Anti-friction bearings proceedings and firms	Period/Class or kind
Technoimportexport, S.A. (TIE)	Ball
Singapore: A–559–801	5/1/97–4/30/98
NMB Singapore Ltd./Pelmec Industies (Pte.) Ltd.	Ball
Sweden: A–401–801	5/1/97–4/30/98
SKF Sverige AB	Ball & Cylindrical
Rolfer LDA	Ball
Minetti	Ball
Motovario	Ball
Rodaindustria SA	Ball
Rodiandustria Vigo SA	Ball
Bucher-Guyer AG	Ball
Alfa Team GmbH	Ball
D & R Technisher Grosshandel	Ball
Frolich & Dorken GmbH	Ball
RMV Walzlager Vetr. GmbH	Ball
Wyko Export	Ball
The United Kingdom: A–412–801	5/1/97–4/30/98
NSK Bearings Europe Ltd./RHP Bearings Ltd.	Ball & Cylindrical
Barden Corporation	Ball & Cylindrical
FAG (U.K.) Limited	Ball & Cylindrical
SNFA Bearings Limited	Ball & Cylindrical

Countervailing Duty Proceedings

None.

Suspension Agreements

None.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under § 351.211 or a determination under § 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1996 or 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: June 22, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–17137 Filed 6–26–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube From Turkey

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

SUMMARY: On February 6, 1998, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain welded carbon steel pipe and tube from Turkey. The review covers shipments of this merchandise to the United States by one respondent during the period May 1, 1996, through April 30, 1997. Based on our analysis of comments received, these final results differ from the preliminary results. The final results are listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Kris Campbell, Office of AD/CVD Enforcement 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0650 and (202) 482–3813, respectively.

SUPPLEMENTARY INFORMATION:

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 the Department of Commerce's (the Department's) regulations refer to the regulations last codified at 19 CFR part 353. While the Department's revised regulations, as codified at 19 CFR part 351 (Antidumping Duties; Countervailing Duties, 62 FR 27296 (May 19, 1997) (''revised regulations''), do not govern this review, they do describe the Department's practice where cited in this notice.

Background

This review covers one manufacturer/exporter, the Borusan Group (Borusan), of merchandise subject to the antidumping duty order on certain welded carbon steel pipe and tube from Turkey. On February 6, 1998, the Department published the preliminary results of this review. *See Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey*, 63 FR 6155 (*Preliminary Results*). On March 9, 1998, we received case briefs from Allied Tube & Conduit Corporation and Wheatland Tube Company (collectively, ''the petitioners'') and from Borusan. We

received rebuttal briefs from both parties on March 16, 1998.

Scope of Review

Imports covered by this review are shipments of certain welded carbon steel pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches, of any wall thickness. Imports of subject merchandise 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. These products, commonly referred to in the industry as standard pipe and tube, are produced to various American Society for Testing and Materials (ASTM) specifications, most notably A–120, A–53 or A–135. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Partial Rescission

We originally initiated a review of three companies: Borusan, Yucelboru Ihracat Ithalat ve Pazarlama A.S./ Cayirova Boru Sanayi ve Ticaret A.S. (Yucelboru), and Erbosan Erviyas Boru Sanayii ve Ticaret A.S. (Erbosan). *See Notice of Initiation of Antidumping Duty Administrative Review*, 62 FR 35154 (June 30, 1997). However, as noted in the preliminary results, Yucelboru and Erbosan notified us that they had no shipments of subject merchandise during the period of review (POR). Although we inadvertently did not publish a notice of rescission at the time of the preliminary results, we did confirm with the Customs Service that this was correct and so stated in the preliminary results. *See Preliminary Results* at 6155. We received no comments concerning either of these companies for the final results. Therefore, consistent with our practice (*see, e.g., Certain Fresh Cut Flowers From Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53287, 53288 (October 14, 1997), we have rescinded our review of the two companies with no shipments during the POR. *See also* 19 CFR 351.213(d)(3) of the Department's revised regulations.

