Additionally, we note that the SAA at 870 specifically states that, where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference. Finally, the margins calculated for respondents in the other round-wire investigations are in many instances of the same order of magnitude as the margins in the corresponding petitions, suggesting that the information contained in the round-wire petitions is generally reliable.

Interested Party Comments

No parties commented on the preliminary determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of stainless steel round wire from Spain that are entered, or withdrawn from warehouse, for consumption on or after November 18, 1998, the date of publication of the preliminary determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. The suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Inoxfil	35.80
All Others	24.40

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. In this case, the margin assigned to the only company investigated is based on facts available. Therefore, consistent with the SAA, at 873, we are using an alternative method. As our alternative, we have based the all-others rate on a simple average of the margins in the petition, as revised at the time of initiation of this investigation.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

We are issuing and publishing this determination in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: April 2, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–8925 Filed 4–8–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–829]

Notice of Final Determination of Sales at Less Than Fair Value—Stainless Steel Round Wire from Canada

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

EFFECTIVE DATE: April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Robin Gray, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4852 or (202) 482–4023, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to Department of Commerce (''the Department'') regulations refer to the regulations codified at 19 C.F.R. Part 351 (April 1998).

Final Determination

We determine that stainless steel round wire from Canada is being sold, or is likely to be sold, in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margins are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

The preliminary determination in this investigation was issued on November 12, 1998. *See Notice of Preliminary Determinations of Sales at Less Than Fair Value and Postponement of Final Determinations—Stainless Steel Round Wire From Canada, India, Japan, Spain, and Taiwan; Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination—Stainless Steel Round Wire From Korea*, 63 FR 60402 (November 18, 1998) (''preliminary determination''). Since the preliminary determination, the following events have occurred.

In January 1999, we conducted on-site verifications of the questionnaire responses submitted by Central Wire Industries Ltd. (''Central Wire'') and Greening Donald Co. Ltd. (''Greening Donald'') (collectively ''the respondents'').

We received case briefs from the petitioners [1] and both respondents on February 23, 1999, and we received rebuttal briefs from the same parties on March 2, 1999. We held a public hearing and a proprietary hearing on March 11, 1999.

Scope of Investigation

The scope of this investigation covers stainless steel round wire (''SSRW''). SSRW is any cold-formed (*i.e.*, cold-drawn, cold-rolled) stainless steel product of a cylindrical contour, sold in coils or spools, and not over 0.703 inch (18 mm) in maximum solid cross-sectional dimension. SSRW is made of iron-based alloys containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. Metallic coatings, such as nickel and copper coatings, may be applied.

The merchandise subject to this investigation is classifiable under

[1] ACS Industries, Inc., Al Tech Specialty Steel Corp., Branford Wire & Manufacturing Company, Carpenter Technology Corp., Handy & Harman Specialty Wire Group, Industrial Alloys, Inc., Loos & Company, Inc., Sandvik Steel Company, Sumiden Wire Products Corporation, and Techalloy Company, Inc.

subheadings 7223.00.1015, 7223.00.1030, 7223.00.1045, 7223.00.1060, and 7223.00.1075 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of the investigation (''POI'') is January 1, 1997, through December 31, 1997. This period corresponds to each respondent's four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, March 1998).

Fair Value Comparisons

To determine whether sales of stainless steel round wire from Canada to the United States were made at less than fair value, we compared the export price (''EP'') or constructed export price (''CEP''), as appropriate, to the normal value. Our calculations followed the methodologies described in the preliminary determination except as noted below. *See* also the company-specific analysis memoranda dated March 31, 1999, which have been placed in the file.

Export Price and Constructed Export Price

For the price to the United States, we used EP or CEP as defined in section 772 of the Act. We calculated EP and CEP based on the same methodology we used in the preliminary determination, with the following exceptions:

1. We calculated and deducted U.S. duties from EP for certain sales for which Central Wire did not report the duties. *See* comment 11, below.
2. We recalculated Central Wire's indirect selling expenses to account for the fact that Central Wire's sales were made in mixed currencies. *See* comment 4, below.
3. We excluded Greening Donald's U.S. consignment sales from our analysis. *See* comment 12, below.

Normal Value

We used normal value as defined in section 773 of the Act. As in the preliminary determination, we excluded certain sales for both respondents pursuant to section 773(b) of the Act because we found that these sales were made below the cost of production within an extended period of time in substantial quantities and were not at prices which permit recovery of all costs within a reasonable period of time. We calculated normal value based on the same methodology we used in the preliminary determination, with the following exceptions:

1. We revised the list of Central Wire's home-market sales which we determined to have been made outside the ordinary course of trade. *See* comment 2, below.
2. We recalculated Central Wire's indirect selling expenses to account for the fact that Central Wire's sales were made in mixed currencies. *See* comment 4, below.

Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average cost of production (''COP''), by model, based on the sum of each respondent's cost of materials, fabrication, general expenses, and packing costs. We relied on the submitted COP data except in the following specific instances where Greening Donald's submitted costs were not quantified or valued appropriately:

1. We included certain costs which Greening Donald did not report in its submitted costs. *See* comment 13, below.
2. We calculated Greening Donald's general and administrative expenses (''G&A'') in accordance with our normal methodology which is based on the producing company as a whole. *See* comment 14, below.
3. We calculated Greening Donald's financial expenses based on the total operations of the consolidated corporation (*i.e.*, the Thyssen Group). *See* comment 16, below.
4. We included foreign-exchange gains and losses related to Greening Donald's cash accounts and accounts payable accounts in the COP and constructed value (''CV''). *See* comment 16, below.
5. We relied on Greening Donald's normal books and records kept in accordance with Canadian generally accepted accounting principles, and we included the year-end depreciation adjustment in the calculation of Greening Donald's costs. *See* comment 20, below.
6. During the POI, Greening Donald purchased certain major inputs from an affiliated supplier and from unaffiliated suppliers. In order to follow our normal practice of using the highest of transfer price, market price, or the affiliate's cost of production to calculate the cost of affiliated-party inputs, we calculated an adjustment which we applied to the per-unit direct material cost of all products incorporating this input. *See* comment 18, below.
7. Greening Donald asserted that its reported variances represented the weighted-average cost of fiscal year 1997 and the first quarter of fiscal year 1998. It also stated that the denominator it used in the calculation of the reported variance rates was based on cost-of-sales information rather than cost-of-manufacturing information. For the final determination, we used the variance rates based on the POI cost of manufacturing to calculate COP and CV.

Currency Conversions

As in the preliminary determination, we made currency conversions in accordance with section 773A of the Act. The Department's preferred source for daily exchange rates is the Federal Reserve Bank.

Verification

As provided in section 782(i)(1) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

Interested Party Comments

Comment 1: *Substantial Transformation*. The respondents argue that the Department's preliminary determination that wire rod is substantially transformed in the production of round wire yields a fundamentally unfair result. The respondents contend that they must pay both ''non-NAFTA'' tariff duties and estimated dumping duties on the same wire used to produce stainless steel round wire because this wire is classified both as ''Canadian'' and as ''foreign'' under essentially identical Customs and Department of Commerce substantial-transformation tests. The respondents contend that the rod imported (into Canada) is not physically or chemically substantially transformed in Canada such that it merits classification as a Canadian product subject to dumping duties. The respondents observe that the Court of International Trade (''CIT'') has ruled that wire rod is not substantially transformed into round wire in the context of a Customs case, citing *Superior Wire* v. *United States*, 669 F. Supp. 472 (CIT 1987) (''*Superior Wire*''), affirmed 867 F. 2d 1409 (Fed. Cir. 1989). The respondents contend that the CIT, in *Superior Wire*, noted that the end use of wire is determined by the rod input.

The respondents also contend that wire rod constitutes an essential active component which defines the key chemical and physical parameters of the finished wire and that the level of accuracy required for accurate model matching in a dumping analysis is not necessary in a substantial-transformation analysis. The respondents contend that the substantial-transformation test requires a substantial change in the physical and chemical properties, not small differences which may be implicated in applying the model-matching criteria.

The respondents contend further that the Department's analysis of the end-uses of stainless steel wire is too specific. Citing *Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from the Republic of Korea,* 63 FR 8934 (February 23, 1998), the respondents argue that the Department rarely considers changes in specific end-uses as opposed to general end-use categories sufficient to qualify as substantial transformation.

