Dated: August 31, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–23214 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–840]

Manganese Metal From the People's Republic of China; Notice of Extension of Time Limit for Administrative Review

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

ACTION: Notice of Extension of Time Limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the third review of the antidumping duty order on manganese metal from the People's Republic of China. The period of review is February 1, 1998 through January 31, 1999. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Greg Campbell or Craig Matney, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–2239 or 482–1778, respectively.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act'') (*i.e.*, November 1, 1998), the Department of Commerce (''the Department'') is extending the time limit for completion of the preliminary results to not later than December 2, 1999. *See* August 26, 1999, Memorandum from Deputy Assistant Secretary for AD/CVD Enforcement Richard W. Moreland to Assistant Secretary for Import Administration Robert S. LaRussa on file in the public file of the Central Records Unit, B–099 of the Department.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675 (a)(1)) and 19 CFR 351.213(h)(2).

Dated: August 31, 1999.

Richard W. Moreland,

Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 99–23213 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–835]

Oil Country Tubular Goods From Japan: Preliminary Results and Recission in Part of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results and recission in part of the antidumping duty administrative review: Oil Country Tubular Goods From Japan.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on Oil Country Tubular Goods From Japan (OCTG). This review covers the period August 1, 1997 through July 31, 1998.

We have preliminarily determined that sales have not been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to liquidate appropriate entries without regard to antidumping duties. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each comment a statement of the issue and a brief summary of the comment.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0648 and (202) 482–3020, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (April 1998).

Background

On June 28, 1995, the Department published in the **Federal Register** (60 FR 33560) the antidumping duty order on OCTG from Japan. On August 31, 1998, U.S. Steel Group, a unit of USX Corporation (the petitioner) requested that the Department conduct a review of Sumitomo Metal Industries, Ltd. (SMI). On August 31, 1998, Okura and Company (Okura) requested that the Department conduct a review of its exports of OCTG. The Department initiated this antidumping administrative review for SMI on September 23, 1998 (63 FR 51893, September 29, 1998) and for Okura on October 26, 1998 (63 FR 58009, October 29, 1998).

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 10, 1999, the Department published a notice of extension of the time limit for the preliminary results of review to August 15, 1999. *See Oil Country Tubular Goods From Japan: Notice of Extension of Preliminary Results of Antidumping Duty Administrative Review*, 64 FR 11837. On July 27, 1999, the Department published a second notice of extension of the time limit for the preliminary results of review to August 31, 1999. *See Oil Country Tubular Goods From Japan: Notice of Extension of Preliminary Results of Antidumping Duty Administrative Review*, 64 FR 40554. The Department is conducting this review in accordance with section 751(a) of the Act.

Scope of Review

The products covered by this order are oil country tubular goods (OCTG), hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.21.30.00, 7304.21.60.30, 7304.21.60.45, 7304.21.60.60, 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Okura

Okura & Company (America) Inc. (Okura America) imported subject merchandise from its affiliate, Okura & Co. Ltd. (Okura Japan). The OCTG entered the United States under temporary import bond (TIB) for further processing (threading and coupling) by Okura America. There were no sales of subject merchandise in any form (i.e., as imported or as further processed) to unaffiliated parties in the United States during the period of review (POR). All of the subject merchandise Okura America entered under TIB was re-exported to Okura & Company (Canada) Ltd. (Okura Canada) for sale to Canadian customers. Upon re-export, pursuant to the North American Free Trade Agreement (NAFTA) rules and section 181.53(a)(1) (A)–(C) of U.S. Customs regulations, U.S. Customs treated the merchandise as if it had entered the United States for consumption and compelled Okura (America) to pay antidumping duty cash deposits at the rate of 44.2 percent.

Okura maintains that ''because the merchandise at issue was exported without sale to an unaffiliated U.S. customer, the statute, and fairness, prohibit the imposition of antidumping duties on these entries,'' and cites 19 U.S.C. 1677a (a) and (b) (section 772 (a) and (b) of the Act); *Torrington Company* v. *United States*, 82 F.3d 1039, 1044–47 (Fed. Cir. 1996); *Extruded Rubber Thread From Malaysia, Final Results of Antidumping Duty Administrative Review*, 62 FR 33588 (June 20, 1997). Okura asserts that it only requested this review in order to confirm that ''(1) no antidumping duties should be assessed on Okura's consumption entries during the POR because all the merchandise in question was re-exported, and (2) that Okura is entitled to a refund of the cash deposits that were collected on those entries.''

