stating the per-unit costs on the same basis as the variable manufacturing costs of the Australian sales (*see Case Brief on behalf of Petitioner Air Products and Chemicals, Inc.* at page 19). DuPont did not object to the petitioner's comment.

Because further manufactured PVA comprises only a percentage of subject merchandise, we agreed with the petitioner that the prices, costs and expenses involved in the further manufactured product should be based on the same percentage of subject merchandise incorporated in the further manufactured sales at issue. Accordingly, in the final results, we adjusted the reported amounts of variable and total manufacturing costs, gross unit price, and CEP selling expenses for further manufactured PVA by a conversion factor (*i.e.*, the value-added ratios reported in DuPont's Section E submission) in order to state the prices, costs, and expenses of further manufactured PVA on a per-unit basis (USD/lb) of imported PVA (*see Calculation Memorandum for the Final Results for E.I. duPont de Nemours & Co.*, dated June 9, 1998).

While DuPont agrees that the Department was correct in altering its preliminary calculation of the CEP sales at issue, DuPont claims that because the further manufactured PVA comprises only a percentage of subject merchandise, the quantity involved in the further manufactured product should also have been adjusted to reflect the same percentage of subject merchandise incorporated in the further manufactured sales at issue. Instead, DuPont asserts that for the final results, rather than adjust the quantity to reflect the actual amount of PVA used, the Department converted prices from units of dollars per kilogram of further manufactured PVA to dollars per kilogram of imported PVA by dividing the unit prices of further manufactured PVA by the above-mentioned value-added ratios (*see Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 60 FR 42835, 42845 (August 17, 1995)(where the Department made the same type of adjustment to CEP calculation for sales of further manufactured merchandise). Thus, DuPont contends, the effect of multiplying these converted prices (in dollars per kilogram of the imported PVA) by the total quantity of further manufactured PVA was a significant overstatement of the quantity of merchandise subject to antidumping duties (*i.e.*, subject merchandise) and, therefore, the amount of dumping. Thus, DuPont claims that the Department should make this adjustment to the reported quantity for its sales of further manufactured products.

We agree that a ministerial error was made in our margin calculation as alleged by DuPont. Without adjusting the reported quantity for DuPont's sales of further manufactured PVA to reflect the amount of subject merchandise actually used in the further manufactured sales, we incorrectly multiplied the value of imported PVA by the quantity of further manufactured PVA when we should have used the percentage of subject merchandise incorporated in the further manufactured PVA. For a detailed discussion, *see Memorandum to Louis Apple, Office Director, from Team,* dated July 6, 1998. *See also, Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Amendment of Final Results of Antidumping Duty Administrative Review,* 63 FR 2200 (January 14, 1998), in which the Department amended its final results due to a ministerial error in calculating interest expense, which resulted in an overstatement of the interest expense factor and, consequently, of the dumping margin.

Accordingly, we are amending our final results. We hereby determine the following weighted-average margin existed for the period May 15, 1996, through April 30, 1997:

Manufacturer/producer/exporter	Original margin (percent)	Revised margin (percent)
E.I. duPont de Nemours & Co.	9.46	4.20

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of AD duties calculated for the examined transactions in the POR to the total entered value of the same transactions. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

The amended cash deposit requirement will be effective upon publication of this notice of amended final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act, at the cash deposit rate for DuPont indicated above.

This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The amended final results of this administrative review are in accordance with section 751(h) of the Act and 19 CFR 353.28. This amendment to the final results is published in accordance with 19 CFR 353.28(c).

Dated: July 9, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18886 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On January 9, 1998, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain porcelain-on-steel cookware from Mexico (63 FR 1430). The review, the tenth review of the underlying order, covers Cinsa, S.A. de C.V. and Esmaltaciones de Norte America, S.A. de C.V., manufacturers/exporters of the subject merchandise to the United States and the period December 1, 1995, through November 30, 1996. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and the correction of certain clerical and computer program errors, we have changed the preliminary results. The final results are listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or David J. Goldberger, Office 5, AD/CVD Enforcement Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone:

(202) 482–4929 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the 1995–96 administrative review of the antidumping duty order on certain porcelain-on-steel (POS) cookware from Mexico (63 FR 1430) (*preliminary results*). During February 3–4, 1998, the Department verified the respondents' submissions concerning the allegation of duty reimbursement. On February 25, 1998, and March 4, 1998, General Housewares Corp. (GHC) (the petitioner) and, Cinsa, S.A. de C.V. (Cinsa) and Esmaltaciones de Norte America, S.A. de C.V. (ENASA) submitted case and rebuttal briefs. The Department held a hearing on March 11, 1998. On April 9, 1998, Columbian Home Products, LLC (CHP) informed the Department that it is the legal successor-in-interest to GHC pursuant to the March 31, 1998, sale of all of GHC's porcelain-on-steel cookware production assets, product lines, inventory, real estate, and brand names to CHP. The Department has now completed its administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR Part 353 (April 1997). Where we cite the Department's new regulations (19 CFR Part 351, 62 FR 27926 (May 19, 1997) (New Regulations)) as an indication of current Department practice, we have so stated.

Scope of the Review

Imports covered by this review are shipments of porcelain-on-steel cookware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) subheading 7323.94.00. Kitchenware currently classifiable under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

Changes Since the Preliminary Results

We have made the following changes in these final results for both Cinsa and ENASA:

1. We deducted commissions from constructed export price (CEP) sales. The adjustment for commission expenses was inadvertently omitted from the preliminary margin calculations.
2. We converted Mexican peso-denominated brokerage and inland freight expenses to U.S. dollars.
3. We corrected the U.S. price calculation for export price (EP) sales by not deducting CEP profit and selling expenses, which were inadvertently deducted in the preliminary results.
4. We increased direct materials costs to reflect adjustments to reported frit costs based on verification findings. *See* Comment 2, below.
5. We used the Federal Reserve Bank's actual daily exchange rates for currency conversion purposes because Mexico experienced significant inflation during the period of review.
6. We recalculated CIC's indirect selling expenses. *See* Comments 4 and 9, below.
7. We tested home market sales for below-cost prices *before* determining the most appropriate match for each U.S. model sold (we continued to match on a monthly basis). *See* Comment 6, below.
8. We corrected a clerical error in calculating U.S. inland freight expenses. *See* Comment 8, below.
9. We corrected a computer programming error associated with the cost test because some data were incorrectly replaced from the computer sales file when the summary cost file was merged back into the home market database.
10. We applied the cost test on a period-wide as opposed to a monthly basis.

