protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

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

Dated: June 9, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–15876 Filed 6–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–405–071]

Viscose Rayon Staple Fiber From Finland: Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On December 10, 1997, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty finding on viscose rayon staple fiber from Finland. This review covers one company, Kemira Fibres Oy, and the period of March 1, 1996 through February 28, 1997. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: June 16, 1998.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Alexander Amdur, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4740 or (202) 482–5346, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all references to the regulations of the Department of Commerce (Commerce) are as codified at 19 CFR part 353, as they existed on April 1, 1997. Since the new regulations do not apply in these final results, we should note that whenever the new regulations are cited, they operate as a restatement of the Department's interpretation of the Act. *See !62 FR 27296 (May 19, 1997).*

Background

On December 10, 1997, we published in the **Federal Register** (62 FR 65063) the preliminary results of administrative review of the antidumping duty finding on viscose rayon staple fiber from Finland (44 FR 17156, March 21, 1979). We received a case brief from the sole respondent, Kemira Fibres Oy (Kemira), on January 22, 1998, as amended on January 30, 1998. The petitioners, Courtauld Fibers Inc. and Lenzing Fibers Corporation, submitted a rebuttal brief on January 29, 1998. We held a public hearing on February 5, 1998. The Department extended the final results of this review until June 8, 1998. We are conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

The product covered by this review is viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments). The term includes both commodity and specialty fiber. This product is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 5504.10.00 and 5504.90.00. The HTS numbers are provided for convenience and customs purposes. The written description of the scope of the finding remains dispositive.

Scope Issues

Kemira claims that short-cut (LK) fiber and fire retardant (VISIL) fiber are not covered by the scope of the order, while petitioners claim that they are covered.

The Department included LK and VISIL fibers within the scope of the order for the purposes of the preliminary results of this review (*see* 62 FR 65063). We stated in our notice of preliminary results that because of the complexity of the issues relating to LK and VISIL fibers, we would commence a scope inquiry to determine whether LK and VISIL fibers are covered by the scope of the order.

We asked interested parties to submit comments on these scope issues, which we analyzed pursuant to 19 CFR 353.29(d)(6). On matters concerning the scope of an antidumping finding or duty order, the normal bases for determining whether a product is included within the scope are the descriptions of the product contained in the determinations by the Department (or the Treasury Department) and the ITC, the initial investigation, the petition and, if applicable, prior scope rulings. *See* 19 CFR 353.29(i)(1). If these descriptions are not dispositive, the Department refers to the criteria listed under 19 CFR 353.29(i)(2). By reference to the product descriptions provided by the parties, as well as the descriptions of the product contained in the final determinations of the Treasury Department and the ITC, and the petition, the Department is able to determine whether LK and VISIL fibers are covered by the scope of the order. Therefore, we have determined that it is unnecessary to refer to the additional factors of section 353.29(i)(2).

Based on our analysis under 19 CFR 353.29(i)(1), the Department has determined that LK and VISIL fibers are within the scope of the antidumping order on Viscose Rayon Staple Fiber from Finland. *See* June 8, 1998 Memorandum to Maria Harris Tildon from Holly Kuga Regarding Whether Short-Cut (LK) Fiber And Fire Retardant (VISIL) Fiber Are Within The Scope of the Finding (Order) on Viscose Rayon Staple Fiber from Finland.

Analysis of the Comments Received

Comment 1: Kemira argues that the Department erroneously reclassified certain export price (EP) sales made through its selling agent in the United States as constructed export price (CEP) sales. Kemira notes that all of the sales at issue were made prior to importation based on the date the order was confirmed and shipped directly from Kemira's factory to the customer in the United States. Kemira argues that its selling agent in the United States, Newco Fibres Company (Newco), relocates (in part) routine selling functions of the company from Finland to the United States, and does not perform any more selling functions in the United States than those U.S. entities in various cases in which the Department concluded that the sales were EP sales (*see, Certain Stainless Steel Wire Rods from France,* 58 FR 68865, 68869, (December 29, 1993); *Certain Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Review,* 61 FR 18547, 18552, (April 26, 1996)). Kemira also argues that the Department's re-characterization of the sales at issue is

contrary to the statute because Kemira was the seller to the unrelated purchaser in all transactions, and Newco did not make any sales by or for the account of Kemira.