Fair Value Comparisons

We calculated export price (EP) and normal value based on the same methodology used in the preliminary results. However, as discussed further below, due to a change in our matching methodology *vis a vis* sales disregarded as below cost, we were able to match all U.S. sales to sales of similar merchandise sold in the home market without resorting to constructed value (CV).

On January 8, 1998, the Court of Appeals of the Federal Circuit issued a decision in *Cemex* v. *United States*, 1998 WL 3626 (Fed. Cir.) (*Cemex*). In that case, based on the pre-URAA Act, the Court discussed the appropriateness of using CV as the basis for foreign market value (normal value) when the Department finds home market sales to be outside the ''ordinary course of trade.''

Although this issue was not raised by any party in this proceeding, in light of the *Cemex* decision the Department has reconsidered its practice with respect to any sales found to be outside the ''ordinary course of trade.'' Under the URAA, such sales now include sales disregarded as below cost. *See* Section 771(15). In accordance with *Cemex*, the Department has determined that it would be inappropriate to resort directly to CV, in lieu of comparison market sales, as the basis for normal value where sales of merchandise identical to, or most similar to, that sold in the United States are disregarded as below cost. Instead, we will use sales of similar merchandise, if such sales exist, and will resort to CV as the basis for normal value only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of the Review'' section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no contemporaneous sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we were able to compare U.S. sales to contemporaneous sales of the most similar foreign like product made in the ordinary course of trade, based on the matching characteristics identified in the preliminary results. *See Preliminary Results* at 6156.

Cost of Production

As discussed in the preliminary results, we conducted an investigation to determine whether Borusan made home market sales of the foreign like product during the POR at prices below its cost of production (COP) within the meaning of section 773(b)(1) of the Act.

We calculated the COP following the same methodology as in the preliminary results, with the following exceptions.

1. While we based our calculation of interest expenses on the interest expenses of the consolidated Borusan Group companies, we have allocated this expense (which was reported on an annual basis) to each month of the POR using the ratio of monthly to annual interest expenses for the four largest of the Borusan Group companies, consistent with the 1994–95 review. We have also recalculated Borusan's amortized foreign exchange losses. *See* Comment 7.

2. We have valued purchases of coil and zinc by Borusan's mills from affiliated parties at the higher of the cost of producing the input, the transfer price, or the market price. *See* Comment 8.

3. We added packing to the cost of manufacturing (COM) in order not to understate the calculation of general and administrative expenses (G&A) and interest, because the cost of goods sold (COGS) used in the denominator to calculate the G&A and interest expense factor includes packing. *See* Comment 9.

4. We deducted imputed credit expenses from CV. *See* Comment 10.

5. We corrected a clerical error regarding indexation of monthly costs. *See* Final Results Analysis Memorandum from Case Analyst to File: Pipe and Tube from Turkey (June 8, 1998) (Final Results Analysis Memorandum).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. As noted above, we received comments and rebuttal comments from the petitioners and from Borusan.

Comment 1: Level of Trade

The petitioners submit the following comments regarding the level-of-trade analysis in the preliminary results: (1) the Department incorrectly determined that there are two levels of trade in the home market without sufficient record evidence that home market sales differ significantly in terms of the stage of marketing involved (see Comment 1A, below); (2) because there is only one home market level of trade, the Department incorrectly granted a level-of-trade adjustment when comparing U.S. sales to one of the two purported home market levels (see Comment 1A, below); (3) even if the Department finds two home market levels of trade, no adjustment should be made because Borusan has not demonstrated a causal

link between (a) differences in the marketing stages between the two levels and (b) pricing differences between the two levels, *i.e.*, it has not shown that marketing differences at the two purported levels have caused pricing differences at the two levels (see Comment 1B, below); and (4) if a level-of-trade adjustment is granted, it should be calculated on a reseller-specific basis (see Comment 1C, below).