Interested Party Comments

Comment 1: Alleged Reimbursement of U.S. Affiliate CIC for Antidumping Duties

The petitioner argues that the record of this review clearly demonstrates that Cinsa and ENASA are reimbursing Cinsa's and ENASA's U.S. affiliate, Cinsa International Corporation (CIC), for antidumping duties. The petitioner states that Cinsa and ENASA admit on the record that their affiliated holding company, Grupo Industrial Saltillo (GIS), which functions as corporate treasurer, transferred funds to CIC expressly to pay antidumping duties. In addition, the petitioner states that the Department confirmed that the holding company's payment to CIC was a grant and not a loan because CIC was not required to repay these funds.

The petitioner further argues that the Department's preliminary results ignore long-standing principles that (1) money is fungible within a corporate family, and (2) expenses incurred by holding companies without operations are for the benefit of their affiliates with operations. Moreover, the petitioner states that the Department verified that the funds transferred to CIC contained monies to which Cinsa and ENASA contributed. Accordingly, the petitioner argues that the Department should find reimbursement of antidumping duties based on these facts and assess double the calculated antidumping margin upon liquidation of the entries subject to this review, pursuant to 19 CFR 353.26(a).

The respondents argue that, for purposes of the final results, the Department should continue to reject the proposition that a capital contribution to the importer of record by a corporate entity that is not the producer or exporter of the subject merchandise constitutes a reimbursement of antidumping duties within the meaning of the Department's regulations. Cinsa and ENASA contend that the Department's regulations require that, in order to trigger the reimbursement provision, the producer or reseller must have either (1) directly paid antidumping duties or deposits on behalf of the importer, or (2) reimbursed the importer for the payment of antidumping duties or deposits. In addition, Cinsa and ENASA argue that the Department verified that neither respondent reimbursed CIC for its payment of antidumping duty deposits or assessments to the U.S. Customs Service. Moreover, the respondents argue that the Department also verified that no written agreement exists for the reimbursement of antidumping duties between CIC and Cinsa or ENASA and that the funds transferred to CIC from GIS and GISSA Holding USA did not originate from Cinsa and ENASA.

Furthermore, the respondents contend that the Department has consistently held that the mere existence of intercompany transfers of funds among affiliated parties does not constitute reimbursement of antidumping duties. Lastly, Cinsa and ENASA submit that the cases cited by the petitioner with regard to the principle of the ''fungibility of money'' relate to the calculation of cost of production (COP) and are not relevant to the issue of reimbursement.

DOC Position

We do not believe that it is appropriate to apply the reimbursement regulation for purposes of this administrative review. Pursuant to its regulations, the Department will deduct from export price ''the amount of any antidumping duty which the producer or reseller: (1) Paid directly on behalf of the importer; or (2) reimbursed to the importer.'' 19 CFR 353.26(a).

The Department verified during the instant review and previous administrative review periods that CIC or its predecessor company, Global Imports, Inc. (Global), paid all antidumping duty deposits and antidumping duty assessments. The petitioner's claim for a deduction rests on the April 1997 capital contribution by GISSA Holding USA to CIC. The monies at issue were paid by GIS (the ultimate parent company of Cinsa, ENASA, and several other producing entities, as well as of the importer, CIC) to GISSA Holding USA (which is a holding company for CIC but not for Cinsa or ENASA). GISSA Holding USA then provided these funds to CIC for purposes that included payment of antidumping duties assessed on entries imported by Global during the 5th and 7th review periods, which were liquidated during 1996.

The Department preliminarily determined not to apply the reimbursement regulation based on a literal construction of that regulation and the fact that the transfer in question was not provided directly by a producer or exporter. Therefore, it took no position on whether a finding of reimbursement as to the 5th and 7th review entries could serve as the basis for application of the reimbursement regulation as to 10th review entries. As a result, the parties have not had an opportunity to comment on and provide evidence in connection with any new policy that might involve a finding of reimbursement as to either the 5th and 7th review entries or as to subsequent entries. Even if the Department were to agree with petitioners that Cinsa and ENASA reimbursed CIC for antidumping duties paid on 5th and 7th review entries, it could not apply the reimbursement regulation to these 10th review entries. To do so would be equivalent to imposing an irrebuttable (in this review) presumption that a pattern of reimbursement of duties paid on entries from earlier periods would be continued as to entries in later periods. This issue was not raised during the 10th review. It is well established that potentially affected parties must be given an opportunity to submit evidence specifically to rebut a presumption established by the Department, especially when, as in this case, the Department took a position in the preliminary results that made the submission of such evidence unnecessary during the administrative proceeding. *See, e.g., British Steel plc* v. *United States*, 879 F. Supp. 1254, 1316–17 (CIT 1995), *Sigma Corp.* v. *United States*, 841 F. Supp. 1255, 1267 (CIT 1993). The facts underlying this issue have not changed from the 9th review final results in which we determined that the reimbursement regulation did not apply. Therefore, the Department will maintain, for purposes of this review, the position taken in the 9th review and in the 10th review preliminary results based on the rationale given therein.

The Department has concerns about the nature of the cash transfer at issue in this case and intends to reconsider, in future reviews, whether reimbursement by Cinsa's and ENASA's corporate parent would constitute reimbursement under the Department's regulations. In the future, the Department may find it appropriate to apply the reimbursement regulation in instances in which a parent or other affiliate of a producer or exporter provided funds specifically for the payment of antidumping duties. Thus, the Department will examine closely transfers of funds between the producer/exporter, its affiliates, and the importer, made for the purpose of paying antidumping duties and cash deposits.

Further, we disagree with petitioner's arguments that we should find reimbursement based on (1) the principle of the fungibility of money and (2) the idea that expenses incurred by holding companies without operations are for the benefit of their subsidiaries with operations. See ''Issues Memo for the Final Results'' dated July 8, 1998, for additional information. In antidumping cases, the Department uses both of these concepts to deal with allocation of expenses associated with a parent company to the COP and constructed value (CV) of the company producing subject merchandise. In antidumping cases, the so-called ''fungibility principle'' is an aspect of the Department's methodology for calculating financial costs incurred in producing and selling subject merchandise based on an interest expense ratio reflecting the overall corporate borrowing experience. *E.g., Final Determination of Sales at Less than Fair Value: New Minivans from Japan*, 57 FR 21937, 21946 (Comment 18) (May 26, 1992). Just as the ''fungibility principle'' is used in dealing with interest expense, the holding company rule relates to the allocation of a portion of the general and administrative (G&A) expenses incurred by a non-producing parent company to the cost calculations for a firm producing subject merchandise that benefits from the activities/services generating such expenses. In the *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products * * * From Canada*, 58 FR 37099, 37114 (Comment 47) (July 9, 1993), the Department expressed this principle as follows: ''The general expenses incurred by a parent company, without operations, relate to all of its subsidiaries with operations.'' This simply allows the Department to allocate a portion of general costs to the cost of producing subject merchandise.