In addition, the respondents contend that the Department, lacking contrary evidence from the petitioners, should base its determination of relative investment for rod production versus wire drawing on uncontested evidence provided by the respondents. Citing *Brass Sheet and Strip from Canada,* 58 FR 6615, 6617 (February 1, 1993), *Granular Polyetrafluoroethylene Resin from Italy,* 58 FR 26100, 26102 (April 30, 1993), and section 351.402(c)(2) of the Department's regulations, the respondents contend that the value added in the wire-drawing process is insignificant and, according to Departmental policy, it does not qualify as a substantial transformation of the product. Alternatively, the respondents suggest, the Department should classify those wire products found to have particularly low value-added transformations as a product of the country from which the rod was purchased and, therefore, not subject to this investigation.

The respondents argue further that the substantial-transformation test the Department applied constitutes an ''administrative determination of general application,'' as defined by Article 1 of the World Trade Organization (''WTO'') Agreement on the rules of origin and, therefore, subject to that agreement. The respondents request that the Department explain its rationale behind its belief that Article 2 of the WTO Agreement on Rules of Origin does not require the Department to apply the country-of-origin determinations made by Customs. Considering the totality of the factors on the record in this case, the respondents request that the Department reverse its decision and terminate the investigation of SSRW from Canada.

The petitioners agree with the Department's preliminary determination that stainless steel wire rod is substantially transformed into round wire. According to the petitioners, the respondents have not made any significantly different arguments than they did prior to the preliminary determination and, moreover, the information they have submitted in support of their arguments only serves to confirm that the Department's preliminary determination is correct.

The petitioners argue that the scope of an antidumping investigation is not based on Customs rules of origin nor on the WTO rules of origin. The petitioners assert that there is nothing in the current rules that requires the Department to apply Customs country-of-origin determinations for purposes of antidumping or countervailing duty proceedings. The petitioners, citing the WTO Agreement on Rules of Origin, Article 1 n.1, contend that the respondents ignore the plain language of the WTO Rules of Origin Agreement that says its provisions do not apply to ''those determinations made for purposes of defining 'domestic like product' or 'like products of the domestic industry' or similar terms wherever they apply.'' Moreover, the petitioners argue, even if the WTO Agreement on Rules of Origin were applicable to antidumping proceedings, there is no existing agreement on the actual origin for specific products.

The petitioners also argue that Customs Service determinations on classification or origin of a product are not binding on the Department. The petitioners assert that there are important policy reasons why the Department should not be bound by Customs Service rulings, claiming that, because of the difficult standards that have been established regarding claims of circumvention, industries that rely on a single major raw material input might not be able to obtain any relief from dumping or unfair subsidization of the downstream product.

The petitioners assert further that the respondents are not disproportionately affected by the Department's substantial-transformation ruling. The petitioners observe that both respondents use U.S.-origin wire rod to make wire that they import to the United States and that this wire qualifies for a NAFTA tariff. Furthermore, the petitioners claim that, even when the respondents use wire rod imported from countries other than the United States, they are not any different than the respondents in the other stainless steel round wire investigations.

The petitioners also assert that the respondents' reliance on *Superior Wire* is misplaced. The petitioners observe that *Superior Wire* concerned carbon steel wire, which is a different product than the one covered in this investigation. Citing *The Making, Shaping and Treating of Steel,* a standard industry reference, the petitioners claim that carbon steel and stainless steel products are quite different. The petitioners also observe that the *Superior Wire* ruling was made in the context of a voluntary restraint agreement, which is completely different from the context of an antidumping investigation. The petitioners conclude that the factual analysis of *Superior Wire* is limited to the facts of that case alone and is of no precedential value in this case. The petitioners also note that, for its preliminary determination in this investigation, the Department determined that the characteristics of stainless steel round wire are not predetermined by the rod input but, rather, that the wire rod is altered in the process of making it into round wire. The petitioners also observe that, although the respondents argue that the Department's end-use analysis is too specific, they do not suggest any alternatives.

Finally, the petitioners argue that the respondents' reliance on the data they presented regarding the value added to wire rod by the cold-drawing process is misplaced. Since these data are unverified estimates. The petitioners also assert that, based on the Greening Donald's cost data, the record indicates that the value added to wire rod by the cold-drawing process is significant.

Department's Position: We continue to find, as we stated in the Memorandum to Richard W. Moreland dated November 12, 1998 (''November 12 memorandum''), that stainless steel wire rod cold-drawn in Canada to produce stainless steel round wire is substantially transformed into a Canadian product and is within the scope of this investigation, regardless of the origin of the stainless steel wire rod input. The cold-drawing process results in a product with physical properties and end-uses that are distinct from those of the stainless steel wire rod input, thus transforming the rod into a new and different article. The stainless steel round wire industry is distinct from the stainless steel wire rod industry and the value added by the cold-drawing process is significant.

Furthermore, the respondents' reliance on *Superior Wire* is misplaced. *Superior Wire* was a ruling on carbon steel wire, not stainless steel wire.

Superior Wire, at 479, held that ''the wire rod dictates the final form of the finished wire.'' Regardless of what circumstances may apply in the carbon steel wire industry, this statement is demonstrably not true here, as is described in detail in the November 12 memorandum.

Although the respondents argue that our substantial-transformation analysis is too specific by incorporating model-matching criteria, their argument that we should only take into account the ''overall parameters'' and not ''small model-matching criteria'' in our analysis is unconvincing. First, it is not clear why model-matching criteria such as size and tensile strength would not be part of the ''parameters'' of round wire. Second, it is unclear why we should not consider a change in wire rod such that the finished product (round wire) is, for example, one-third of the diameter of the rod input to be substantial. The analysis in the November 12 memorandum, at pages 4–5, demonstrates that the chemical composition, or grade, of the wire is not the only physical characteristic of the round wire. We use additional characteristics to define two products that are identical, and all those characteristics are changed by the drawing process.

Moreover, we disagree with the respondents' assertion that the end-use of wire is determined by the rod input. Again, the respondents' reliance on *Superior Wire* is misplaced. As we stated in the November 12 memorandum, at page 5, the cold-drawing process results in a product with end-uses that are distinct from those of the wire-rod input. Whatever the circumstances may be in the carbon steel wire industry, it is clear that the end-uses of stainless steel wire are dependent on factors other than the grade of the wire-rod input. The respondents have not cited any evidence on the record of this investigation or to any industry reference that suggests otherwise. Given these circumstances, we conclude that the circumstances examined in *Superior Wire* simply do not apply here.

Furthermore, we disagree with to the respondents' argument that our end-use analysis is too specific. In their case brief, quoting from Greening Donald's December 29, 1998, submission, the respondents state that ''the Department is correct in noting that, within each set of general end-uses, there may be more specific end-uses. The drawing process may make SSRW more suitable for one rather than another specific end-use: nevertheless, the grade of the wire rod has pre-determined the general set of end-uses for which the wire may be used. Thus, for example, neither AISI 304 nor AISI 316 could provide the high temperature resistance required to produce a high temperature conveyor belt. By contrast, AISI 314 would provide the necessary ''high temperature resistance.'' Thus, the respondents consider ''high temperature conveyor belts'' to be a general end-use. ''Spring wire,'' that is, wire used to produce springs, which we used in an example in the November 12 memorandum, at page 5, is no less general an end-use than the example cited by the respondents. Moreover, the respondents' citation to *Semiconductors from the Republic of Korea* is inapposite. In that case, we determined that ''[p]rocessed wafers produced in Korea, but packaged, or assembled into memory modules, in a third country, are included in the scope; processed wafers produced in a third country and assembled or packaged in Korea are not included in the scope.'' Thus, it is the processed wafers that are the subject merchandise, not the packaging or memory modules. In this case, it is the stainless steel round wire that is subject to this investigation. How it is packaged is not relevant to our substantial transformation analysis.

With regard to the respondents' argument that the investment required to draw wire is less than the investment required to produce rod, we agree that this can be a factor in our determination as to whether a product is substantially transformed. We do not agree that it is a controlling factor. Our review of the record indicates that ''[t]he facilities, machinery and expertise needed to cold-draw stainless rod into stainless wire are distinct from those needed to produce stainless rod.'' *See* November 12 memorandum, at page 5. The respondents have not cited any evidence to contradict this. Thus, we find that the stainless steel round wire industry is separate and distinct from the stainless steel wire rod industry, and the two industries are not interchangeable. For this reason, we do not consider the relative levels of investment required in the industries to be as relevant in this proceeding as the fact that stainless steel round wire is a product with physical properties, that end-uses are distinct from those of stainless steel wire rod, and that the industries are distinct.