Comment 1A—Identification of Home Market Levels of Trade

The petitioners state that there is only one level of trade in the home market because there are no significant differences in the stage of marketing for any of Borusan's purported levels of trade.[1] The petitioners contend that, based on an analysis of the customer class and the selling functions involved, LOT C sales should not be considered as a separate level of trade.

The petitioners first emphasize that the type of customer is an important factor in the level-of-trade analysis. Referencing the preamble to the Department's revised regulations (Preamble to Antidumping Duties; Countervailing Duties, 62 FR 27296, 27371, (May 19, 1997) (Preamble)) and *Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 17148, 17156 (April 9, 1997) (*Mexican Cement*), the petitioners state that different levels of trade necessarily involve purchasers at different places in the chain of distribution. According to the petitioners, Borusan's mill direct sales at LOT A, back-to-back sales through resellers at LOT B, and reseller inventory sales at LOT C all involve sales to end users. The petitioners submit that Borusan has shown only that there are sales to different types of end users at all three claimed levels of trade, and argue that distinctions among types of end users are not relevant to a determination regarding whether such customers occupy different places in the chain of distribution.

Regarding selling functions, the petitioners contend that four of the 12 claimed selling functions as reported by Borusan are not selling functions at all, and maintain that the remaining eight do not show any material difference in the nature or level of selling function being provided. The petitioners claim that inventory maintenance is the only significant selling function present in LOT C and not in LOT A/B. Even here, however, the petitioners contend that LOT A/B sales also involve maintaining inventory at the mill, and argue that any difference in the inventory maintenance at the two levels is not significant in terms of the level-of-trade analysis. Citing *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 30326, 30337 (June 14, 1996) (*Pasta from Italy*), the petitioners assert that mere differences in the degree to which a particular selling function is performed are given little weight in establishing separate levels of trade. The petitioners add that it is rare that the Department would find that any single selling function is so significant as to warrant a finding of different levels of trade, citing Preamble to Antidumping Duties; Countervailing Duties; Proposed Regulations, 61 FR 7308, 7348 (February 27, 1996) (Proposed Regulations). The petitioners conclude that, since LOT C sales are not made at a level of trade separate from LOT A/B, no adjustment should be made for comparisons involving LOT C sales.

Borusan responds that, although it disagrees with the Department's determination to collapse LOTs A and B, the Department should continue to find at least two levels of trade (LOT A/B and LOT C) because Borusan has adequately demonstrated the existence of separate and distinct levels of trade in the home market. Borusan characterizes its home market channels of distribution as follows: LOT A involves made-to-order sales direct from the mill to sophisticated, unaffiliated distributor/resellers at high volumes; LOT B sales are made through affiliated resellers primarily to unaffiliated distributors, on an FOB-mill basis where the merchandise is shipped directly to the customers without the merchandise entering the resellers' inventory; and, LOT C sales are made by the resellers out of locally maintained forward inventory to small local retailers and end users.

Borusan argues that its sales at LOT C involve several qualitatively and quantitatively different selling functions than those involved in LOT A/B. Principally, Borusan claims, LOT C sales are made out of pre-positioned inventory from regional warehouses instead of directly from the mill. According to Borusan, this sales process does not involve only inventory maintenance, but also requires the performance of a number of additional functions (and the incurrence of certain additional selling expenses) at the LOT C level, including forecasting of regional demand for different products, inventory planning, placing orders with the mill, making arrangements for shipping from the mill, and incurring inventory carrying costs during the holding period. Borusan argues further that, since LOT C sales are routinely made to small, local retailers and end-users, LOT C resellers are involved in customer education and problem-solving, and providing advice on suitability, uses, and characteristics of Borusan's products.

Finally, with respect to the petitioners' argument that inventory maintenance occurs at both LOT A/B and LOT C, Borusan notes that LOT C involves the pre-positioning of forward inventory, a selling function that the Department has recognized as both significant in and of itself, and distinct from the inventory maintenance that occurs at the mill, citing *Pasta from Italy* at 30341–30342.