Comment 2: Enamel Frit Cost

For purposes of the final results, respondents Cinsa and ENASA argue that the Department should use the transfer prices reported for enamel frit obtained from their affiliated supplier, ESVIMEX, without adjustment. However, the respondents state that, if the Department decides to adjust materials costs to reflect an ''adjusted market price,'' both the respondents and the petitioner agree that the Department erred in calculating the amount of the differential between market price and adjusted market price. The respondents believe that the Department improperly focused solely on the price difference between ESVIMEX's prices to Cinsa and ENASA, and ESVIMEX's prices to unaffiliated customers, rather than comparing the price paid by Cinsa and ENASA for ESVIMEX's frit, and the price paid by those producers for the enamel frit purchased from an unaffiliated producer, in order to determine whether ESVIMEX's prices to Cinsa and ENASA reflect fair market prices.

The respondents argue that the Department improperly concluded that the difference between ESVIMEX's prices to affiliated parties and those to unaffiliated parties was not attributable entirely to cost savings to ESVIMEX on its sales to affiliated parties, because the preliminary results failed to take into account prompt payment discounts, the existence of which was verified by the Department. Furthermore, the respondents argue that, even if prompt payment discounts are not taken into consideration, any remaining portion of the price differential not accounted for by verified cost savings represented a quantity discount granted to affiliated purchasers because such purchasers accounted for a large majority of ESVIMEX's sales of enamel frit. Therefore, the transfer prices paid by Cinsa and ENASA to ESVIMEX would be fair market prices, according to the respondents.

Finally, Cinsa and ENASA contend that, even if it were appropriate for the Department to adjust Cinsa's and ENASA's reported raw material costs, the preliminary results overstated the adjustment. The respondents argue that, rather than corresponding to the percent of list price that is *not* documented by cost savings, the Department's adjustment incorrectly corresponds to the percent of list price that *is* documented by verified cost savings.

The petitioner maintains that Cinsa's and ENASA's cost of enamel frit purchased from its affiliate, ESVIMEX, should be based on unadjusted market prices, defined as the prices that unrelated parties paid ESVIMEX for frit, which is equivalent to the list prices less only the general discount given to all unrelated parties. The petitioner contends that the Department cannot conclude that Cinsa's and ENASA's transfer prices reflect market value, as claimed by the respondents, because the record demonstrates that ESVIMEX's prices for frit to Cinsa and ENASA were lower than the prices charged to unaffiliated customers. Moreover, the petitioner claims that the respondents base their claim on a comparison with a *de minimis* volume purchased from an unaffiliated supplier.

Alternatively, the petitioner argues that the Department should correct its preliminary calculation for purposes of the final results so that it adjusts Cinsa's and ENASA's material costs upward by what it terms the full difference between the market prices for frit and the adjusted market prices for frit, and provides a calculation which it claims will have this effect.

Furthermore, the petitioner asserts that regarding discounts (1) the Department should disregard the prompt payment discount because the respondents did not even allege the existence of such a discount prior to verification and provided no evidence indicating how often ESVIMEX granted this discount, and (2) there is no evidence to support the respondents' claimed quantity discount.

Finally, the petitioner contends that the Department should reject Cinsa's and ENASA's alternate calculation of the adjustment to materials costs because it calculates the percentage difference between market prices and theoretical transfer prices, not actual transfer prices, and therefore understates the appropriate percentage increase to Cinsa's and ENASA's materials costs.

DOC Position

For purposes of the preliminary results, we intended to increase the frit portion of the direct materials cost to account for difference between market prices and reported transfer prices that is not accounted for by documented cost savings. However, we agree with the respondents that we inadvertently overstated the amount necessary to increase the transfer price to equal an ''adjusted market price'' corresponding to the situation in which ESVIMEX sells to Cinsa and ENASA. Accordingly, for purposes of the final results, we have used in our calculation the percent of list price that is *not* documented by cost savings, as opposed to the percent of list price that *is* documented by verified cost savings, which we incorrectly used in our preliminary calculations.

We disagree with the petitioner's suggestion that the Department should make an adjustment to material costs based on the difference between the market prices for frit and the Department's calculation of an ''adjusted market price'' (*i.e.*, a price that the Department believes Cinsa and ENASA would have paid had they been unaffiliated purchasers). The adjustment made by the Department is intended to increase Cinsa's and ENASA's submitted frit costs (*i.e.*, transfer prices) so that they include the portion of the ''affiliates'' discount off list price which was not supported at verification as being attributable to cost savings. Therefore, the appropriate calculation measures the difference between the reported transfer price and the Department's adjusted market price.

With regard to the petitioner's argument that the reported prices are ''theoretical'' prices as opposed to ''actual prices,'' we verified invoices showing that the reported transfer prices (prices from ESVIMEX to Cinsa and ENASA) correspond to list prices minus the standard discount to affiliated parties.

In addition, we do not agree with Cinsa's and ENASA's argument that the Department must accept ESVIMEX's frit transfer prices as reported on the theory that the transfer price sales were made at a fair market value. Pursuant to section 773(f)(2) of the Act, a transaction between affiliated parties is considered an appropriate source of ascertaining the value of an input if it fairly represents the amount usually reflected in sales of subject merchandise in the relevant market. Based on the documents examined at verification, we have determined that, although the respondents adequately supported their claim with respect to all cost efficiencies listed on the schedule submitted at verification, these costs efficiencies did not account for the full extent of the discount accorded only to affiliated parties. Although Cinsa and ENASA then claimed that the unaccounted for portion of the affiliated party discount should be attributed to a volume discount, they were unable to quantify and support how the volume of their purchases resulted in market-based savings equivalent to that unaccounted for portion. Therefore, in accordance with the Department's longstanding policy of considering that transactions between affiliated parties are not at arm's length in the absence of sufficient evidence to the contrary, the Department reasonably determined that this standard had not been met with respect to ESVIMEX's frit transfer prices to Cinsa and ENASA, and based its cost calculations instead upon the ''adjusted market price'' described above.