The petitioner asserts that the imposition of antidumping duties on Okura's TIB entries is required pursuant to Article 303 of the NAFTA, Section 203 of the NAFTA Implementation Act (19 U.S.C. 3333), and U.S. Customs regulations implementing NAFTA duty deferral/drawback provisions (19 CFR 181.53). The petitioner asserts that ''under Article 303(3) of the NAFTA, if a non-NAFTA origin good is imported into the territory of a NAFTA Party pursuant to a TIB or other duty deferral program, and is subsequently exported to the territory of another NAFTA Party, the Party from whose territory the good is exported must treat the entry as an entry for domestic consumption and assess customs duties on such merchandise.'' The petitioner maintains that ''while such duties may be waived or reduced to the extent permitted under Article 303(1), Article 303(2) specifically prohibits NAFTA parties from refunding, waiving or reducing certain specified duties, including antidumping and countervailing duties, on such exported goods.''

Dumping is defined as the sale of merchandise in the United States at less than its NV. Thus, when the Department finds dumping, section 731 of the Act directs the agency to impose upon imports of the subject merchandise an antidumping duty in the amount by which the NV exceeds the export price (EP) or constructed export price (CEP). Section 772 of the Act defines EP and CEP as a price to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for export to the United States.

Once an antidumping order is in place, section 751(a) of the Act directs the Department to conduct an administrative review, upon request, to determine the NV, EP and/or CEP and dumping margin for each entry of the subject merchandise under review. Thus, the Department's ability to conduct an administrative review of an antidumping duty order depends on the existence of entries and sales to unaffiliated U.S. purchasers or unaffiliated purchasers for export to the United States.

Without consumption entries, there is nothing upon which the Department may assess duties that could be determined during the course of a review. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.*, 62 FR 54043, 54049 (Oct. 17, 1997). Therefore, merchandise that does not enter the United States for consumption is not subject to antidumping duties. Subject merchandise imported under TIB is not entered for consumption in the United States. Accordingly, the Department has determined that merchandise entered under TIB, even when purchased by an unaffiliated party, is not subject to antidumping duties. *See* Remand Determination: *Titanium Metals Corp.* v. *United States*, 94–04–00236 (April 17, 1995)(*Titanium Sponge Remand*) (''because TIB entries are not consumption entries, we determine that TIB entries are not subject to antidumping duties and the estimated duty deposit requirement of the antidumping law''). The Department's decision was affirmed by the United States Court of International Trade (CIT) in *Titanium Metals Corp.* v. *United States*, 901 F. Supp. 362 (CIT 1995).

Moreover, subject merchandise that is entered for consumption but is not sold in any form (either in the form as entered or as further manufactured) to an unaffiliated customer in the United States is not subject to antidumping duties because there is no U.S. sale and, therefore, no margin could be calculated. *See Torrington Co.* v. *United States*, 82 F.3d 1039 (Fed. Cir. 1996). Therefore, when an affiliate of the exporter enters subject merchandise for consumption, but re-exports the merchandise (in the form as entered or as further manufactured), i.e., the merchandise is never sold in any form to an unaffiliated U.S. customer, the Department does not include those entries in its dumping analysis. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review*, 56 FR 31692, 31743 (July 11, 1991). The Department's practice in this context was affirmed by the Federal Circuit in *Torrington Co.* v. *United States*, 82 F.3d 1039 (Fed. Cir. 1996).

In this review, we considered whether NAFTA rules require the Department to deviate from the principles described above. Article 1901.3 of the NAFTA states that ''no provision of any other Chapter of this Agreement shall be construed as imposing obligations on a Party with respect to the Party's antidumping law or countervailing duty law.'' Thus, the parties made clear that NAFTA did not require any changes in antidumping duty law or practice. Therefore, if it is possible to read the NAFTA rules in a manner consistent with the law and practice discussed above, the entries in question should not be subject to antidumping duties.

Article 303 of NAFTA addresses duty drawback and duty deferral programs, including TIB. Specifically, Article 303(3) provides that merchandise entered under TIB in the United States and subsequently reexported to another NAFTA party shall be considered to be entered for consumption and shall be subject to all relevant customs duties. Thus, the TIB status of such entries does not necessarily insulate these entries from the assessment of antidumping duties. Paragraph 2 of Article 303 further provides that ''no party may, on condition of export, refund, waive or reduce an antidumping or countervailing duty that is applied pursuant to a Party's domestic law and that is not applied inconsistently with Chapter Nineteen.'' Nevertheless, Article 303.3(a) does not compel the assessment of antidumping or countervailing duties that would not otherwise be applied under a party's domestic law.