DOC Position: We continue to find that there are two home market levels of trade, LOT A/B and LOT C. We also find that LOT C involves a more remote level than LOT A/B. For these final results, we have continued to match U.S. sales first to LOT A/B; where we matched U.S. sales to LOT C, we have granted a level-of-trade adjustment, as discussed further in our response to Comments 1B and 1C below.

In order to find that sales are made at different levels of trade, we must determine that such sales involve different stages of marketing. *See* 19 CFR 351.412(b)(2). As a threshold matter, we analyze selling functions to determine if the levels of trade identified by a party are meaningful. Preamble at 27371. Our examination of the record evidence in this case confirms that, consistent with our preliminary results and with the final results of the 1994–95 review,[2] there are significant differences in the selling functions involved in LOT A/B sales in comparison with those involved in LOT C sales.

At LOT A/B, Borusan makes home market sales directly from the mill to large, sophisticated customers or, in a

[1] Borusan initially claimed three home market levels of trade—sales shipped directly from the mill to distributors/wholesalers (LOT A, ''mill direct''), sales made by affiliated resellers that also involve direct shipment from the mill to the customer (LOT B, ''reseller back-to-back''), and sales made by affiliated resellers out of locally maintained forward inventory (LOT C, ''reseller inventory sales''). As in the 1994–95 review, we collapsed LOTs A and B in the preliminary results, but found that LOT C sales were made at a level of trade separate from LOT A/B sales. Contrary to the 1994–95 review, however, we found a pattern of consistent price differences between the two levels, and made a level-of-trade adjustment when comparing U.S. sales with LOT C sales. *See Preliminary Results* at 6158; *see also Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey*, 61 FR 69067, 69068–69069 (December 31, 1996) (*1994–95 Final Results*).

[2] No review was conducted with respect to the 1995–96 period.

'back-to-back' manner, where the sale is made by an affiliated reseller who does not take the merchandise into its inventory. In both instances, sales are made on an FOB-mill basis, and Borusan's customers make their own transportation arrangements regarding delivery of the merchandise from the mill. At LOT C, Borusan: (1) makes low-quantity sales to smaller customers through affiliated resellers who take the merchandise into inventory prior to the sale; (2) provides delivery services once the sale is made; and (3) maintains more intensive and frequent interactions with the customer. Thus, contrary to the petitioners' assertions, we find that there is more than one significant selling function that occurs at LOT C and not at LOT A/B. We discuss each in turn, below.

First, while it is not the only difference between LOT C sales and LOT A/B sales, inventory maintenance is a principal selling function that distinguishes these levels. Since LOT C sales are made out of stock, the affiliated resellers at LOT C have the responsibility of storing merchandise before purchasers have been found. The additional responsibility of maintaining merchandise in inventory also gives rise to related selling functions that are performed at LOT C. These include forecasting of regional demand for different products, inventory planning, placing orders with the mill, and incurring inventory carrying costs during the holding period. We also note that, in taking merchandise into inventory at LOT C, Borusan's affiliated resellers perform delivery-related functions that are not performed at LOT A/B, including: (1) arranging for shipment of merchandise involved in LOT C sales from the mill to the affiliated reseller's warehouse; and (2) providing immediate local delivery of such pre-positioned inventory once the sale is made to the final customer. *See* Borusan Questionnaire Response Section A (Borusan section A response) at 14 (resellers making LOT C sales ''specialize in providing immediate local delivery of standard grades which they keep in inventory'').

The additional forward warehousing and related activities performed by the affiliated resellers in making LOT C sales, as described above, constitute a distinct set of selling activities separate from any inventory maintenance performed at the mill. Thus, we disagree with the petitioners' contention that, since some form of inventory maintenance is conducted at each level of trade, any differences in this selling function are insufficient to support a finding of different levels of trade. Considering the additional selling functions associated with maintaining inventory at the affiliated reseller's warehouse for LOT C sales, we do not accept the petitioners' claim that the inventory maintenance performed at Borusan's mills is so similar to the reseller forward warehousing performed by affiliated resellers making LOT C sales as to render the differences in inventory maintenance between LOT A/B and LOT C sales insignificant for our analysis.