We have also rejected Cinsa's and ENASA's suggestion that, in measuring the extent to which market forces do not account for the difference between the discount off list price given to affiliates and the discount off list price given to unaffiliated parties, we should take into account prompt payment discounts. Although the Department verified that such discounts are offered, Cinsa and ENASA have not provided any information on the frequency with which such discounts are actually given. In addition, such discounts constitute a recognition that a limited number of customers will require a lesser extension of credit by Cinsa and ENASA, not a general adjustment to price. Thus, the Department reasonably did not assume the existence of such a discount in calculating the normal market price for unaffiliated purchasers of frit.

Similarly, we decline to find that the prices for Cinsa's minimal purchases of enamel frit from an unaffiliated producer are an appropriate basis for determining whether their purchases from ESVIMEX reflect fair market prices. Because certain information regarding these transactions is business proprietary, *see* the *Issues Memo.*

Moreover, we do not agree with the respondents that it is sufficient to show that ESVIMEX's frit prices to affiliates are above ESVIMEX's COP. The respondents' argument to this effect ignores the provisions of section 773(f)(2) of the Act, which requires a comparison of transfer prices and market prices when the latter are available, and permits the use of the higher of those prices. Thus, we compared the transfer prices Cinsa and ENASA paid to prices charged to unaffiliated customers. We noted that the prices charged to unaffiliated customers were greater than both the affiliated transfer prices and the actual costs incurred to produce the frit supplied to Cinsa and ENASA. Because the prices charged to unaffiliated customers did not reflect certain market-based savings unique to ESVIMEX's affiliates, however, we constructed an ''adjusted market price'' which did reflect these elements. Because this price was higher than both ESVIMEX's COP and the transfer price, in conformity with section 773(f)(2) and (3) of the Act, we based Cinsa's and ENASA's frit cost on the ''adjusted market price.''

Comment 3: Cinsa's and ENASA's Classification of Certain U.S. Sales as EP Rather Than CEP

The petitioner argues that Cinsa's and ENASA's classification of certain sales as EP is incorrect because, it claims, this classification is based only on the first of the three factors used by the Department for determining the classification of sales made through affiliated importers, *i.e.*, the fact that the merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the physical inventory of the related selling agent. The petitioner claims that, in order to classify U.S. sales through an affiliated importer as EP sales, the respondent must also provide evidence that EP was the customary commercial channel for sales of this merchandise between the parties involved, and that the affiliated importer acted only as a processor of documentation and a communication link with the unaffiliated U.S. buyer.

With regard to the second criterion, the petitioner argues that the relative volumes and values of sales direct from Mexico are not high enough for EP sales channel to be considered customary. With regard to the third criterion, the petitioner asserts that CIC's level of activity with respect to all U.S. sales, including those sales classified as EP sales, was far beyond what would be undertaken by a mere ''processor of sales documentation.'' Accordingly, the petitioner believes that the Department should reclassify as CEP sales all sales reported as EP sales.

Cinsa and ENASA argue that all three factors the Department uses to classify certain sales as EP were present with respect to the sales they classified as EP, claiming that the EP channel of trade with the participation of its U.S. affiliate is customary because it has been present since the initial investigation and in all subsequent reviews and that, although perhaps significant, the affiliate's activities consist of ministerial functions, such as the processing of purchase orders, collection of payment, arrangement of transportation, etc., as opposed to setting sales terms and prices and negotiating sales contracts.

DOC Position

We agree with the respondents that the facts on the record of this review shows that the sales reported as EP sales in this review should continue to be classified as EP sales. Pursuant to section 772(a) and (b) of the Act, an EP sale is a sale of merchandise by a producer or exporter outside the United States for export to the United States that is made prior to importation. A CEP sale is a sale made in the United States, before or after importation, by or for the account of the producer or exporter or by an affiliate of the producer or exporter. In determining whether the sales activity in the United States warrants using the CEP methodology, the Department has examined the following criteria: (1) Whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer, (2) whether this was the customary commercial channel between the parties involved, and (3) whether the function of the U.S. affiliate is limited to that of a ''processor of sales-related documentation'' and a ''communication link'' with the unrelated U.S. buyer. *See e.g., Final Results of Antidumping Duty Administrative Review: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada (Canadian Steel)* 63 FR 12725, 12738 (March 16, 1998). In the Canadian Steel case, the Department clarified its interpretation of the third prong of this test, as follows. ''Where the factors indicate that the activities of the U.S. affiliate are ancillary to the sale (*e.g.*, arranging transportation or customs clearance, invoicing), we treat the transactions as EP sales. Where the U.S. affiliate has more than an incidental involvement in making sales (*e.g.*, solicits sales, negotiates contracts or prices) or providing customer support, we treat the transactions as CEP sales.''

With respect to the first prong, it is undisputed that the merchandise associated with these sales was shipped directly to the unaffiliated customer, without passing through the U.S. affiliate.

With respect to the second prong, this is the customary commercial channel between the parties involved. We agree with the respondents that it is not necessary for EP sales to be the predominant channel of trade in a given review for it to be the customary channel between the parties involved. EP sales have been made, with the participation of a U.S. affiliate, in the investigation and in all subsequent reviews. Thus, this is clearly a customary channel of trade.

With respect to the third prong, the verification report confirms that, for the sales classified as EP, prices are set by the Cinsa export office in Saltillo, Mexico. The participation of affiliate CIC in these sales relates primarily to: issuing payment invoices, accepting payment and forwarding it to Mexico, posting antidumping duty deposits, and clearing products through Customs. These services are clearly among those the Department considers ''ancillary'' to the sale. CIC does not solicit or negotiate these sales, does not set the price for these sales, and does not provide customer support in connection with these sales.

Therefore, for the purposes of this review, we will continue to treat as EP those sales which Cinsa and ENASA reported as EP sales. For further details *see* the *Issues Memo.*

Comment 4: Reallocation of Indirect Selling Expenses

The petitioner argues that, if the Department accepts Cinsa's and ENASA's designation of certain of their U.S. sales as EP sales, the Department should revise the indirect selling expense calculations and allocate CIC's total expenses over a sales value that excludes sales designated as EP based on the respondents' claim that CIC had no role in making EP sales. Otherwise, at a minimum, the petitioner maintains that the Department should not allocate to EP sales any of the indirect selling expenses incurred by CIC related to salesmen's salaries and benefits, travel expenses, warehouse lease, office rental, advertising, and any other expenses relating to functions that the respondents claim were not performed by CIC in support of EP sales.