We also disagree with the respondents' assertion that the value added by the drawing process is insignificant. The cost data submitted by the respondents indicates that, on average, the value added by the drawing process is greater than the threshold suggested by the cases they cite. Furthermore, section 351.402(c)(2) of our regulations establishes whether we should apply the special rule in section 772(e) of the Act and is inapposite to a substantial-transformation determination. Section 772(e) of the Act directs that the Department may calculate the margins on further-manufactured merchandise in instances where the value added by an affiliated party is likely to exceed substantially the value of the subject merchandise. Neither section 772(e) of the Act nor 19 C.F.R. 351.402(c)(2) affect the Department's determination of whether a product is substantially transformed.

Finally, we reiterate that the disciplines of the WTO Agreement on Rules of Origin that are currently in effect under Article 2 of the Agreement simply do not require us to apply the country-of-origin determinations made by the Customs Service when making determinations in AD or CVD proceedings. Therefore, we have not altered our preliminary determination regarding our substantial transformation decision for this final determination.

Central Wire Comments

Comment 2: Ordinary Course of Trade. Central Wire argues that the Department should exclude all of the sales that it claimed were made outside the ordinary course of trade from the home-market sales used to calculate normal value. Central Wire contends that the statute directs the Department to base normal value only on sales that are made in commercial quantities and that are made in the ordinary course of trade and that the Department will consider the totality of circumstances in examining this issue, citing *Murata Mfg. Co.* v. *United States,* 820 F. Supp. 603, 607 (CIT 1993).

Central Wire notes that the Department excluded some of its claimed outside-the-ordinary-course-of-trade sales from the calculation of normal value because the Department found that some of the sales had aberrational pricing. Central Wire contends, however, that the standard the Department applied was too restrictive and argues that it would be more appropriate to use a 25-percent price difference between the sale and other sales of similar products made within the ordinary course of trade, rather than the 50-percent price difference the Department used, to determine whether an individual sale is outside the ordinary course of trade.

Central Wire also notes that the Department excluded some of its claimed outside-the-ordinary-course-of-trade sales from the calculation of normal value because the Department found, based on Central Wire's descriptions in its responses, that the circumstances of the sales demonstrated that they were made outside the ordinary course of trade. However, Central Wire claims, there were some sales that it reported as outside the ordinary course of trade which the Department did not exclude and for which the Department did not explain why it had not excluded the sales. With regard to these sales, Central Wire contends that the Department's findings at verification demonstrate that all of its claimed outside-the-ordinary-course-of-trade sales were, in fact, made outside the ordinary course of trade and should be excluded from the Department's dumping calculations.

The petitioners contend that the information on the record does not provide a sufficient basis to support Central Wire's claims. The petitioners argue that Central Wire essentially claimed sales it made to new customers or sales of products with different specifications to existing customers as outside the ordinary course of trade. The petitioners argue that this does not demonstrate that a sale is outside the ordinary course of trade and observe that Central Wire had a number of ''one-time'' sales to customers that it did not claim were made outside the ordinary course of trade. The petitioners contend that, to do business in a competitive market, a producer has to accommodate its customers' needs, to sell to new customers, even to solicit new customers, and that it should not be a commercial irregularity that Central Wire sometimes sells to less-desirable customers or that it could sometimes take advantage of the market situation and charge a higher-than-normal price for identical or similar merchandise to other customers. The petitioners also argue that the nature of the customer, such as whether it was a supplier to Central Wire, should not be a factor in determining whether a sale was made outside the ordinary course of trade.

Central Wire rebuts that the Department should not accept the petitioners' argument regarding Central Wire's claimed outside-the-ordinary-course-of-trade sales on procedural grounds because, according to Central Wire, the petitioners never raised the issue of its claimed outside-the-ordinary-course-of-trade sales previously in this investigation. Central Wire argues that, if the Department accepts the petitioners arguments, it will leave respondents unable to respond adequately to allegations made by petitioners adequately. Moreover, Central Wire contends that it conservatively identified its sales as being outside the ordinary course of trade and that, perhaps, additional sales may have been able to be similarly identified.

Department's Position: We agree with the petitioners in part. A company may well obtain new customers or sell different products to existing customers, and it may even seek such business actively. In addition, the record shows that Central Wire had a number of apparent ''one-time'' sales which it did not claim as outside the ordinary course of trade. Thus, the fact that Central Wire has some sales to customers to which it does not normally sell or sells products that the customer does not normally buy does not demonstrate, in itself, that a sale is outside the ordinary course of trade. However, this fact, in conjunction with other circumstances, such as aberrational pricing, may lead us to conclude that a sale is outside the ordinary course of trade. In this case, we have reconsidered our analysis of Central Wire's claimed outside-the-ordinary-course-of-trade sales. We have accepted portions of Central Wire's claim that certain sales were made outside the ordinary course of trade and excluded those sales from our normal value calculation. We determined that one-time, small-quantity sales that had unusual circumstances, such as aberrational pricing, were outside the ordinary course of trade. Due to the business-proprietary nature of the information, please see the Memorandum from Thomas Schauer to Richard W. Moreland dated April 2, 1999, for a complete description of the sales we excluded and the circumstances which led us to conclude that they were outside the ordinary course of trade.

Furthermore, we disagree with Central Wire's assertion that we should use a threshold of 25 percent to determine aberrational prices instead of the 50-percent threshold we used for the preliminary determination. Central Wire argues that the lower threshold is more appropriate on the theory that the threshold we used was too ''restrictive,'' given the nature of SSRW sales and the frequent presence of a market price for a particular product. However, Central Wire did not explain how the nature of SSRW sales renders a 25-percent threshold more appropriate, nor did it point to any evidence in support of its claim. In addition, Central Wire did not explain how the frequent presence of a market price for particular products suggests that a lower threshold would be more appropriate. We must ensure that our consideration is tailored in a manner that does not result in excluding sales that, while different from the majority of sales, are not outside the ordinary course of trade. Therefore, the standard for determining whether a sale is outside of the ordinary course of trade needs to be high in order to prevent potential manipulation of a sales database that would result in excluding sales not outside the ordinary course of trade. Central Wire has presented no convincing argument to support its claim that the threshold we used in our analysis was inappropriate. Therefore, we have not changed our threshold for this case in our analysis.

Finally, we disagree with Central Wire that we should reject the petitioners' arguments on procedural grounds. Central Wire should read the record more carefully. The petitioners have voiced their concern about Central Wire's claimed outside-the-ordinary-course-of-trade sales in a number of submissions prior to its case brief at various stages of this investigation. Further, when we receive comments in a case brief, we consider all issues raised in the context of the record as it stands at that time. Thus, there is no reason to reject the petitioners' arguments as a procedural matter.

Comment 3: Quantity-Band Matching. Central Wire argues that the Department should account for variations in prices due to quantities sold. Central Wire claims that section 773(a)(1) of the Act directs the Department to compare U.S. sales only to home-market sales made in the usual commercial quantities. Central Wire claims further that section 773(a)(6) of the Act, as well as the Department's regulations at 19 C.F.R. 351.409, directs the Department to adjust its price comparisons if there is a difference in price due wholly or in part to differences in the quantities of the normal value sale and the EP sale being compared.

Central Wire contends that, though the Department has historically been reluctant to make quantity adjustments pursuant to 19 C.F.R. 351.409, there is no reason why the Department should not make a quantity adjustment in Central Wire's case. Central Wire acknowledges that the quantity-adjustment regulation does not appear to be tailored for, nor does it account for, Central Wire's circumstances because Central Wire does not grant quantity discounts, *per se,* although it does effectively impose a surcharge for low-quantity sales.

Central Wire suggests that the Department compare U.S. sales to home-market sales made within the same ''quantity band'' which Central Wire suggested prior to the preliminary determination. By matching within the same quantity bands, Central Wire argues, the Department would minimize the need for a quantity adjustment. Citing *Framing Stock from the United Kingdom*, 61 FR 51411, 51420 (October 2, 1996) (''*Framing Stock*''), Central Wire contends that the Department has used the quantity-band concept for matching purposes in prior cases. Central Wire also claims that an examination of prices within each of the quantity bands demonstrates that the average prices at each quantity band differ from each other in both the U.S. and home markets. Finally, Central Wire suggests, if the Department can not match the identical or most similar product within the same quantity band, that the Department make an adjustment based on the difference in the weighted-average prices across quantity bands.