The petitioners argue that the Department's reclassification of EP sales to the United States made through Newco as CEP sales was appropriate. The petitioners note that the Department relied on the statutory definition of CEP, which is ''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 such merchandise.* * *'' (*See,* section 772(b) of the Act .) The petitioners note that Kemira acknowledges that ''sales activities in the United States market are conducted by * * * Newco,'' and argue that Newco plays a major role in the marketing of Kemira's products, including negotiating sales and obtaining customer orders. The petitioners further note that, although Newco passes all sales documentation to Kemira for confirmation, in actuality such confirmations appear to be routine. In fact, the petitioners note, it does not appear that Kemira ever rejected any order confirmations passed to it by Newco during the period of review (POR).

DOC Position: We agree with the petitioners. In our preliminary results of review, we examined the facts of this case in light of the statute with respect to EP and CEP sales. Section 772(b) of the Act, as amended, 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 such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted'' (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 outside of the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States, as adjusted.''

Furthermore, based on the Department's practice, we examine several criteria for determining whether sales made prior to importation through a sales agent to an unaffiliated customer in the United States are EP sales, including: (1) Whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether this was the customary commercial channel between the parties involved; and (3) whether the function of the U.S. selling agent was limited to that of a ''processor of sales-related documentation'' and a ''communications link'' with the unaffiliated U.S. buyer. Where all three criteria are met, indicating that the activities of the U.S. selling agent are ancillary to the sale, the Department has regarded the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the United States where the sales agent performs them, and has determined the sales to be EP sales. Where one or more of these conditions are not met, indicating that the U.S. sales agent is substantially involved in the U.S. sales process, the Department has classified the sales in question as CEP sales. (*See,* e.g., *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews,* 63 FR 13170 (March 18, 1998).)

Our analysis of the facts indicates that, while Kemira's alleged EP sales meet the first two conditions, they fail to meet the third one. Kemira employs Newco in the United States to negotiate contracts with U.S. customers, including the negotiation of prices, for most of its U.S. sales. All contracts are subject to acceptance by Kemira and become effective upon Kemira's order confirmation. However, there have been no cases to our knowledge in which the terms of sale have not been accepted by Kemira during this POR. Therefore, the only difference that is apparent between the claimed EP and CEP sales is the fact that the claimed EP sales are shipped directly to the US customer; all other functions performed by Newco for such sales are identical. Consequently, we conclude that Newco, the agent in the United States, is not merely a processor of sales-related documentation or a communications link, but is, in fact, selling covered products in the United States on Kemira's behalf. Therefore, under section 772(b), we concluded that CEP treatment is also appropriate for sales made in the United States prior to importation by Newco, on behalf of the producer (*i.e,* Kemira), to an unaffiliated purchaser. We determine that EP treatment is appropriate for Kemira's other sales made to the United States before the date of importation which do not require the employment of the sales agent in the United States. We have no further information that would lead us to change our preliminary results with respect to this issue; therefore, we have made no changes for the final results of review.

Comment 2: Kemira argues that the Department should reconsider its adverse facts available (FA) determination concerning Kemira's U.S. sales of substandard merchandise. Kemira maintains that the Department misinterpreted Kemira's statement in its questionnaire response that it made sales of second-quality merchandise in the European market to mean that it did not have sales in either Finland or the United States. Kemira explains that it did not report its United States and Finnish sales of second-quality merchandise because the Department did not specify that such sales were covered by the review and should be reported.