The respondents argue that they properly allocated these expenses to all U.S. sales because indirect selling expenses are incurred on overall operations, which necessarily include both EP and CEP sales.

DOC Position

We agree with the petitioner that, for purposes of calculating indirect selling expenses, CIC expenses are more properly allocated over a U.S. sales value that excludes the EP sales. We verified Cinsa's and ENASA's claim that CIC performed very limited sales-related functions with respect to these EP sales, and equal allocation of all CIC expenses across all U.S. sales in which CIC is involved would disproportionately shift these costs from CEP to EP sales. However, we disagree with the petitioner's suggested allocation because it would allocate all EP expenses to CEP sales. The numerator proposed by the petitioner would include all of CIC's expenses, *i.e.*, expenses for both EP and CEP sales, whereas the denominator would include the sales value of only CEP sales. We interpret the petitioner's alternative allocation methodology to mean we should, to the extent possible, allocate only to CEP sales (the only sales from which indirect selling expenses are deducted) the expenses that are only incurred on CEP sales. Accordingly, we have reallocated CIC's indirect selling expenses by including in the numerator the indirect selling expenses pertaining only to CEP sales (warehouse lease, advertising, forklift rental, salesmen's salaries and salesmen training) and a portion of the joint CEP and EP expenses (based on the percentage that CEP sales represent, by value, of total CIC sales). The new denominator is the value of only CEP sales. *See also* Final Results Calculation Memorandum. (*Calculation Memo*). Thus, we have excluded EP indirect selling expenses from the numerator and have excluded the value of EP sales from the denominator.

We disagree with the respondents that (all) indirect selling expenses are incurred on ''overall operations.'' Certain of CIC's indirect selling expenses (see list above) are not incurred on EP sales.

Comment 5: CEP Offset Adjustment

Cinsa and ENASA state they are entitled to a CEP offset because a comparison of the normal value (NV) level of trade to the CEP level of trade demonstrates that the NV level of trade is more advanced as well as at a different point in the chain of distribution because it includes a greater number of selling functions than the CEP level of trade. Cinsa and ENASA state that the Department's regulations require that when the CEP level of trade is determined, all economic activities in the United States and the indirect selling expenses attributable thereto are to be excluded. In contrast, when the normal value level of trade is determined it is inclusive of substantive selling functions and the indirect selling expenses necessary to execute a sale to unaffiliated customers. Accordingly, for purposes of comparison to the NV level of trade, Cinsa and ENASA argue that the selling functions and the indirect selling expenses of the CEP level of trade are limited to the initial sale by Cinsa's and ENASA's export department to CIC. Cinsa and ENASA further state that they are entitled to the CEP offset under the terms of the statute, 19 U.S.C. 1677b(a)(7)(B), because only one level of trade has been determined to exist in the home market, and Cinsa and ENASA are unable to quantify any pricing differential between the home market level of trade and the nonexistent CEP level of trade in the home market.

The petitioner argues that the Department should reject the respondents' claim for a CEP offset adjustment in the final results, based on the respondents' failure to establish that home market and CEP sales are at different levels of trade. The petitioner states that the record shows that the respondents sold to wholesalers and distributors in both markets and that these customers are not at a more remote point in the chain of distribution than CIC. In addition, the petitioner concludes that the selling functions are the same in both markets.

DOC Position

We agree with the petitioner. Section 773(a)(1)(B) of the Act requires that the Department establish NV, to the extent possible, based on home market sales at the same level of trade as the CEP or the EP sale. The SAA notes that if the Department is able to compare sales at the same level of trade, it will not make any level of trade adjustment or CEP offset in lieu of a level of trade adjustment. SAA at 829. Further, section 773(a)(7) expressly requires a difference in level of trade between the U.S. and home market sales as a prerequisite to a CEP offset. Specifically, sales in the home market must be at a more advanced stage of distribution.

In the home market, Cinsa and ENASA sell directly to wholesalers, distributors, large retailers and supermarkets. Cinsa and ENASA did not identify which of their home market customers fell into which of these categories and did not claim that there were differences in selling functions with respect to these designations. In short, the respondents treated these customers as being similarly situated for purposes of the LOT analysis. CIC is also a wholesaler/distributor of POS cookware. With regard to selling functions, Cinsa and ENASA reported in their April 28, 1997, questionnaire response that they performed the following selling functions for home market sales: freight and delivery services, inventory maintenance, and order processing and billing services. For sales to CIC, Cinsa's export department arranged freight and delivery services, incurred inventory maintenance, and provided sales support services such as invoice processing and billing. Therefore, Cinsa and ENASA have not demonstrated that their home market purchasers are at a different point in the chain of distribution than CIC and that the selling functions associated with Cinsa's and ENASA's sales to CIC were different from those associated with sales to customers in the home market. Thus, our analyses leads us to conclude that sales within each market and between markets are not made at different levels of trade.

Finally, we disagree with Cinsa's and ENASA's argument that the preliminary results failed to account for the fact that home market indirect selling expenses are included in the price associated with the ''NV level of trade'', whereas CIC's indirect selling expenses are excluded from the price associated with the ''CEP level of trade.'' First, the indirect selling expenses incurred in the United States by CIC's sales departments are, pursuant to section 772(d)(1)(D) of the statute, properly excluded from the price calculated for the U.S. CEP sales. Pursuant to this and other section 772(d) adjustments, CIC's price to its unaffiliated customer (the ''starting price'') is transformed into a constructed export price, *i.e.*, a constructed equivalent of a market-based sale by Cinsa or ENASA to CIC. This is the point at which the level of trade comparison is made. *See* New Regulations, 62 FR at 27414.[1] Second, Cinsa's and ENASA's itemized home market indirect selling expenses and itemized indirect selling expenses incurred in Mexico with respect to making sales to CIC are virtually the same. Therefore, the record reflects no difference between the functions performed by the respondents in selling to home market customers and the functions performed in selling to CIC.

Accordingly, we can compare sales in the home market and the U.S. market at

[1] This approach was recently challenged in *Borden, Inc.* v. *United States (Borden)* Slip Op. 98–36 (March 26, 1998), at 55–59 (rejecting the Department's practice of making 1677a(d) adjustments prior to making the level of trade comparisons). The Department intends to appeal this decision, and thus will continue to apply the methodology set forth in the New Regulations. We note, however, that, because the sales made by Cinsa and ENASA in the home market are not at a more advanced stage in the chain of distribution than either those made *to* CIC or those made *by* CIC (both are at a wholesale/distributor level of trade), implementation of the *Borden* decision would not affect the outcome in this case.

the same level of trade. Therefore, a CEP offset is not warranted.