The petitioners assert that, section 771(16) of the Act requires the Department to compare the subject merchandise based on the products' physical characteristics. The petitioners argue that, because the quantity of the product has nothing to do with the physical characteristics of round wire, quantity bands should not be used as a matching criterion. The petitioners, citing *United Eng'g & Forging* v. *United States*, 779 F. Supp. 1375, 1381–82 (CIT 1991), also argue that the courts have upheld the Department's practice of not using volume as a criterion for selecting the most similar merchandise.

The petitioners argue further that because Central Wire has not demonstrated that during the POI it granted quantity discounts of at least the same magnitude on 20 percent or more of sales of the foreign like product for that country or the discounts reflect savings specifically attributable to the production of different quantities, criteria required in the Department's regulations, it is not eligible for a quantity discount.

In addition, the petitioners assert that the circumstances in *Framing Stock* are different from the instant situation. In that case, according to the petitioners, the respondent asked for a quantity adjustment for its products and the Department determined that a quantity adjustment was warranted in certain instances but not in others. In any event, the petitioners contend, the respondent in that case was seeking a quantity adjustment and not a new product-matching criterion based on sales quantities.

Finally, the petitioners argue that, even if there were not clear statutory and case precedents against comparing products on the basis of quantities, Central Wire has not provided convincing evidence to attribute price differences between its sales to differences in quantities. The petitioners argue that, in its price analysis, Central Wire did not control for certain differences, such as differences in merchandise sold among the claimed quantity bands or differences in expenses such as freight or packing for each sale. The petitioners also contend that price differences could also be caused by a number of other reasons such as the timing of the sale, customers' relationships with the supplier, and market conditions for finished products and raw materials. The petitioners conclude that it would be inappropriate to make any quantity adjustment or compare across quantity bands without taking these other factors into account.

Department's Position: Central Wire did not demonstrate that the difference in prices among its claimed quantity bands were wholly or partly due to the differences in quantities. Central Wire's price analysis did not account for many factors that might more reasonably be said to cause the differences in prices. For example, Central Wire presumably has different product mixes within the different claimed quantity bands. If one claimed quantity band consists mainly of sales of fine wire and another claimed quantity band consists mainly of sales of wire that has undergone only one draw, then that, in our view, would be a more likely explanation of any difference in prices. Also, Cental Wire's analysis reflected gross prices, and did not take other factors, such as differences in packing or freight expenses, into account. Thus, because Central Wire has not demonstrated that any differences in price among its claimed quantity bands is wholly or partly due to the differences in quantities, it would be inappropriate to attempt to match products using Central Wire's claimed quantity bands as a matching criterion. Therefore, we have not attempted to match products by quantity bands.

With respect to making an adjustment if we make comparisons of products sold at different quantities, our regulation at 19 C.F.R. 351.409 states that ''the Secretary will make a reasonable allowance for any difference in quantities to the extent the Secretary is satisfied that the amount of any price differential * * * is wholly or partly due to that difference in quantities.'' The regulation identifies the standards we use to determine whether any price differential is wholly or partly due to that difference in quantities: ''[t]he Secretary normally will calculate normal value based on sales with quantity discounts only if * * * the exporter or producer granted quantity discounts of at least the same magnitude on 20 percent or more of sales of the foreign like product'' or ''the exporter or producer demonstrates to the Secretary's satisfaction that the discounts reflect savings specifically attributable to the production of the different quantities.'' Central Wire did not grant quantity discounts nor did it demonstrate that any difference in prices were specifically attributable to the production of the different quantities. In addition, Central Wire did not demonstrate how any evidence on the record, such as price lists, supported its claim that prices varied by quantity. Therefore, we have not made any quantity adjustments.

Comment 4: *Allocation of Indirect Selling Expenses*. Central Wire disagrees with the Department's re-allocation of its reported U.S. and home-market indirect selling expense adjustments. Claiming that there is no evidence on the record that it incurred indirect selling expenses on a value basis rather than a weight basis, Central Wire argues that there is no conceptual, accounting, or economic justification for the Department's preference for a value-based allocation.

Central Wire argues further that, in the event that the Department continues to re-allocate its indirect selling expenses on a value basis, the Department should adjust its re-allocation methodology to reflect the fact that some of the sales values in the Department's calculation are in U.S. dollars while other values are in Canadian dollars.

The petitioners agree with the Department's reallocation of Central Wire's indirect selling expenses, contending that the Department's normal practice is to require that a respondent allocate indirect selling expenses based on sales value rather than on sales quantity. The petitioners also observe that a volume allocation would likely allocate a smaller portion of the expenses to small-sized, more expensive wire than to relatively inexpensive larger wire.

Department's Position: In the *Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Belgium*, 64 FR 15476 (March 31, 1999), we stated that, in calculating indirect selling expenses, ''the Department should use a value-based allocation rather than a quantity-based one,'' and that ''the Department's normal practice is to base calculations of [selling, general, and administrative expenses] based on value [or cost].'' While Central Wire claims that there is no evidence on the record that it incurred indirect selling expenses on a value basis rather than a weight basis, neither is there any evidence to support a conclusion that Central Wire incurred these expenses on a weight rather than value basis. Because there is no evidence on the record demonstrating the need to deviate from our normal practice, we have reallocated Central Wire's indirect selling expenses on a value basis. Moreover, based on our findings at verification, we have revised our calculation for varying currencies in our re-allocation worksheet. *See* Central Wire Final Determination Analysis Memorandum dated March 31, 1999.

Comment 5: Post-Verification Cost Submission. The petitioners argue that the Department should not accept the cost data which Central Wire submitted after verification because the changes Central Wire made to its data were more extensive than necessary as indicated by the Department's verification report. Although Central Wire presented corrections to the verifiers at the beginning of verification, the petitioners contend that certain changes, such as production quantities and the number of products sold, should not have been affected by those corrections. The petitioners also claim that Central Wire reported its costs based on the products sold during the POI, whereas the Department asked for respondents to report costs based on the products produced during the POI.

The petitioners also contend that Central Wire did not reconcile its reported costs for subject merchandise to its normal accounting records, thereby preventing the Department from performing certain verification procedures.

Finally, the petitioners argue that Central Wire should not be allowed to use verification as an opportunity to make substantial revisions to its submitted responses. The petitioners conclude that, in light of these facts, the Department should not use the cost databases submitted by Central Wire after verification and instead use the databases Central Wire submitted prior to verification.

Central Wire argues that the Department should use the databases that Central Wire submitted subsequent to verification. Central Wire contends that its revised costs correct inaccuracies in its previous submissions, the Department verified these revised costs, and it did not in any way modify the total cost of goods sold it used to calculate costs of production. Central Wire argues further that the Department is required by law and practice to accept its new information as it is demonstrably more accurate than its earlier information and was submitted in a timely manner. Central Wire contends that the number of products and the production quantities changed because of corrections presented at the start of the sales verification. Finally, citing *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part,* 64 FR 2173 (January 13, 1999), Central Wire argues that the fact that its data is based on sales quantities rather than production quantities is not a basis for rejecting Central Wire's costs. Central Wire contends that, because it does not maintain production records which would allow it to calculate model-specific costs on the basis of production quantities, it acted to the best of its ability in reporting its costs.

Department's Position: The cost data Central Wire submitted after verification is accurate. By applying the cost variances in Exhibit 8 of the cost-verification report dated February 8, 1999, to the model-specific standard costs in Exhibit 7 of the cost-verification report dated February 8, 1999, we obtained the same cost figures that Central Wire submitted after verification. Because we verified the data in Exhibits 7 and 8 of the cost-verification report by tying the data to Central Wire's audited financial statements, we are satisfied that the cost-of-production data in Central Wire's submission is accurate. With regard to the number of control numbers and production quantities, we agree with Central Wire that the cause of the difference is due to corrections presented at the start of verification.

Although the petitioners are correct that Central Wire reported its revised costs based on the products sold during the POI, this is the manner in which Central Wire reported its original costs. In addition, we never asked Central Wire to revise its methodology for calculating costs nor is there any evidence on the record suggesting that Central Wire's methodology is distortive. In light of these facts and because the revised database contains data which we verified to be accurate, it would be inappropriate to reject Central Wire's revised database in favor of its original database.