With respect to Okura, as there are no sales to unaffiliated customers in the United States nor sales to unaffiliated customers for exportation to the United States, antidumping duties would not be applied under current law and practice. Therefore, liquidating these entries without regard to antidumping duties would not constitute a waiver, refund or reduction of antidumping duties under NAFTA. The NAFTA rules do not change the requirement that there be a U.S. sale to calculate a dumping margin. Since there is no U.S. sale, we are rescinding this review with regard to Okura, and will order Customs to liquidate the entries at issue without regard to antidumping duties.

SMI/Sumitomo Corporation (SC)

Verification

As provided in section 782(i) of the Act, we verified information provided by SMI (sales and difference in merchandise (DIFFMER)) from July 9, 1999 through July 17, 1999, using standard verification procedures, including on-site inspection of SMI's manufacturing facilities and the examination of relevant sales and financial records. We also verified information provided by SC (sales) from July 19, 1999 through July 21, 1999, using standard verification procedures including examination of relevant sales and financial records. Our verification results are outlined in public versions of the verification reports on file with the Central Records Unit, in Room B–099 of the Herbert C. Hoover Building.

Affiliation

SMI is a diversified manufacturer of high quality steel products, including OCTG, and a supplier of construction, plant, and system engineering services. SC is a major trading company with interests in business sectors ranging from metals and motor vehicles to fertilizer and fashion.

The petitioner contends that SMI and SC should be considered ''affiliated parties'' as defined by the Department's regulations. In its May 20, 1999 submission, the petitioner specifically cites SC's and SMI's joint ownership interests, corporate interrelationships, and close customer/supplier relationship as ''overwhelming evidence'' of the two parties' affiliation.

In its original response to our antidumping duty questionnaire, SMI stated that ''none of the products under review were sold to affiliates,'' a position that it has argued consistently throughout this review. Although SMI has acknowledged substantive, long-standing commercial and corporate links with SC, including but not limited to those mentioned in the petitioner's May 20, 1999 submission, SMI asserts that these links do not constitute ''affiliation'' as defined by the statute and the Department's regulations.

Section 771(33) of the Act describes affiliated persons, in part, as ''two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.'' Moreover, the statute provides that ''a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.'' *Id.*

The legislative history makes clear that the statute does not require majority ownership for a finding of control.[1] Rather, the statutory definition of control encompasses both legal and operational control. A minority ownership interest, examined within the context of the totality of the evidence, is a factor that the Department considers in determining whether one party is legally or operationally in a position to control another. *See Certain Cut-To-Length Carbon Steel Plate From Brazil,* 62 FR 18486, 18490 (April 15, 1997); *see also* 19 CFR 351.102(b).

Additionally, evidence of actual control is not required for a finding of affiliation within the meaning of section 771(33) of the Act; it is the ability to control that is at issue. *See also Proposed Rules,* 61 FR 7308, 7310 (February 27, 1996). The Department has stated that merely identifying ''the presence of one or more of the other indicia of control (as per Section 771(33) of the Act) does not end our {the Department's} task.''[2] The Department is compelled to examine all indicia, in light of business and economic reality, to determine whether they are evidence of control. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, the Department will consider the following factors, among others: corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. However, the Department will not find affiliation on the basis of these factors unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. *See* 19 CFR 351.102(b).

SMI and SC have significant equity interests in multiple joint ventures. We considered whether these joint ownership interests establish that SMI and SC control these third parties, as contemplated by section 771(33)(F) of the Act. In doing so, we took note of the decision of the CIT in *Mitsubishi Heavy Industries, Ltd.* v. *United States,* 15 F. Supp. 2d 807 (1998) (*Mitsubishi*). In *Mitsubishi,* the CIT held that ''the statutory definition of affiliated parties at 19 U.S.C. 1677(33)(F) does not require two companies exercise control over each other. The statute requires only that two or more persons control a third person.''

Because of the nature of SMI's and SC's holdings in these joint ventures, the Department has found SMI and SC are ''legally or operationally in a position to exercise restraint'' over those third parties. Thus, we conclude that SMI and SC have a joint control relationship within the meaning of section 771(33)(F) of the Act. Because most of the information on which we relied to perform our analysis is proprietary, it cannot be discussed in this notice. However, a memorandum

[1] The Statement of Administrative Action states that: ''[t]he traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm 'operationally in a position to exercise restraint or direction' over another even in the absence of an equity relationship.'' *See* SAA at 838.