Comment 6: Whether to Limit NV Comparisons to Sales Made in Same Month

Cinsa and ENASA argue that the Department's high inflation margin calculation methodology, which limits NV comparisons to the month of the U.S. sale, results in unduly high margins in the instant review because the Department based NV on CV when there were no home market sales of the most comparable model in the same month as the U.S. sale. Cinsa and ENASA suggest that, in order to obtain more price-to-price matches, the Department should use home market matches within the full 90/60 window period surrounding each U.S. sale, but index prices when it is necessary to compare a U.S. sale to a home market sale during a different month.

Alternatively, Cinsa and ENASA argue that the Department should expand the one-month window forward and use prices for identical merchandise in one of the two months subsequent to the date of the U.S. sales, without price adjustment.

The petitioner states that Cinsa's and ENASA's proposed methodology is not in accordance with the Department's policy regarding high inflation comparisons. In short, according to the petitioner, Cinsa and ENASA have not demonstrated that there is anything in the way they manufacture and sell subject merchandise that makes application of the Department's high inflation price comparison methodology inappropriate or unfair.

Finally, the petitioner believes the Department should reject Cinsa's and ENASA's alternative request to expand the price comparison window by two months because the further away from the same month the Department looks for a comparable home market sale in a high inflation case, the more likely it is that there would be distortion caused by inflation.

DOC Position

We agree with the petitioner. As in our preliminary results, we have limited our comparisons to sales in the same month rather than applying the Department's 90/60 rule, whereby the Department may use as NV comparison market prices from the three months prior to and the two months after the month in which the U.S. sale was made. The same month comparison rule accords with the Department's current practice in cases involving high inflation.

We disagree with the respondents' claim that the Department's high inflation methodology creates unduly high margins in this review. The Department's inflation methodology is designed to eliminate distortion caused by high inflation. It is neutral in purpose and is not designed to punish or benefit anyone. However, as a result of a recent court decision, the respondents' concerns have been addressed at least in part, albeit indirectly. On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States*, 133 F.3d 897 (*CEMEX*). In that case, based on the pre-URAA version of the Act, the Court addressed the appropriateness of using CV (rather than similar merchandise) as the basis for foreign market value when the Department finds home market sales of the most similar merchandise to be outside the ''ordinary course of trade.'' This issue was not raised by any party in this proceeding. However, in response to the Court's decision in *Cemex*, the Department has revised its application of the cost test and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV upon finding foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the ''ordinary course of trade.'' Instead we will match a given U.S. sale to foreign market sales of the next most similar model sold during the same month when all sales of the most comparable model are below cost. The Department will use CV as the basis for NV only when there are no above-cost sales in the appropriate comparison period that are otherwise suitable for comparison.

Therefore, for the final results in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market, as described above in the ''Scope of Review'' section of this notice, that were in the ordinary course of trade during the same month for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade during the same month to compare with U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade during the same month, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

With regard to comparisons involving sets, where there were no sales of identical merchandise in the home market in the same month to compare to U.S. sales of subject merchandise sold in sets, we compared U.S. sales of sets to the CV of the set as we do not have the appropriate data in this review to compare non-identical sets. We will, however, request such information for purposes of future reviews.

In a few instances involving comparisons of open stock merchandise, we have still resorted to the use of CV due to the absence of comparable above-cost matches in the same month for certain U.S. sales.

Finally, the respondent's suggestion that we account for the effects of inflation by indexing *prices* for POS cookware is contrary to the Department's high inflation methodology. Although it is necessary to use *cost* indexing in high-inflation cases in order to calculate meaningful POR-average costs, the Department has rejected the use of indexed *prices*. It is the Department's position that price-to-price margin calculations should be made based only on actual, rather than indexed, prices, as using indexed prices would yield less accurate results.

Comment 7: Home Market Freight Expense Allocation

The petitioner argues that Cinsa's and ENASA's claim for an adjustment to NV for freight expenses incurred to ship subject merchandise from the factories in Saltillo to (1) the remote warehouses in Mexico City and Guadalajara, and (2) unaffiliated customers in the Monterrey region is distortive and should be rejected because these shipments contained both Cinsa- and ENASA-produced merchandise, as well as both subject and non-subject merchandise. The petitioner further argues that Cinsa billed ENASA for its share of the freight expenses based on the number of boxes of ENASA merchandise in each shipment, as opposed to the weight of the ENASA merchandise, which is heavier gauge that Cinsa's merchandise, thus incorrectly shifting expense from ENASA to Cinsa and artificially reducing Cinsa's NV.

In addition, with regard to post-sale freight expenses, the petitioner contends that allocating the total expense over subject and non-subject merchandise could inappropriately shift expense to subject merchandise if non-subject merchandise customers are located farther from the factories, on average, than customers of subject merchandise. The petitioner urges the Department to either reject Cinsa's and ENASA's claim for a freight adjustment or require them to revise their freight expense allocation.

The respondents argue that they were unable to report transaction-specific freight expenses because they received freight bills on a monthly basis, rather than a shipment-by-shipment basis. According to the respondents, the allocation of mixed-shipment freight expenses between the companies was reasonable because the packing list generated by the freight company indicated the number of boxes but not the weight of boxes. Moreover, the respondents argue that, because the freight expense was incurred on the basis of weight and the freight rate did not vary by the type of merchandise shipped, inclusion of sales of non-subject merchandise was not distortive to the calculation. Finally, the respondents note that not only has the Department accepted Cinsa's and ENASA's comparable allocations in all previous proceedings, but that the respondents' reporting of warehouse-specific freight factors represents a refinement in their reporting of pre- and post-sale freight expenses.

DOC Position

We have accepted the respondents' methodology for the calculation of home market freight expenses, including their allocation of such expenses (1) between Cinsa and ENASA and (2) between subject and non-subject merchandise.

The Department's preference is that, wherever possible, freight adjustments should be reported on a sale-by-sale basis rather than allocated over all sales. *See Final Results of Antidumping Duty Administrative Review: Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada*, 56 FR 47451 (September 19, 1991). If the respondent does not maintain freight records on a sale-by-sale basis, then our preference is to apply an allocation methodology at the most specific level permitted by the respondent's records kept in the normal course of business. *See Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products from Indonesia,* 62 FR 1719, 1724 (January 13, 1997).