Furthermore, while we normally would share the petitioners' concerns regarding the accuracy of post-verification revisions, in this case we requested that Central Wire revise and resubmit its databases pursuant to our findings at verification. Because we requested the data and because Central Wire met the deadline we imposed upon it for submitting the revised data, we determine that Central Wire's revisions were filed in a timely manner. Thus, because Central Wire's information is timely filed and verified to be accurate, we have used the revised databases Central Wire submitted.

Comment 6: General and Administrative Expenses. The petitioners argue that the Department should recalculate Central Wire's reported general and administrative expense ratio to include certain expenses which Central Wire did not include in its general and administrative expense calculation.

Central Wire contends that it did include the expenses to which the petitioners refer in its general and administrative expense calculation.

Department's Position: Exhibit 4 of the cost-verification report dated February 8, 1999, demonstrates that Central Wire included these expenses in its general and administrative expense calculation. Therefore, no adjustment is necessary.

Comment 7: Alleged Consignment Sales. The petitioners contend that the Department found that Central Wire did not report certain sales in its home-market database and that the Department should include these sales in its margin calculation for Central Wire for the final determination. The petitioners argue further that, to the extent that the data the Department collected are not sufficient, the Department should resort to partial facts available to fill in the blanks for information not on the record.

Central Wire argues that it reported these sales properly. Central Wire contends that, during the period of time in which these sales occurred, the consignment agreement with the consignee had not been concluded and thus Central Wire prepared an invoice at the time of shipment. Central Wire asserts that it did not begin issuing usage invoices for shipments to the consignee until after reaching a consignment agreement. According to Central Wire, the existence of the consignment agreement therefore explains why merchandise was shipped in 1996 but had sales dates in 1997.

Department's Position: We disagree with the petitioners. The record shows that Central Wire did not enter into a consignment agreement with the consignee until October 1996. Furthermore, according to the Department's Central Wire Sales Verification Report dated February 8, 1999, at page 7, for shipments to the consignee ''prior to the signing of the consignment agreement, [Central Wire] invoiced the consignment sales at the time of delivery to the consignee rather than the time of usage.'' Thus, these sales can be distinguished from the shipments to the consignee after the agreement was made. In the case of sales Central Wire made prior to the agreement, the date that the price and quantity were set was the date of shipment and the customer was responsible for payment at that time. In the case of sales after the agreement, the price and quantity were not set until the customer actually used the merchandise, at which time Central Wire issued a usage invoice for the merchandise. In this case, the customer was not responsible for payment until Central Wire issued the usage invoice. Therefore, we conclude that Central Wire excluded the sales made prior to the agreement from its home-market sales database properly because they occurred prior to the POI. *See* Memorandum from Thomas Schauer to Richard W. Moreland dated April 2, 1999 for further discussion of this issue.

Comment 8: Inventory Carrying Costs. The petitioners argue that the Department should not consider certain inventory carrying costs as direct expenses as Central Wire claimed. The petitioners contend that Central Wire is the owner of the merchandise during the inventory carrying period in question and thus these expenses should be treated as any other inventory carrying expense. The petitioners contend further that the facts were different in *Stainless Steel Wire Rod From France,* 58 FR 68865 (December 29, 1993), which Central Wire cited to support its claim. The petitioners state that Central Wire reported the date that the consignee *used* the merchandise as the date of sale rather than the date when Central Wire *shipped* the merchandise to the consignee.

Central Wire asserts that the petitioners do not demonstrate that the Department's decisions applicable to these circumstances are wrong, nor do they distinguish this situation with the situation in the case it cited in claiming these expenses as direct. Central Wire contends that, because it is the Department's practice to treat consignment inventory carrying costs as direct expenses, the Department deducted them from normal value in the preliminary determination as direct expenses appropriately. Central Wire cites *Stainless Steel Wire Rod From France,* 58 FR 68865, 68870 (December 29, 1993), and *Flat-Rolled Steel From France,* 58 FR 37125, 37133 (July 9, 1993), in support of its contention.

Department's Position: Central Wire's situation is similar to that of Usinor, a respondent in *Flat-Rolled Steel From France,* in which we treated the expense of holding inventory at the customer's warehouse as a direct expense. In that case, the ''merchandise [was] shipped to a warehouse selected by the customer and the customer assumes the warehousing expense. Usinor [did] not invoice the customer until it [was] notified that the customer has withdrawn the material from the warehouse.'' *See* Concurrence Memorandum (public version), dated June 17, 1993 for *Final Determinations in Antidumping Duty Investigations of Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From France* (Investigations A–427–806 through 809), at pp. 10–11. Similarly, in this case, because the so-called ''consignee'' is itself the customer for this merchandise and this ''consignment'' arrangement is a term of sale, these expenses are direct in nature. Therefore, we have not changed our treatment of these expenses for the final determination.

Comment 9: Freight Expense. The petitioners argue that the Department should restate Central Wire's reported freight expense for CEP sales. The petitioners observe that, in instances in which Wire Industries, Central Wire's U.S. affiliate, included goods on more than one invoice in a shipment, Central Wire calculated the per-unit inland freight by dividing the freight expense by the gross weight of the shipment rather than the net weight, thereby understating the expense. The petitioners argue that, because Central Wire did not revise its reported inland freight expense in the CEP sales listing based on the Department's verification findings, the Department should revise the expense for the final determination. Because it is not possible to determine from the record which sales are affected by this understatement, the petitioners argue that the Department should adjust the freight expense for all CEP sales.

Central Wire argues that the Department should accept its reported inland freight. Citing the sales-verification report, Central Wire contends that this type of calculation was infrequent and only has a minimal effect on the actual adjustment. Given the infrequent nature of this calculation and the minuscule impact of this calculation, Central Wire concludes that it would be inappropriate for the Department to make an upward adjustment to freight for all of its CEP sales.

Department's Position: We found at verification that this calculation affected only a small proportion of its CEP sales. *See* the Department's Central Wire sales-verification report dated February 8, 1999, at page 9. Section 777A(a)(2) of the Act directs that ''[f]or purposes of determining the export price (or constructed export price) * * * the administering authority may * * * decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.'' Section 351.413 of our regulations defines ''insignificant adjustments'' as any individual adjustment having an *ad valorem* effect of less that 0.33 percent of the export price, constructed export price, or normal value. The sales-verification report demonstrates that the effect of Central Wire's calculation was less than 0.33 percent of price. *Ibid.* We conclude from the facts on the record that Central Wire's calculation for these few sales will not affect the margin significantly. It would be inappropriate to increase the freight expense for all of Central Wire's CEP sales because the verification report demonstrates that this allocation affected a minority of these sales. Therefore, we have not revised Central Wire's reported freight expense.

Comment 10: Fuel Surcharge. The petitioners argue that, because the Department found that Central Wire did not include a fuel surcharge for one CEP transaction in its inland-freight calculation for one product, the Department should adjust the freight expense for all CEP sales of that product for the final determination.

Central Wire argues that the Department should not make an adjustment because the effect is minuscule and that it only affected one sale. Central Wire argues further that, in the event that the Department does make the change the petitioners suggest, the Department should not rely on the petitioners' formula because it is mathematically incorrect.

Department's Position: We found at verification that Central Wire inadvertently did not include a fuel surcharge incurred on one shipment in its reported freight expense. It is clear from Exhibit 12a of the Department's Central Wire sales-verification report dated February 8, 1999, that the fuel surcharge affects several different products. However, in examining the data on the record, we conclude that it is not possible for us to include the fuel surcharge except for the individual product we verified. To correct this error for the one product accurately, we allocated the freight surcharge to that product in the same manner as Central

Wire calculated the freight expense and recalculated the total freight accordingly.

With regard to the rest of the products affected, we do not have the data on the record to include the fuel surcharge in Central Wire's freight expenses. Because it is clear from Exhibit 12a of Central Wire's sales-verification report dated February 8, 1999, that the effect is substantially less than 0.33 percent of the price of the sale we verified, correction of this error will not affect the margin significantly. Therefore, because it is impossible for us to correct the error except for the one product and because the effect of the error is insignificant, we have restated Central Wire's reported freight expense only for the one product.

Comment 11: U.S. Customs Duties. The petitioners contend that Central Wire did not report U.S. duties for certain EP sales with ''delivered'' terms of sale. The petitioners claim there is no reason why Central Wire would not incur U.S. duties for such sales and argue that the Department should use the higher of the duty rates which the Department verified for EP sales to calculate the duties for these sales.

