc., Stuttgart, Arkansas; Riceland Foods, Inc., Stuttgart, Arkansas; RiceTec, Inc., Alvin, Texas; Riviana Foods, Inc., Houston, Texas; SunWest Foods, Inc., Davis, California; Supreme Rice Mill, Inc., Crowley, Louisiana; The Rice Company, Roseville, California; and Uncle Ben's, Inc., Houston, Texas. AARQ seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

Products shipped under the TRQs will be semi-milled or wholly milled rice, whether or not polished or glazed (item 1006.30 of the Harmonized Tariff Schedules [HTS]), and husked (brown) rice (item 1006.20 of the HTS). Distributions of the TRQ bid proceeds will be based on exports of the above types of rice and rice in the husk (paddy or rough) (item 1006.10 of the HTS).