Cinsa and ENASA stated in their June 2, 1997, supplemental response that they do not maintain freight records on a sale-by-sale basis because Cinsa, which handles freight arrangements for both itself and ENASA, is billed only on a weight-per-truckload basis by its unaffiliated freight carrier. The freight company does not provide a weight-based breakout between Cinsa merchandise and ENASA merchandise. However, the packing list for each shipment indicates how many boxes contain Cinsa merchandise and how many boxes contain ENASA merchandise.

We disagree with the petitioner's claim that allocating the cost for each truckload between the two companies on the basis of number of boxes shifts freight expense to Cinsa. Although ENASA's products are heavy gauge steel and Cinsa's are light and medium gauge steel, a Cinsa ''box'' is not necessarily lighter than an ENASA ''box''; different boxes may contain different cookware items (*i.e.*, different models and sizes), and some boxes contain multiple items. In the absence of weight-based data, the box-based comparison is the most reasonable overall.

Likewise, we disagree with the petitioner's claim that the respondents' allocation of freight costs between subject and non-subject merchandise is distortive since the June 2, 1997, response shows that subject and non-subject merchandise destined for the same delivery point are charged the same weight-based rate. Further, the record shows that the respondents reported warehouse-specific freight factors. Thus, calculation of a weight-based factor based upon the freight expense and shipping weight for all merchandise and application of the resulting factor to the weight of subject merchandise yields a non-distortive allocation of the freight expense attributable only to subject merchandise. Finally, Cinsa and ENASA have used comparable allocation methodologies in each of the previous segments of this proceeding, in each of which the Department has determined that they are reasonable in light of the objectives of the antidumping law. Accordingly, we accepted Cinsa's and ENASA's freight calculations as submitted in their sales databases in this review as reasonable and non-distortive.

Comment 8: Freight Expenses on U.S. Sales

The petitioner states that Cinsa and ENASA reported freight expenses incurred to ship subject merchandise to the United States by allocating total freight expenses incurred over the weight of all merchandise shipped. These freight expenses were reported in two steps: (1) expenses incurred to ship merchandise from Saltillo to the U.S. border (for EP and CEP sales), and (2) expenses incurred to ship merchandise from the U.S. border to CIC's warehouse in San Antonio, Texas (CEP sales only). The petitioner argues that the denominators in the above-referenced calculations are incorrect because the weight of the merchandise shipped in Step 1, which should contain both EP and CEP sales, is significantly lower than the weight of the merchandise shipped in Step 2, which should contain only CEP sales. Furthermore, according to the petitioner, the weights used in these calculations do not correspond to the weights of merchandise sold as reported on the respondents' sales tapes. Accordingly, for purposes of the final results, the petitioner maintains that the Department should reject Cinsa's and ENASA's U.S. freight calculations and, as facts available, recalculate the per kilogram expenses based on the weight of merchandise sold as reported on the sales tapes.

Cinsa and ENASA concede that the weight amount reported by CIC for shipment from Laredo to San Antonio was inadvertently overstated, but state that the error can be corrected using information already in the record. The respondents disagree with the petitioner's suggestion that the weight of EP and CEP sales from the sale tape be used as the denominator for Mexican inland freight because that freight factor was calculated on the basis of expenses incurred upon sales of both subject and non-subject merchandise, which were shipped together. Therefore, according to the respondents, the reported weight of the merchandise shipped must include both subject and non-subject merchandise. Likewise, the respondents also disagree with using the weight of CEP sales from the sales tape as the denominator for the U.S. inland freight factor because in addition to the inclusion of non-subject merchandise, the U.S. inland freight factor was calculated based on freight expenses incurred on all merchandise shipped from Laredo to San Antonio, regardless of whether it was resold to unrelated U.S. customers during the period of review (POR) or whether it remained in inventory in San Antonio.

DOC Position

The Department agrees that the denominator of the U.S. inland freight ratio (Step 2, above) should be recalculated by subtracting the weight of the merchandise shipped from Saltillo to Laredo, which was inadvertently also included in the Step 2 weight calculation. The petitioner's suggestion that the weight of CEP sales, as derived from the sales tape, be used as the denominator for U.S. inland freight is incorrect because it fails to take into consideration two important details. First, the numerator in the calculation (freight expenses) includes both subject and non-subject merchandise. Second, the numerator also includes expenses incurred on all merchandise shipped from Laredo to San Antonio, Texas, regardless of whether it was resold to unrelated U.S. customers or whether it remained in inventory in San Antonio. Accordingly, in order to obtain a proper ratio, the denominator (weight shipped) must be based correspondingly upon the weight of all subject and non-subject merchandise as well as on the weight of both merchandise sold and that remaining in inventory in San Antonio. The weight on the sales tapes represents total CEP sales; thus this figure does not include non-subject merchandise or merchandise remaining in inventory in San Antonio. Therefore, for purposes of the final results, we have deducted freight expenses, corrected as noted above, from U.S. price. *See Calculation Memo.*

Comment 9: Calculation of Indirect Selling Expenses and CEP Profit

The petitioner argues that the Department's preliminary results calculation of U.S. indirect selling expenses and CEP profit for Cinsa and ENASA are understated because they do not include (1) all of CIC's reported indirect selling expenses (depreciation, financial and bad debt expenses were excluded), (2) expenses incurred by CIC to finance antidumping duty cash deposits and assessments, and (3) indirect selling expenses incurred in Mexico in support of sales to the United States. The petitioner believes that the Department should include the above-mentioned expenses in the calculation of U.S. indirect selling expenses and CEP profit for purposes of the final results.

Cinsa and ENASA disagree with the petitioner's claim that the Department should have deducted the above-referenced expenses from CEP. The respondents claim that: (1) Depreciation, financial and bad debt expenses are financial and operating expenses and do not involve expenses related to the sale of the subject merchandise or overhead expenses of the U.S. affiliate and, according to the statute, only direct selling expenses, indirect selling expenses and general and administrative expenses are to be deducted from CEP; (2) expenses incurred in the payment of antidumping duties are not indirect selling expenses that benefit U.S. sales of subject merchandise; and (3) indirect selling expenses of Cinsa's export department and the inventory carrying costs for the period in which the exported merchandise was in Mexican inventory do not relate to economic activity in the United States.