[2] See 61 FR 7310 (February 27, 1996) Antidumping Duties; Countervailing Duties. Notice of proposed rulemaking and Request for Public Comments.

detailing our analysis has been prepared. (*See* the proprietary version of the Memo from Barbara E. Tillman to Robert S. LaRussa regarding ''Affiliation of Sumitomo Metal Industries Ltd. and Sumitomo Corporation,'' dated August 31, 1999 (Decision Memo).

While SMI and SC control these joint ventures, we recognize the regulatory guidance indicating that a control relationship will not establish affiliation for the purposes of our antidumping duty analysis unless that relationship ''has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.'' *See* 19 CFR 351.102(b). In reaching a determination in this regard, we considered the totality of the record evidence relevant to the relationship between SMI and SC. As discussed below, numerous other factors reflect a relationship between these two parties such that there is potential to impact the transactions between SMI and SC involving the subject merchandise.

In addition to the joint ventures which we examined in finding a control relationship under section 771(33)(F) of the Act, SMI and SC are jointly invested in other companies. SMI's and SC's history of extensive joint investments in numerous companies reflects a significant commonality of interests between SMI and SC. This commonality of interests between SMI and SC gives rise to a potential to impact decisions concerning the pricing of OCTG sold by SMI to SC. *See* Decision Memo.

The potential to impact pricing decisions in transactions between SMI and SC is further reflected in SMI's and SC's long standing customer and supplier relationship. SMI started dealing with SC with regard to OCTG around 1952 and has maintained the business relationship since that time. On a worldwide basis, SMI sells a significant portion of its OCTG to SC. Likewise, SC derives a significant percentage of its OCTG purchases from SMI. *See* Decision Memo.

Finally, we viewed SMI's and SC's relationship in the context of the Sumitomo Group (SG) as a whole. SG holds itself out as a corporate group which consists of twenty ''core'' companies that operate in thirteen different business sectors. SMI and SC are core members of the group. The 20 core companies have a variety of close corporate and commercial links. SMI's and SC's membership in the SG is further evidence that SMI's and SC's relationship has the potential to impact decisions concerning the transactions between SMI and SC involving the subject merchandise. *See* Decision Memo.

In sum, SMI and SC, through their substantial joint interests in several joint ventures, have the potential to control or restrain those joint ventures within the meaning of paragraph (F) of section 771(33). In addition, SMI's and SC's significant commonality of interests, demonstrated by multiple joint investments, a long-standing customer/supplier relationship, and their membership in the SG, establishes that the relationship has the potential to impact pricing in transactions involving the subject merchandise. Therefore, we determine that SMI and SC are affiliated parties under paragraph (F) of section 771 (33) of the Act.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents that are covered by the description in the ''Scope of Review'' section above and sold in the home market during the POR to be foreign like products for purposes of determining appropriate product comparisons for merchandise sold to the United States. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar home market like product on the basis of the characteristics listed in Appendix III of the Department's October 16, 1998 antidumping questionnaire.

Comparisons to Normal Value

To determine whether sales of subject merchandise to the United States were made at less than NV, we compared the CEP to NV, as described in the ''United States Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average home market prices for NV and compared these to individual U.S. transaction prices.

United States Price

For sales in the United States, the Department uses EP when the subject merchandise was sold to the first unaffiliated purchaser in the United States by the producer or exporter outside the United States prior to importation, and CEP is not otherwise warranted by facts on the record. Because the Department has found SMI and SC to be affiliated, and the subject merchandise was not sold to an unaffiliated purchaser until after its importation into the United States, the starting price for CEP is the price from SC's U.S. affiliate to unaffiliated customers in the United States.

The Department calculated CEP (there were no EP sales) for SMI based on packed, prepaid or delivered prices to SC's customer in the United States. In accordance with section 772(c) of the Act, we reduced CEP by movement expenses (international freight, marine insurance, inland freight, and duties. In accordance with section 772(d)(1) of the Act, we deducted direct selling expenses (credit, advertising, and warranty expenses) and indirect selling expenses, including inventory carrying costs. Finally, we made an adjustment for an amount of profit allocated to selling expenses incurred in the United States, in accordance with section 772(c) of the Act.