In support of the Department's preliminary determination on this issue, the petitioners assert that it was appropriate for the Department to make an adverse inference concerning Kemira's U.S. sales of second-quality merchandise. The petitioners maintain that Kemira did not report its home market or U.S. sales of second-quality merchandise despite the fact that the Department twice requested Kemira to report all sales of merchandise within the scope of the order, and that there was no indication that second-quality merchandise was excluded from the scope of the order. The petitioners also note that it was not until the Department conducted verification that it discovered the existence of these sales.

DOC Position: We agree with the petitioners. Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form requested, significantly impedes a proceeding under the antidumping statute, or provides information that cannot be verified, the Department shall use FA in reaching the applicable determination. Section 782(d) states that, if the Department determines that a response to a request for information does not comply with the request, it shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency.

In its original questionnaire of May 20,1997, the Department requested Kemira to report all of its home market and U.S. sales of subject merchandise in accordance with the instructions in the questionnaire. Kemira did not report its home market and U.S. sales of second-

quality and substandard merchandise. On August 15, 1997, the Department issued a supplemental questionnaire to Kemira, again requesting Kemira to report all sales of viscose rayon fiber that are not specifically excluded from the scope of the finding. In its response to the supplemental questionnaire, Kemira again did not report any home market or U.S. sales of second-quality and substandard merchandise. The fact that Kemira reported the existence of sales of substandard merchandise in third countries, but, in response to two specific requests for information, failed to report such sales in the United States, lead the Department to believe that no such sales in the United States were made during the POR. It was not until verification that the Department discovered the existence of such sales.

In both requests for information, the Department advised Kemira that failing to provide the requested information may result in the application of FA. At verification, the Department was able to determine what percentage of Kemira's total U.S. sales were of second-quality merchandise. We observed that Kemira made a small quantity of second-quality merchandise sales in both Finland and the United States. (*See* Memorandum to Holly Kuga from Laurel LaCivita *et. al.* Regarding Kemira Fibres Oy: Report on the Verification of Sales Information Submitted in the 1996–1997 Review (Verification Report) of January 12, 1998.) Given Kemira's failure to report these sales, the existence of which was verified by the Department, we applied FA to sales of second-quality merchandise for the final results of review, in accordance with section 776 of the Act.

Kemira's argument that it did not report its United States and Finnish sales of second-quality merchandise because the Department did not specify that such sales were covered by the review is unfounded. There is nothing in the scope of the finding or the questionnaire that would indicate that second-quality merchandise is excluded from the scope of the finding. It is not required that the Department specify which sales are covered by a review, so long as the scope covers the merchandise sold. As the scope does not exclude second-quality merchandise (an undisputed fact), Kemira is required to report U.S. sales of such merchandise. Failure to do so warrants the application of FA.

Section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See* also *Statement of Administrative Action* (SAA) at 870. Kemira's failure to report the sales data requested by the Department, despite the Department's indication regarding the consequences of such an action, demonstrates that Kemira has, to date, failed to cooperate to the best of its ability in this review. Thus, in selecting among the FA for Kemira, an adverse inference is warranted. Section 776(b) states that an adverse inference may include reliance on information derived from: (1) The petition; (2) the final determination in the LTFV investigation; (3) any previous review under section 751 of the Act or investigation under section 753 of the Act; or (4) any other information placed on the record. *See also* SAA at 829–831.

We applied as adverse FA the highest calculated rate for Kemira from any segment of the proceeding to the sales of second-quality merchandise which were not reported to the Department. This rate of 8.7 percent is the margin calculated for Kemira in both the investigation and in the first period of review (44 FR 2219, January 10, 1979 and 46 FR 19844, April 1, 1981).

Therefore, for the purposes of the final results of review, the Department made no changes to the methodology applied in the preliminary results of review.