Central Wire argues that it reported U.S. duties correctly, which the Department verified. Central Wire also asserts that it was incumbent on the petitioners to raise this issue prior to verification so that the Department could address it at verification.

Department's Position: We requested that Central Wire report the unit amount of any customs duty paid on the subject merchandise in our questionnaire. Although Central Wire stated in its narrative questionnaire response that it reported duties on all sales for which they were incurred, the EP sales database did not reflect these duties for certain sales. There is no explanation on the record showing why these specific EP sales would not have U.S. duty expenses related to them nor is there any evidence that Central Wire did not incur these expenses for these sales. Because these were ''delivered'' sales, which means that Central Wire was responsible for all shipping costs to the customer, we assume that Central Wire did, in fact, incur these expenses. In determining the amount of duties paid on the subject merchandise and in accordance with section 776(e) of the Act, we have used the average U.S. duty rate for other EP sales with the same sales terms to calculate the U.S. duties for these sales.

Greening Donald Comments

Comment 12: U.S. Consignment Sales. The petitioners argue that the Department should treat Greening Donald's U.S. consignment sales as CEP sales because the merchandise was sold by or for Greening Donald's account after importation into the United States and because the consignee is substantially involved in selling in the United States on behalf of Greening Donald.

The respondent argues that the Department should continue to treat its consignment sales as EP sales because the title of goods remains with Greening Donald and that the consignee acts independently of Greening Donald in terms of sales, pricing, and region, as the Department confirmed at verification. The respondent argues that these facts do not meet the Department's test for distinguishing between EP and CEP sales and thus the Department should consider these sales to be EP sales.

Department's Position: Section 772(b) of the Act defines CEP as ''the price at which the subject merchandise is first sold (or agreed to be sold) in the United States *before or after* the date of importation by or for the account of the producer or exporter of the subject merchandise'' (emphasis added). Section 772(a) of the Act defines EP as ''the price at which the subject merchandise is first sold (or agreed to be sold) *before* the date of importation by the producer or exporter of the subject merchandise'' (emphasis added). The record is clear that Greening Donald did not make a sale prior to the time that the subject merchandise was imported into the United States. Therefore, we agree with the petitioners that Greening Donald's consignment sales are CEP sales. However, because we did not request Greening Donald to report the consignee's sales to the unaffiliated customer in the United States and because we do not otherwise have the prices of those sales, we cannot treat these sales as required by the statute and the regulations. Furthermore, these sales represent less than five percent of Greening Donald's total sales to the United States. Therefore, we have disregarded these U.S. sales for purposes of calculating Greening Donald's margin for the final determination.

Comment 13: Certain Supplies. Greening Donald argues that, in its preliminary determination, the Department erred by including in its manufacturing costs the cost for certain supplies purchased during the POI but not used until after the POI. Greening Donald claims that these costs should be excluded from the calculation of COP and CV because the expenses cannot properly be matched to the merchandise that was sold during the POI, citing *AK Steel Corporation* v. *United States,* No 96–05–01312, Slip. Op. 97–152 (CIT 1997). Greening Donald asserts that, because the supplies were purchased during the POI but they were not used until after the POI, inclusion of the cost of these supplies in the COP and CV calculations would distort the reported costs. The respondent also cites *Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe from Italy,* 60 FR 31981, 31991 (June 19, 1995), in which the Department refused to include the respondent's reported cost reversals that were recorded during the POI but that related to operational expenses of a prior period, in support of its position.

Greening Donald asserts that its normal books and records distort costs because they do not reflect the cost associated with the production and sale of the merchandise. Greening Donald claims that in such instances the Department allows or makes adjustments to the respondent's costs as reported in the normal books and records, citing *Static Random Access Memory Semiconductors from The Republic of Korea,* 63 FR 8934, 8937 (February 23, 1998), and *Static Random Access Memory Semiconductors from Taiwan,* 63 FR 8909, 8920 (February 23, 1998). Therefore, Greening Donald argues that such an adjustment should be made in this instance to conform to the Statement of Administrative Action, H. Doc, 316, 103d Cong., 2d Sess. 821 (1994) (''SAA'') which states that ''costs will be allocated using a method that reasonably reflects and accurately captures all of the actual costs incurred in producing and selling the product under investigation'' and *Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27295–27379, 27362 (May 19, 1997).

The petitioners agree with the Department's denial of Greening Donald's claim to exclude the cost of certain supplies from its COP. The petitioners point out that, during verification, Greening Donald was unable to substantiate the quantity and value of the supplies in question that it consumed during the POI. The petitioners also observe that Greening Donald recorded the cost of the supplies in question in its financial statements, which were in accordance with Canadian generally accepted accounting principles (''GAAP''). Thus, the petitioners argue that the Department should continue to include these costs in Greening Donald's COP for its final analysis.

Department's Position: We have not accepted Greening Donald's claim that we should exclude from the calculation of COP and CV the expense that the respondent recognized for certain supplies during the POI. Section 773(f) of the Act directs the Department to calculate costs based upon the respondent's records, provided that such records are kept in accordance with respondent's home-country GAAP and reasonably reflect the costs associated with the production of the merchandise. In this case, Greening Donald's independent auditors accepted the company's treatment of these supplies (*i.e.*, written-off or expensed fully during the period).

We disagree with Greening Donald's contention that we should depart from the costs that it calculates in the ordinary course of business and exclude the portion of the costs that relate to supplies that it may have not consumed during the POI. First, the amount the company wishes to capitalize is merely an approximation because the company does not maintain inventory or movement records that identify the actual quantity and the value of the supplies in question. *See* Greening Donald Cost Verification Report at page 15. Thus, Greening Donald's proposed adjustment could not be substantiated with production or accounting records. In circumstances where there is an absence of verifiable information supporting a party's claim, our practice is to rely on the amounts recorded in the books and records of the respondent. *See Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Italy,* 60 FR 31981 (June 19, 1995). Second, it is also likely that Greening Donald actually consumed some supplies during the POI which it purchased and expensed in prior periods. If we were to adopt Greening Donald's proposed methodology, we would not only exclude some of the current purchases, we would also include a portion of purchases from prior periods. Since this information is not on the record and the company's normal method of recognizing the full expense when purchased is acceptable under Canadian GAAP, we have not excluded these costs for the final determination.

Comment 14: General and Administrative Expenses. Greening Donald argues that the Department should accept the method the company used to calculate its reported general and administrative (G&A) expense ratio. Greening Donald asserts that its reported G&A expense ratio was based on the company's historic allocations and is the appropriate methodology and consistent with past practice. Greening Donald states that it first allocated the company's G&A expenses to its separate operating divisions using historic allocations which it uses in the ordinary course of business. It argues that it based these allocations on the operating realities of the company's business. Greening Donald states that it allocated each division's portion of the G&A expense to its merchandise over its cost-of-sales figures. If it simply computed G&A expenses on a company-wide basis as a percentage of cost of sales, Greening Donald argues that the result would over-allocate G&A expenses to the subject merchandise. Moreover, Greening Donald states that the Department does not always use the company-wide cost-of-sales figure as the allocation base when the results are distortive. To support this assertion, Greening Donald cites *Dynamic Random Access Memory Semiconductors of One Megabit of Above from the Republic of Korea,* 61 FR 20216, 20217 (May 6, 1996).

If the Department does revise its G&A expense ratio based on the company-wide cost-of-sales figure, Greening Donald argues that it should use the company's unconsolidated cost-of-sales figure based on the sum of its divisional profit and loss (''P&L'') statements. Greening Donald claims that this step is necessary because the cost-of-sales figure on the company-wide financial statements represents a consolidated figure of the three divisions which excludes inter-divisional transfer amounts. According to Greening Donald, the Department's normal practice is to calculate the G&A expense rate based on a respondent company's unconsolidated statements and cites *Stainless Steel Wire Rod from Japan,* 63 FR 40434 (Comment 8) (July 29, 1998), to support this assertion.