It is the Department's current practice normally to use the invoice date as the date of sale; we may, however, use a date other than the invoice date if we are satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR § 351.401(i); *Preamble to the Antidumping Duty Regs.*, 62 FR at 27411. Our questionnaire instructed SMI/SC to report the date of invoice as the date of sale; it also stated, however, that, for CEP sales, ''(t)he date of sale cannot occur after the date of shipment.'' In this review, SC's date of shipment always preceded the date of invoice, and therefore we cannot use the date of invoice. Instead, in accordance with 19 CFR 351.401(i), the home market sales dates are the dates on which the goods were shipped to the unaffiliated customer. In addition, the U.S. sales dates are the dates on which SC shipped the goods from the U.S. port of unloading to its unaffiliated customer.

Normal Value

The Department determines the viability of the home market as the comparison market by comparing the aggregate quantity of home market and U.S. sales. We found that SMI's quantity of sales in its home market exceeded five percent of its sales to the United States. We therefore have determined that SMI's home market sales are viable for purposes of comparison with sales of the subject merchandise to the United States, pursuant to section 773(a)(1)(C) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price, net of discounts, at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the CEP sales. *See* the ''Level of Trade section'' below. We determined what home market merchandise was most similar to the merchandise sold in the United States on the basis of product characteristics set forth in sections B and C of the Department's questionnaire.

For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses (credit expenses, advertising, and royalties) pursuant to section 773(a)(6)(C)(iii) of the Act. We also made adjustments, where applicable, for movement expenses, in accordance with sections 773(a)(6)(A) and (a)(6)(B) of the Act. We also made adjustments for differences in the costs of manufacture for subject merchandise and matching foreign like products, attributable to their differing physical characteristics, pursuant to section 773(a)(6)(C)(ii) of the Act, and for home market indirect selling expenses, up to the amount of U.S. indirect selling expenses, in accordance with section 773(a)(7)(B) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the home market at the same LOT as U.S. sales. The NV LOT is the level of the starting-price sale in the home market or, when NV is based on constructed value, the level of the sales from which we derive selling, general, and administrative expenses (SG&A) and profit. For export price, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer. To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

For merchandise sold in the home market during this POR, SMI claimed one distribution channel and one LOT and SC claimed two distribution channels and one LOT. Regardless of the distribution channel, the selling functions performed by SMI, or by SMI and SC combined where the sale was made through SC, were substantially the same. Therefore, we concluded all sales in the home market were made at one LOT.

We then compared the selling functions in the U.S. and home markets. At the level of CEP sales to the United States, i.e., after eliminating from consideration the selling functions associated with deductions made under section 772 of the Act, we found that the CEP sales were made at a different and less advanced level of trade than home market sales.

Because there are no sales in the home market made at the same LOT as sales in the United States, we were not able to determine whether the difference in LOT affects price comparability. Therefore, we made a CEP offset adjustment. In accordance with 19 CFR 351.408(f)(2), we deducted indirect selling expenses from NV to the extent of U.S. indirect selling expenses. For a further discussion of the Department's LOT analysis with respect to SC, see *Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for SMI*, August 31, 1999.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period August 1, 1997 through July 31, 1998 to be as follows:

Manufacturer/exporter	Margin percentage
SMI	0.00

The Department will disclose to the parties to the proceeding calculations performed in connection with these preliminary results of review within five days after the date of publication of these preliminary results of review.

Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 2 days after the date of filing of rebuttal briefs or the first business day thereafter. Case briefs from interested parties may be submitted not later than 30 days after publication. Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date of filing of case briefs. The Department will publish the final results of this administrative review, including its analysis of issues raised in the case and rebuttal briefs, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we calculated importer-specific ad valorem duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Act: (1) The cash deposit rate for each reviewed company will be that established in the final results of review (except that no deposit will be required for firms with *de minimis* margins, i.e., margins less than 0.5 percent); (2) for exporters not covered in this review, but covered in the less than fair value (LTFV) investigation or a previous review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate established in the LTFV investigation, which was 44.20 percent. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C 1677f(i)(1)).

Dated: August 31, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–23212 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990520139–9221–02; I.D. 050799B]

RIN 0648–AM68

Disaster Assistance for Northeast Multispecies Fishery Failure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of final program.

SUMMARY: NMFS publishes a final program for disbursing funds to assist persons who have incurred losses from a commercial fishery failure due to the declining stocks of groundfish which has caused harm to the Northeast multispecies fishery. This document provides information concerning criteria for eligibility, limitations and conditions for receiving disaster assistance.