Comment 3: Kemira contends that the Department's application of a difference-in-merchandise (difmer) adjustment to different sizes of VISIL is unwarranted. It argues that there is no difference in material cost or material preparation between different sizes of fiber. Kemira states that the only potential cost difference would be in spinning time or cutting time, and such differences are minimal. Kemira argues that its cost accounting system does not make any distinction by fiber size, and that it reported all costs for VISIL fiber in accordance with its cost accounting system. Kemira also argues that the information it provided should have been accepted by the Department because the information was accurate, consistent with Kemira's recorded costs, and fully verifiable. Therefore, Kemira claims that the Department has no basis for resorting to FA for the difmer adjustment.

The petitioners contend that the Department clearly acted within its statutory authority in resorting to adverse FA in making a difmer adjustment for VISIL sales. The petitioners note that Kemira took the position in its questionnaire response that the variable cost of manufacturing (VCOM) for VISIL fibers sold in the home market and to the United States were the same, but at verification the Department ''observed that the time required to spin other non-VISIL fibers varied with the fiber length and linear density.'' (*See* December 1, 1997 Concurrence Memorandum at 15). The petitioners also note that Kemira failed to provide usable VCOM or total cost of manufacturing (TCOM) data that would allow the Department to make difmer adjustments, and, as a result, the Department made a difmer adjustment to normal value (NV) for VISIL sales based on adverse FA.

DOC Position: We agree with the petitioners. Kemira failed to appropriately report the information needed to calculate a difmer adjustment. Kemira reported the same VCOM and TCOM for products with different linear density and fiber length. The Department observed at verification that spinning and cutting time varied with the fiber length and linear density of the product (*see* December 1, 1997 Concurrence Memorandum at page 15). Although Kemira claims that its cost system does not acknowledge costs on the basis of fiber length or fiber width, and that any such differences are minimal, it failed to produce any evidence supporting that contention or to explain what Kemira considers to be a ''minimal'' difference. Kemira did not provide any worksheets in its questionnaire response on VISIL sales, which was submitted only a few days before the commencement of verification, showing how the variable cost figures were determined, or what factors were considered in its calculation of VCOM and TCOM, which impeded us from pursuing verification of this information. Furthermore, Kemira's claim contradicts a basic principal of cost accounting that, given identical labor and overhead rates on the same production line, longer production times on that line will result in higher production costs.

In an attempt to educate ourselves on the potential production cost differences with respect to the fiber width of rayon staple fiber, we spoke with a textile fiber expert on March 26, 1998, concerning the relationship between the fiber width and spinning times. The expert explained that there is a direct relationship between the fiber width and spinning time, such that if the cross-sectional area of a fiber (determined by the fiber width) increases in size, the spinning time decreases proportionally. Similarly, if the fiber width decreases in size, the spinning time increases by the same ratio. (*See* the April 8, 1998 Memorandum from Laurel LaCivita to the File Regarding The Relationship Between Fiber Width and Processing Time.) Record evidence indicates that

the fiber widths of the VISIL products sold in the United States and the home market during the POR are at extreme ends of the fiber-width spectrum. Consequently, we disagree with Kemira's position that potential spinning times and cost differences attributable to differences in fiber widths are insignificant in the calculation of the difmer adjustment.

Therefore, while Kemira reported per-unit costs allegedly calculated in accordance with its cost accounting system, such costs were not usable in calculating a difmer adjustment for VISIL sales because Kemira did not adjust its production costs to reflect differences in fiber width. Section 776(a)(1) of the Act provides that the Department may use facts available in situations in which the necessary information is not available on the record. The Department did not become aware that Kemira failed to provide VCOM and TCOM data for VISIL fiber on the basis of fiber widths until verification, and thus did not have appropriate information on the record to calculate the difmer adjustment. Accordingly, to fill the gap, the Department made a facts available upward adjustment to the NV equal to 20 percent of the TCOM of the U.S. model. This is the maximum upward difmer adjustment to the NV in accordance with 19 CFR 353.57 and Policy Bulletin 92.2.