DOC Position

For purposes of the final results, we have deducted from CEP depreciation, financial and bad debt expenses, as well as commissions. We did not deduct the indirect selling expenses of Cinsa's export department or the inventory carrying costs for the period in which the exported merchandise was in Mexican inventory.

CIC's sole function is to sell merchandise produced by Cinsa, ENASA, and their affiliates in the U.S. market. In such circumstances, the Department's practice is to deduct CIC's selling, general, and administrative expenses from CEP. *See Notice of Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany,* 61 FR 38166, 38176 (July 23, 1996). This includes CIC's depreciation, financial and bad debt expenses, which are considered related to CIC sales of the subject merchandise and thus deducted from CEP pursuant to section 772(d)(1)(D). With regard to CIC's expenses to finance loans from Cinsa used for payment of antidumping cash deposits, although we have long maintained, and continue to maintain, that antidumping duties and cash deposits of antidumping duties are not expenses that we should deduct from U.S. price, it is also the Department's position that, unlike the duties and cash deposits themselves, financial expenses associated with cash deposits are not a direct, inevitable consequence of an antidumping duty order. Therefore, we agree with the petitioner that it is reasonable to include such financing expenses in the indirect selling expense calculation for the CEP sales made by CIC. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan,* 63 FR 2558, 2571 (January 15, 1998). However, the record of this review does not indicate whether CIC's interest expenses with respect to intracorporate loans to pay antidumping duties and cash deposits that were either incurred or accrued during the POR were included in CIC's reported U.S. indirect selling expense calculation. Therefore, the Department made no adjustment to U.S. indirect selling expenses, which may already include CIC's interest expenses to finance loans from Cinsa. We will, however, request clarification of this issue on the record of future reviews.

With regard to indirect selling expenses incurred in Mexico in support of sales to the United States, we agree with the respondents that such expenses do not relate to economic activity in the United States. The Department's current practice, as indicated by the preamble to the Department's New Regulations, is to deduct indirect selling expenses incurred in Mexico from the CEP calculation only if they relate to sales to the unaffiliated purchaser in the United States. We do not deduct from the CEP calculation indirect selling expenses incurred in Mexico on the sale to the affiliated purchaser. Accordingly, because Cinsa and ENASA reported that certain indirect expenses incurred in Mexico are not associated with selling activity occurring in the United States, but are limited to selling activities associated with the sale of merchandise in Mexico to the affiliated party, CIC, we have not deducted these Mexican indirect selling expenses from the CEP calculation.

Comment 10: Calculation of U.S. Imputed Credit Expenses

According to the respondents, although the Department's analysis memorandum for the preliminary results (*see Antidumping Duty Administrative Review of Porcelain-on-Steel Cookware from Mexico* (95–96): Adjustments to Submitted Data) stated that the Department modified the calculation of reported credit cost to reflect U.S. imputed credit cost based on unit prices net of discounts, the computer program used for the preliminary results failed to reflect this intent. Therefore, credit cost was overstated because imputed credit on U.S. sales was based on gross price rather than net price.

The petitioner argues that the Department did not deduct any values from gross unit price in its calculation of U.S. credit expense because Cinsa and ENASA reported that they did not grant any discounts or rebates on U.S. sales during the POR. According to the petitioner, the values identified as rebates by Cinsa and ENASA are actually warranty expenses and the calculation of U.S. credit expenses net of warranty or any other direct selling expenses would be contrary to the Department's policy.

DOC Position

We agree with Cinsa and ENASA that discounts should be deducted from the U.S. imputed credit calculation. However, for purposes of this review, the issue is moot because no discounts were reported in the U.S. market. We also agree with the respondents that the rebates reported by Cinsa and ENASA are not warranties, as claimed by the petitioner. The respondents have characterized these rebates as ''post-sale price adjustments to account for short-shipments or returned merchandise.'' There is no information on the record to indicate that the returned merchandise is defective—a prerequisite for a warranty expense. However, this issue is also moot since we did not deduct rebates or warranties from the price on which imputed credit is based.

Final Results of Review

As a result of this review, we have determined that the following margins exist for the period December 1, 1995 through November 30, 1996:

Manufacturer/Exporter	Margin (percent)
Cinsa	17.33
ENASA	62.75

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total value of those same sales. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements shall be effective, upon publication of this notice of final results of administrative review, for all shipments of the subject merchandise from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for Cinsa and ENASA will be the rates established above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) The cash deposit rate for all other manufacturers or exporters of this merchandise will continue to be 29.52 percent, the all others rate established in the final results of the less than fair value investigation (51 FR 36435, October 10, 1986). The cash deposit rate has been determined on the basis of the selling price to the first unaffiliated customer in the United States. For appraisement purposes, where information is available, the Department will use the entered value of the merchandise to determine the assessment rate.

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

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

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

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 353.22.

Dated: July 8, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18884 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

A–583–815

Certain Welded Stainless Steel Pipe From Taiwan; Final Results of Administrative Review

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

ACTION: Notice of final results of administrative review.

SUMMARY: On January 9, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the 1995–1996 administrative review of the antidumping duty order on certain welded stainless steel pipe from Taiwan (A–583–815). This review covers one manufacturer/exporter of the subject merchandise during the period December 1, 1995 through November 30, 1996.

We gave interested parties an opportunity to comment on the preliminary results. Although, based upon our analysis of the comments received, we have changed the results from those presented in our preliminary results of review, a *de minimis* dumping margin still exists for Ta Chen's sales of welded stainless steel pipe (WSSP) in the United States. Accordingly, we will instruct the U.S. Customs Service to assess antidumping duties on entries of Ta Chen merchandise during the period of review, in accordance with the Department's regulations (19 CFR 353.6).

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482–5222 or John Kugelman at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Applicable Statute and Regulations: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 353 (April 1, 1997).

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1992, the Department published in the **Federal Register** the antidumping duty order on welded stainless steel pipe (WSSP) from Taiwan (57 FR 62300). On December 3, 1996, the Department published the notice of ''Opportunity to Request Administrative Review'' for the period December 1, 1995 through November 30, 1996 (61 FR 64051). In accordance with 19 CFR 353.22(a)(1) (1997), respondent Ta Chen Stainless Pipe Co., Ltd. and its wholly-owned U.S. subsidiary, Ta Chen International (collectively, Ta Chen), requested that we conduct a review of their sales. On January 17, 1997, we published in the **Federal Register** our notice of initiation of this antidumping duty administrative review covering the period December 1, 1995 through November 30, 1996 (62 FR 2647).