The petitioners argue that the Department should calculate Greening Donald's G&A ratio in accordance with the Department's normal methodology. According to the petitioners, the respondent did not follow the instructions in the Department's questionnaire which requires respondents to calculate the G&A expense ratio based on the company's audited financial statements. Instead, the petitioners comment, Greening Donald reported a G&A expense ratio for its wire division that was based on allocations of its total company G&A expenses to each division. The petitioners argue that this method is inappropriate because it is based on historic allocations that Greening Donald could not substantiate with source records. The petitioners also disagree with Greening Donald's concern that the Department should use an unconsolidated cost-of-sales figure if the Department does decide to revise its G&A expense ratio. According to the petitioners, Greening Donald is using an incorrect reference to the term ''consolidation.'' The petitioners note that the three operating divisions of the company are not independent companies so their internal P&L statements do not represent unconsolidated financial statements. The petitioners also contend that Greening Donald's cost-of-sales figure is not on the same basis as the reported cost of manufacturing (''COM'') because the reported cost-of-sales figure includes packing expenses, freight, and certain adjustments not included in COM.

Department's Position: Normally, we calculate G&A based on the producing company as a whole and not on a divisional or product-specific basis. *See Fresh Atlantic Salmon from Chile,* 63 FR 31412, 31433 (Comment 29) (June 9, 1998). This approach recognizes the general nature of these expenses and the fact that they relate to the company as a whole. The Department's methodology also avoids any distortions that may result if greater amounts of company-wide general expenses are allocated disproportionally between products. In this instance, Greening Donald deviated from the Department's normal methodology and calculated its G&A expenses using an internal accounting methodology, under which the company charged some G&A expenses directly to each of its production divisions.

Both parties agree that it is our normal practice to calculate the G&A expense rate based on the respondent's unconsolidated operations (plus a portion of G&A expenses incurred by affiliated companies on behalf of the respondent). *See Stainless Steel Wire Rod from Japan,* 63 FR 40434 (comment 8) (July 29, 1998). However, Greening Donald's divisions are not separate entities that require consolidation but merely separate business units that make up a single corporation. Thus, we agree with the petitioners that we can not consider the divisional P&L statements as ''unconsolidated'' financial statements. As for Greening Donald's concern that the corporate-wide cost-of-sales figure is understated because it excludes inter-divisional transfer amounts, we disagree. It would be inappropriate to allocate G&A expense to inter-company transactions since the amount would normally be eliminated when preparing the company-wide financial statements. Even in the cases where two separate but affiliated companies are collapsed into one entity for the purposes of an antidumping analysis, the Department eliminates inter-company transactions from the calculation of cost of sales, in effect treating them as a single company. *See Certain Cut-to-Length Carbon Steel Plate from Brazil,* 63 FR 12744, 12749 (Comment 8) (March 16, 1998).

As for Greening Donald's citation to *Dynamic Random Access Memory Semiconductors of One Megabit or Above from the Republic of Korea,* 61 FR 20216, 20217 (May 6, 1996), the Department's position addressed the basis of allocating indirect selling expenses and not general expenses. Thus, the circumstances were different and not related to the calculation of the G&A expense ratio. For the reasons stated above, we have calculated Greening Donald's G&A expense ratio in accordance with our normal methodology using a cost-of-sales figure that was on the same basis as the reported COM.

Comment 15: Financial Expenses. The petitioners contend that Greening Donald did not use the financial statements at the highest level of consolidation to calculate its financial-expense ratio. Thus, the petitioners recommend that the Department revise the company's financial expenses accordingly.

Greening Donald claims that it calculated its financial expense ratio in accordance with the Department's instructions and, thus, should not be revised. According to Greening Donald, there is no requirement in the Department's questionnaire that the level of consolidation must be the highest level of consolidation. Greening Donald believes that the calculation of financial expense should be based on the level of consolidation that excludes operations unrelated to the production of subject merchandise.

Department's Position: We agree with the petitioners that Greening Donald did not calculate its financial expenses using information from the consolidated financial statements of the highest level. Specifically, Greening Donald used Thyssen Industrie's consolidated financial statements. However, Thyssen Industrie's financial statement data is consolidated into the Thyssen Group's financial statements. As we have stated repeatedly and the CIT has upheld, we recognize the fungible nature of a corporation's invested capital resources. We allocate the interest expense related to the debt portion of the capitalization of the corporation, as appropriate, to the total operations of the consolidated corporation (*i.e.*, Thyssen Group). More important, our established practice of requiring the use of consolidated financial statements recognizes the fungible nature of invested capital resources such as debt and equity of the controlling entity within a consolidated group of companies and that the controlling entity within a consolidated group has the power to determine the capital structure of each member company (*e.g.*, Thyssen Industrie) within its group. *See E.I. Du Pont de Nemours & Co.* v. *U.S.*, Slip. Op. 98–7 (CIT 1998), *Camargo Correa Metals, S.A.* v. *U.S.*, 17 CIT 897 (CIT August 13, 1993), and *Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands; Final Results of Antidumping Administrative Review,* 62 FR 38059, 38060 (July 16, 1997).

Comment 16: Foreign-Exchange Losses. The petitioners state that the Department should follow its normal practice and include Greening Donald's foreign-exchange losses generated from accounts payable in the calculation of COP and CV. As support for their position, the petitioners cite several Department determinations in which the Department included this expense in respondent's cost.

Greening Donald recognizes that it is the Department's practice to include foreign-exchange gains and losses related to all accounts except accounts receivable accounts. Thus, if the Department decides to include these amounts, Greening Donald contends that it should include both the gains and losses generated from accounts payable and cash accounts. Greening Donald requests further that the Department reconsider its policy in regards to foreign-exchange gains and losses related to accounts receivable. The respondent argues that the Department should treat these gains and losses the same way it treats gains and losses from short-term investments which are used to adjust financing costs.

Department's Position: To calculate its reported costs, Greening Donald excluded foreign-exchange gains and losses. However, our normal practice is to include a portion of these foreign-exchange gains and losses in the calculation of COP and CV. Specifically, it is our normal practice to distinguish between exchange gains and losses realized or incurred in connection with sales transactions and those associated with purchase transactions. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Trinidad and Tobago,* 63 FR 9177, 9181 (February 24, 1998) (''*Steel Wire Rod from Trinidad and Tobago*''). We normally include in the calculation of COP and CV the foreign-exchange gains and losses that result from transactions related to a company's manufacturing activities. We do not consider exchange gains and losses from sales transactions to be related to the manufacturing activities of the company. *See, e.g., Steel Wire Rod from Trinidad and Tobago* and *Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon from Chile,* 63 FR 31411, 31430 (June 9, 1998). Accordingly, for purposes of the final determination, we have included only the foreign-exchange gains and losses that relate to maintaining accounts payable and cash accounts. We disallowed foreign-exchange gains and losses arising from sales transactions in the COP and CV calculation.

Comment 17: Inventory Write-Downs. The petitioners argue that the Department should revise Greening Donald's reported costs to include losses for inventory adjustments. Citing *Canned Pineapple Fruit from Thailand,* 60 FR 29553, 29571 (June 5, 1995), the petitioners claim that it is the Department's practice to include inventory write-downs and write-offs in the cost of production.

According to Greening Donald, the write-down portion of its inventory adjustment is associated with finished-goods inventory and, as such, it should not be included in cost of production. To support its assertion, Greening Donald cites *Stainless Steel Wire Rod from Italy,* 63 FR 40422, 40430 (July 29, 1998), in which the Department excluded this type of expense.

Greening Donald claims that the other component of its inventory adjustment is due to changes in the price of wire rod which affect the cost of production. However, Greening Donald contends, because wire rod prices increased, not decreased, during the POI, the net amount of inventory was a gain or a write-up to materials inventory. Thus, Greening Donald asserts, the net effect on the cost of production, were the Department to adjust for this, would be to reduce its costs of production. Greening Donald observes that, in any event, the amount of these adjustments would have no material effect on the reported cost.

Department's Position: We agree with the respondent that inventory write-downs which are made to value finished-goods inventory at the lower of cost or market should not be considered a part of COM. We derive the product-specific costs during the POI from the cost of products manufactured, not sold. Thus the value of beginning and ending finished-goods inventory does not affect the calculation. Therefore, consistent with our most recent determinations, we have excluded this expense from the calculation of COP and CV. *See, e.g., Stainless Steel Wire Rod from Italy,* 63

FR 40422, 40429 (July 29, 1998). We disagree that *Canned Pineapple Fruit from Thailand* is relevant because of facts specific to that case. In *Canned Pineapple Fruit from Thailand*, we found that ''inventory write-downs are a normal, recurring period adjustment made annually by (the respondent).''