Accordingly, given that we have no other information on the record on which to base the difmer adjustment, we have made no changes to our preliminary results of review and have applied to NV an adjustment equal to 20 percent of the TCOM of the U.S. model.

Comment 4: Kemira argues that the Department erroneously deducted the full amount of the commission expense paid for VISIL sales in the United States, when only a small portion of that expense qualifies as a CEP deduction. Kemira explains that the agency agreement for VISIL sales in the United States provided for declining *ad valorem* commission rates on such sales, with a ''guaranteed commission'' paid in the event that the sales did not reach a certain level or quota. Kemira notes that the guaranteed commission was only paid because the sales quota was not achieved, and that it would have been paid in the absence of any VISIL sales at all. Consequently, Kemira argues that the guaranteed commission is not a commission or a direct expense, but rather an indirect selling expense. Kemira notes that the guaranteed commission fits the definition provided in the Appendix I, p. I–6 of the Department's questionnaire which defines indirect expenses as ''fixed expenses that are incurred whether or not the sale is made. . . .'' Furthermore, Kemira argues that the guaranteed commission is a one-time expense associated with initial U.S. marketing efforts for VISIL, and is not an expense that is ''generally incurred'' in selling the subject merchandise. Therefore, Kemira maintains that it is not a deductible expense pursuant to section 772(d) of the Act, which provides that in CEP transactions the U.S. price be reduced by the amount of expenses ''generally incurred'' in selling the subject merchandise in the United States. Consequently, Kemira argues that only the *ad valorem* portion of the commission expense would be ''generally incurred'' on VISIL sales and should be applied to these sales as an indirect selling expense.

Kemira argues in the alternative that, if the Department includes the guaranteed commission in its calculations, it should determine the importer-specific assessment rate by dividing the amount of the guaranteed commission paid by the quantity of the merchandise entered during the POR. Kemira notes that based on the date of order confirmation, the quantity of VISIL products that entered the United States during the POR was at least twice as high as the quantity of VISIL sold during the POR. Further, Kemira argues that if the Department bases the assessment rate for VISIL sales on the margin determined for VISIL sales (and not entries), the (unit) amount of the guaranteed commission will be more than doubled.

The petitioners argue that the Department appropriately deducted the guaranteed commission as a commission for sales during the review period. They note that three facts are undisputed: (i) Kemira hired an unrelated entity to act as Kemira's sales agent to market VISIL fiber in the United States, (ii) Kemira agreed to pay an *ad valorem* ''commission'' to its sales agent, and (iii) Kemira agreed to guarantee a minimum commission payment to its sales agent, which Kemira paid. The petitioners argue that treating these payments as an indirect selling expense, and not as a commission, would directly contradict the way in which the parties themselves view the payment. The petitioners also counter Kemira's assertion that the commission would have been paid in the absence of any sales based on the terms of the agency agreement.

The petitioners also disagree with Kemira that the commission expense should be allocated over all entries during the review period, rather than over all sales during the period, as this would be a significant departure from the Department's traditional manner of allocating commissions which relate to sales based on an *ad valorem* rate.

DOC Position: We disagree with Kemira that only a small portion of the expenses paid under its agency agreement for VISIL sales in the United States should be classified as an indirect selling expense and deducted from CEP on this basis.

Commissions are payments to affiliated or unaffiliated parties providing services that relate to the sale of merchandise, which are normally treated as direct selling expenses if we find that they are at arm's length (for commission paid to affiliated parties) and directly related to the sale. In order to determine whether a claim for a commission paid to an unaffiliated selling agent is a bona fide commission, we examine the nature of the agreement or contract between the producer and selling agent which establishes the basis for payment of the commission and for services rendered in return for payment. (*See* Revised Import Administration Antidumping Manual, Chapter 8 at 35–37, January 1998.)