DATES: Effective September 7, 1999.

ADDRESSES: Questions or requests for information about financial assistance may be sent to: Leo Erwin, Chief, Division of Financial Services, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. All other inquiries should be sent to: Kevin Chu, NMFS, 166 Water St., Woods Hole, MA. 02543.

FOR FURTHER INFORMATION CONTACT: Kevin Chu, Northeast Region (508) 495–2367).

SUPPLEMENTARY INFORMATION:

Background

In the Emergency Supplemental Appropriations section of the FY 1999 Appropriations Act (Public Law No. 105–277), Congress appropriated $5 million to NOAA to provide emergency disaster assistance to persons or entities in the Northeast multispecies fishery who have incurred losses from a commercial fishery failure under a fishery resource disaster declaration made in 1994 pursuant to section 308(b) of the Interjurisdictional Fisheries Act (IFA) of 1986. Although the funds are available until used, NMFS is not obligated to compensate every individual affected by the Northeast multispecies collapse or to expend all the funding on assistance.

Pursuant to his authority under this section of the IFA, former Secretary of Commerce Ron Brown declared a fishery resource disaster on March 18, 1994, for the Northeast multispecies fishery. This disaster has extended through this year and is expected to continue, causing a number of additional fishery closures in New England and economic hardship in the fishery.

The Gulf of Maine stocks of groundfish have declined drastically over the past three decades. Since the first declaration of a fishery disaster in 1994, recovery measures for Northeastern groundfish have improved the prospects for commercially important cod, haddock, and yellowtail flounder stocks on Georges Bank, but measures intended to protect Gulf of Maine cod have not been as successful. Gulf of Maine stocks of cod, white hake, American plaice, and yellowtail flounder remain overfished. The spawning biomass continues to decline, reducing the probability that sizable groups of new fish will be produced. As a result of the continued crisis in the Northeast multispecies fishery, a number of areas in the Gulf of Maine have been closed to many types of fishing gear for up to 3 months during the period of February through June 1999, resulting in lost fishing opportunities.

On June 11, 1999, NMFS published a document in the **Federal Register** (64 FR 31542) seeking comments on the proposed program for disbursing the disaster assistance funds. This document presents the final program for disbursing the funds and responds to the comments received.

The final program has two components. First, NMFS will provide direct assistance by compensating Federal permit holders and crew for economic harm based on reductions in used Days-at-Sea (DAS) under the authority of section 308(d) of the IFA. In exchange for this compensation, permit holders must commit to operating their vessels for research on fishery-related subjects, participating in another activity approved by the NMFS Northeast Regional Administrator (RA), or providing personal economic and social data important for evaluating the effects of fishery management decisions. Second, NMFS will set aside $100,000 of the funds for the training and deployment of at-sea data collectors aboard scallop fishing vessels to monitor groundfish bycatch, particularly of yellowtail flounder. This document explains the direct assistance program, but does not discuss the training and deployment part of the program, which is already underway.

The direct assistance program has two goals: (1) To provide a mechanism to get financial assistance to fishermen most affected by the groundfish collapse; and (2) to involve the industry in fisheries and gear research, thereby providing additional data for the long-term management of the fishery. This program uses a formula for calculating lost fishing opportunities as an indicator of the economic harm caused by the declining groundfish stocks.

Comments and Responses

NMFS received comments from the States of Maine and Massachusetts, representatives of three commercial fishing organizations, two academic institutions, seven commercial fishermen, and one recreational fisherman. We have grouped similar comments here.

Comment 1: Because the program relies on a calculation of DAS not used, the program rewards persons who did not try to fish during the spring closures but penalizes the persons who used DAS to try to make a living by fishing, even if they lost money while doing so.

Response: NMFS recognizes that some persons may receive reduced benefits under this program because they made the effort to continue fishing by moving their fishing location in response to the 1999 rolling closures. These people will have expended extra money to try to keep fishing, and they may not have made enough to justify their costs. Since persons who did not fish will be compensated under this program, those who did fish are likely to feel that they are being unfairly penalized for making the effort to continue fishing, especially if they lost money doing so. NMFS notes, however, that such fishermen were able to move their operations to avoid the closures. NMFS continues to believe that the assistance program should target persons who could not move their operations to another port or farther offshore, and, therefore, were more vulnerable to the closures.

NMFS and fishermen agree that $5 million is not enough to compensate all