We agree with the respondent that its adjustment to its wire-rod prices held in inventory is minor. Specifically, Greening Donald normally records a variance to reflect the gain or loss that occurs when its wire-rod standard costs are updated. During the fiscal year, Greening Donald experienced a favorable variance (reduction in costs) while during the POI it experienced an unfavorable variance (increase in costs). Because the variance relates to the value of raw materials, which are a component of COM, we consider it more appropriate to include the variance related to the POI rather than the fiscal year. However, we have not made this adjustment for the final determination due to the immaterial impact the variance has on the reported costs.

Comment 18: Affiliated-Party Inputs. The petitioners state that the Department should value major inputs between affiliated companies at the higher of transfer price, market price, or the cost to the affiliated supplier. Therefore, the petitioners suggest that, in order to reflect properly the value of certain wire rod Greening Donald purchased from an affiliated party, the Department should use the average price Greening Donald paid to unaffiliated suppliers for the same input during the POI.

The respondent, citing section 773(f)(3) of the Act, argues that the major-input rule would be applicable if the affiliated suppliers were the producers of the wire rod sold to Greening Donald and the Department had reason to believe or suspect that the price of the major input between affiliated parties was below the cost of production. With regard to the first condition, the respondent states that this affiliated supplier did not produce the input but purchased it from an unaffiliated supplier. As to the second condition, the respondent claims that the price this affiliated supplier paid for the input was lower than the price it charged to Greening Donald. Therefore, according to the respondent, the Department has no reason to believe that the transfer price is below the cost of production. In addition, the respondent argues, even if the Department determines to make the adjustment the petitioners suggest, it should use a weighted-average price based on home-market purchases from unaffiliated suppliers.

Department's Position: We agree with the petitioners that the major-input rule should be applied to Greening Donald's purchases of certain wire rod obtained from an affiliated party. As a result, we disagree with the respondent's narrow definition of the term ''producer'' as it is used in section 773(f)(3) of the Act. The intent of this section and the related regulations is to account for the possibility of shifting costs to an affiliated party. This possibility arises when an input passes to the responding company through the hands of an affiliated supplier, regardless of the value added to the product by the affiliated supplier.

Sections 773(f)(2) and (3) of the Act specify the treatment of transactions between affiliated parties for purposes of reporting cost data (for use in determining both COP and CV) to the Department. Section 773(f)(2) of the Act indicates that the Department may disregard such transactions if the amount representing that element (the transfer price) does not fairly reflect the amount usually reflected (typically the market price) in the market under consideration. Under these circumstances, the Department may rely on the market price to value inputs purchased from affiliated parties. Section 773(f)(3) of the Act indicates that, if transactions between affiliated parties involve a major input, then the Department may value the major input based on the COP if the cost is greater than the amount (higher of transfer price or market price) that would be determined under section 773(f)(2) of the Act. Therefore, for the final determination, we have made an adjustment to increase the transfer price to a market price using the adjustment factor Greening Donald suggests.

Comment 19: Miscellaneous Taxes and Expenses. The petitioners contend that the Department should revise Greening Donald's COP to include the Ontario capital tax, large-corporation tax, bad-debt expenses, miscellaneous income and expense, and discount income. According to the petitioners, Greening Donald inadvertently omitted these expenses.

The respondent states that it has already corrected this omission. According to Greening Donald, it provided a revised submission on December 29, 1998, that included these items in the calculation of COP and CV. Therefore, the respondent claims no further adjustment is needed to include them. However, Greening Donald does believe that the Department should now make an adjustment to remove the large-corporation tax and the Ontario capital tax included in the calculation of COP and CV because they relate to taxes paid on capital stock and, as such, they should not be included in the calculation of COP and CV.

Department's Position: We agree with the respondent that it included these expenses included in the calculation of COP and CV. *See* the Department's Greening Donald Cost Verification Report at page 4, step I.A. Thus, no further adjustment is necessary to include these expenses.

With regard to the respondent's claim that we should not include the large-corporation tax and the Ontario capital tax in Greening Donald's reported COP, we have stated our position on this issue in several previous cases. In those cases, we included payments to governments, other than income taxes, that are periodic general taxes levied on the company and which are not based on revenues. Thus, it is appropriate to include them in the calculation of the company's general expense. *See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada*, 62 FR 18448, 18465 (April 15, 1997).

Comment 20: Auditor's Adjustment. The petitioners argue that the Department should revise Greening Donald's reported cost to include an adjustment the company's independent auditors made. The petitioners point out that this adjustment is included in Greening Donald's financial statements which are prepared in accordance with Canadian GAAP. As such, the petitioners claim that the expense should be included in the calculation of COP and CV.

The respondent argues that this adjustment was made by the outside accountants only for the purposes of calculating Greening Donald's tax liability. According to the respondent, the adjustment is not included in the company's internal books and records which are maintained in accordance with Canadian GAAP.

Department's Position: We agree with the petitioners that it is appropriate to include this year-end adjustment in the calculation of COP and CV. Specifically, Greening Donald excluded from its reported costs a year-end adjustment that reconciles the depreciation expense reported in its cost accounting systems with the depreciation expense reported in the audited financial statements. As a result, there is a difference between the actual manufacturing costs in the financial statements and the manufacturing costs Greening Donald submitted. We do not find relevant Greening Donald's claim that the outside accountants made this adjustment merely for tax purposes. First, Greening Donald's audited financial statements, which were prepared in accordance with Canadian GAAP, include this adjustment. Moreover, Greening Donald provided no explanation as to why recognition of this adjustment distorts costs. Consistent with our normal practice, we rely on the respondent's normal books and records kept in accordance with the respondent's home country's generally accepted accounting principles. Thus, we have included this adjustment in the calculation of COP and CV.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of stainless steel round wire from Canada that are entered, or withdrawn from warehouse, for consumption on or after November 18, 1998, the date of publication of the preliminary determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. The suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Central Wire	11.79
Greening Donald	11.18
All Others	11.64

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

We are issuing and publishing this determination in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: April 2, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–8926 Filed 4–8–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–829]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire from Taiwan

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

EFFECTIVE DATE: April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Gabriel Adler or Kris Campbell at (202) 482–1442 or (202) 482–3813, respectively, Group 1, Office of AD/CVD Enforcement 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR Part 351 (April 1998).

Final Determination

We determine that stainless steel round wire from Taiwan is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins are shown in the *Suspension of Liquidation* section of this notice.

Case History

The preliminary determination in this investigation was issued on November 12, 1998. *See Notice of Preliminary Determinations of Sales at Less Than Fair Value and Postponement of Final Determinations—Stainless Steel Round Wire From Canada, India, Japan, Spain, and Taiwan; Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination—Stainless Steel Round Wire From Korea*, 63 FR 64042 (November 18, 1998) (preliminary determination). Since the preliminary determination, the following events have occurred:

In January and February 1999, we conducted on-site verifications of the questionnaire responses submitted by respondent Tien Tai Electrode Co., Ltd. (Tien Tai) and its affiliate [1] Kuang Tai Metal Industry Co., Ltd. (Kuang Tai).[2]

The petitioners [3], Tien Tai/Kuang Tai, and Rodex submitted case briefs on February 23, 1999, and rebuttal briefs on March 2, 1999. We held a public hearing on March 11, 1999.

Scope of Investigation

The scope of this investigation covers stainless steel round wire (SSRW). SSRW is any cold-formed (*i.e.*, cold-drawn, cold-rolled) stainless steel product of a cylindrical contour, sold in coils or spools, and not over 0.703 inch (18 mm) in maximum solid cross-sectional dimension. SSRW is made of iron-based alloys containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. Metallic coatings, such as nickel and copper coatings, may be applied.

The merchandise subject to this investigation is classifiable under subheadings 7223.00.1015, 7223.00.1030, 7223.00.1045, 7223.00.1060, and 7223.00.1075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of the investigation (POI) is January 1, 1997, through December 31, 1997. This period corresponds to each respondent's four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, March 1998).

[1] As explained in the preliminary determination, for purposes of this investigation we are treating Tien Tai and Kuang Tai as a single entity.

[2] Verification of respondent Rodex Fasteners Corp. (Rodex) was conducted in September and October 1998, prior to the issuance of the preliminary determination.

[3] The petitioners are ACS Industries, Inc., Al Tech Specialty Steel Corp., Branford Wire & Manufacturing Company, Carpenter Technology Corp., Handy & Harman Specialty Wire Group, Industrial Alloys, Inc., Loos & Company, Inc., Sandvik Steel Company, Sumiden Wire Products Corporation, and Techalloy Company, Inc.