In this case, our examination of the terms of the agency agreement (contract) between Kemira and its U.S. selling agent shows that the agreement exists for the sole purpose of making VISIL sales in the United States during a specific time period, and stipulates that the agent be paid a commission based on declining *ad valorem* rates in accordance with the quantity of VISIL sold, and a guaranteed commission in the event U.S. VISIL sales did not reach a certain level. (*See* verification exhibit 12 and footnote 16 on page 16 of the December 1, 1997 Concurrence Memorandum for a proprietary description of the manner in which the guaranteed commission is tied to the U.S. sales value of VISIL products.) Contrary to Kemira's claim, the guaranteed commission paid under this agreement constitutes a direct selling expense specifically attributable to VISIL sales only and is not generally incurred in selling the subject merchandise in the United States.

Consequently, we agree with the petitioners that the guaranteed commission incurred on VISIL sales represents a commission covering sales during the review period. Therefore, we have made no changes since the preliminary results of review with respect to this issue, and have allocated all of the commission expense incurred during the review period over the value of sales made during the review period in accordance with our normal

methodology. Also, we will follow our normal assessment practice of allocating the amount of the uncollected dumping duty over the entered value of sales reported on the computer sales listing.

Comment 5: Kemira noted its agreement with the Department's treatment of certain entries of LK and VISIL fiber and supports our preliminary determination to exclude them from its margin calculation. Kemira also believes that, if LK and VISIL are found to be in the scope of the order, these entries should nonetheless be ''liquidated without any assessment of antidumping duties'' since these transactions were not reviewed.

DOC Position: As we stated in our preliminary results of review, we excluded three types of sales from our calculations. First, we excluded zero-priced samples from our dumping margin calculations. Second, we excluded sales that were shipped to the United States by a third-country reseller if the respondent did not have any reason to know at the time of sale that the merchandise was destined for the United States (for a detailed explanation, *see* December 1, 1997 Concurrence Memorandum). Third, we excluded sales that were entered and liquidated prior to the reinstatement of this antidumping order and resumption of the suspension of liquidation on February 22, 1996 (61 FR 6814). The latter sales were excluded only if we were able to link them directly to an entry prior to the suspension of liquidation (*see, e.g., Certain Stainless Steel Wire Rods From France: Final Results of Antidumping Duty Administrative Review,* 61 FR 177, (September 11, 1996)).

In our final results of review, we made no changes in our methodology for determining the weighted-average margin. However, in accordance with *NSK Ltd., et al* v. *United States,* 969 F. Supp. 34 (CIT 1997), we have adjusted our assessment calculations to ensure that no duties are collected on the zero-priced samples that we excluded from our calculations. We have included the entered values of the zero-priced samples in our calculation of the assessment rates and set the dumping duties due for such transactions to zero. We have done this because U.S. Customs will collect the *ad valorem* duty-assessment rate on all entries of subject merchandise regardless of whether the merchandise was a zero-priced sample.

We have made no further adjustments for the other sales that we excluded from our margin calculations. Sales that entered into the United States prior to the reinstatement of this antidumping order have been liquidated and all other sales are subject to the order.

Comment 6: Kemira claims that the Department erroneously failed to convert domestic brokerage expense (DBROKU) and packing expense (USPACK) from Finnmarks (FIM) to U.S. dollars (USD) for sales of LK fiber.

DOC Position: We agree and have multiplied the domestic brokerage and packing expenses for LK fiber sales to the United States by the exchange rate on the date of the U.S. sale to convert these expenses to U.S. dollars for the final results of review.

Comment 7: Kemira argues that the Department failed to follow the model match hierarchy described in the notice of the preliminary results of review. Specifically, it did not match sales to the United States with the identical merchandise sold in the home market in the same month as, or the closest month to, the month of the U.S. sales.

DOC Position: We agree. We inadvertently failed to include the variable WNDORDER in the model-match hierarchy in the computer program. Consequently, the program did not take the appropriate order of the window period into account when making its model-match selections. Therefore, we have modified our calculations to include this variable, thereby implementing the model-match hierarchy described in our notice of the preliminary results of review.

Comment 8: Kemira maintains that the Department incorrectly double-counted the deduction for marine insurance in its calculations by including it in both the variables for movement expense expressed in dollars (USMOVT) and movement expense expressed in foreign currency (HMMOVT). Kemira argues that the Department should eliminate marine insurance from one of these two variables.

DOC Position: We agree and have eliminated marine insurance expenses from the calculation of HMMOVT.

Final Results of Review

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

Manufacturer	Margin (Percent)
Kemira Fibres Oy	2.41

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. For assessment purposes, we calculated importer-specific assessment rates for viscose rayon staple fiber. For both EP and CEP sales, we divided the total dumping margins (calculated as the difference between NV and EP (or CEP)) for each importer) by the entered value of the merchandise. We will direct Customs to assess the resulting ad valorem rates against the entered value of each entry of the subject merchandise by the importer during the POR.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of viscose rayon staple fiber from Finland entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that established in these final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or a previous review or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the most recent rate established for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 3.9 percent, the ''new shipper'' rate established in the first review conducted by the Department, as explained below.

On March 25, 1993, the Court of International Trade (CIT) in *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993) and *Federal-Mogul Corporation* v. *United States,* 822 F.Supp. 782 (CIT 1993) decided that once an ''all others'' rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement the above-mentioned decisions, it is appropriate to reinstate the ''all others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders.

However, in proceedings governed by antidumping findings, unless we are able to ascertain the ''all others'' rate from the Treasury LTFV investigation,

the Department has determined that it is appropriate to adopt the ''new shipper'' rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical errors as a result of litigation) as the ''all others'' rate for the purposes of establishing cash deposits in all current and future administrative reviews (*see,* e.g., *Final Results of Antidumping Duty Administrative Review of Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan,* 58 FR 64720, (December 9, 1993)).

Therefore, the ''all others'' rate applied is the rate of 3.9 percent from *Viscose Rayon Staple Fiber From Finland, Final Results of Administrative Review of Antidumping Finding* (46 FR 19844, April 1, 1981), the first review conducted by the Department in which a ''new shipper'' rate (or in this case, a rate for all shipments of the subject merchandise, including new shippers) was established.

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

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

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

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–502]

Certain Welded Carbon Steel Pipes and Tubes From India; Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On February 9, 1998, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on certain welded carbon steel pipes and tubes from India. The review covers two manufacturers/exporters. The period of review is May 1, 1996, through April 30, 1997.

Based on our analysis of the comments received, we have made changes, including corrections of certain inadvertent programming and clerical errors, in the margin calculation. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margin is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: June 16, 1998.

FOR FURTHER INFORMATION CONTACT: Davina Hashmi, at (202) 482–5760, or Greg Thompson, at (202) 482–0410, of the Import Administration, International Trade Administration, U.S. Department of Commerce.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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

Background

On February 9, 1998, the Department of Commerce (the Department) published the *Preliminary Results of Administrative Review of the Antidumping Duty Order on Certain Welded Carbon Steel Pipes and Tubes from India,* 63 FR 6531. The review covers two manufacturers/exporters. The period of review (POR) is May 1, 1996, through April 30, 1997. We invited interested parties to comment on the preliminary results of review. At the request of one respondent, Rajinder Pipes Ltd. and Rajinder Steel Ltd. (collectively called ''RSL''), we held a public hearing on April 6, 1998. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Reviews

The products covered by this review include circular welded non-alloy steel pipes and tubes, of circular cross-section, with an outside diameter of 0.372 inch or more but not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon-steel pipes and tubes within the physical description outlined above are included in the scope of this order, except for line pipe, oil-country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.

Imports of the products covered by this review are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain corrections that changed our preliminary results. A discussion of the arguments raised in the case and rebuttal briefs submitted to the