In addition to the inventory-and delivery-related selling activities described above, LOT C sales, which are typically smaller-volume sales, involve customer-based selling activities specific to the customers involved in such sales, which, as further discussed below, differ in the aggregate from the customers served by LOT A/B. These include customer education and advice on the suitability, uses, and characteristics of Borusan's products.

Based on the above analysis of selling activities, we have determined that there are meaningful distinctions between LOT A/B and LOT C. Aside from selling functions, we also consider the type of customer and the level of selling expenses in determining whether sales are made at different stages of marketing. *See* Preamble at 2731. Regarding the petitioners' arguments with respect to customer class, while we agree with the petitioners that the type of customer is an important indicator in identifying levels of trade (*id.*), we disagree with their assertion that the fact that both levels of trade involve some sales to end-users requires a finding that there are no customer differences between these levels. First, as a point of clarification, Borusan's LOT C sales are made not only to end users, but also to local distributors and small retailers. Second, the relevant standard, regardless of customer labels, is whether the customers involved at each purported level of trade constitute purchasers at different stages in the chain of distribution. *See Antifriction Bearings from France et al.; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54053, 54055 (October 17, 1997) (*AFBs 1995–96*).

The record evidence before us indicates that LOT C customers occupy a different place in the chain of distribution than do LOT A/B customers. At LOT C, the affiliated resellers tend to make sales in small quantities (''sometimes just a few pieces of pipe at a time'') to these customers. Borusan section A response at 13. In contrast, Borusan makes mill direct sales only to the following customers: affiliated companies, customers requiring special technical services, or customers located in Istanbul that purchase at high volume. *Id.* at 12.

Finally, with respect to the level of selling expenses involved at each channel of distribution, our examination of the expenses reported on home market sales indicates that, as Borusan claims, the per-unit indirect selling expenses are higher for sales made through LOT C than for those made at LOT A/B. Consistent with the Department's practice and regulations, we have considered this as an additional factor in our determination that LOT C is separate from, and more advanced than, LOT A/B.

Comment 1B—Price Differences Between Levels of Trade

The petitioners contend that, even if the Department correctly determined that Borusan's LOT C sales were made at a different level of trade than its LOT A/B sales, the Department erred in granting a level-of-trade adjustment with respect to comparisons made to LOT C sales. According to the petitioners, Borusan has not demonstrated that any price differences that exist between LOT A/B and LOT C are due to the difference in level of trade. The petitioners note that the Statement of Administrative Action accompanying the URAA (SAA) provides that the Department will grant a level-of-trade adjustment only where there is a difference in level of trade and the difference affects price comparability. Therefore, the petitioners claim, the burden is on Borusan to demonstrate a ''causal link'' between the difference in selling functions and the difference in prices.

The petitioners argue that, in this case, one likely reason that prices for sales at LOT C are higher than at LOT A/B is because of the smaller volumes involved in LOT C sales. In this respect, the petitioners reference the SAA (at 830) for the proposition that the Department must ''ensure that a percentage difference in price is not more appropriately attributable to differences in the quantities purchased in individual sales.'' The petitioners also suggest that another factor in higher LOT C prices is the fact that trade discounts are offered at LOT A/B but not at LOT C. The petitioners conclude that, because Borusan has made no effort to discount the impact of non-level-of-trade factors that account for the difference in prices, it is not entitled to a level of trade adjustment.

Borusan responds that there is no provision in the statute or regulations that requires that there be a causal link

between different selling functions and differences in prices. Rather, Borusan asserts, after finding separate levels of trade, the Department need only find that a pattern of price differences exists at different levels of trade, which allows the presumption that the price differences are attributable to different levels of trade. Borusan agrees in part that the price differences here arise because of a difference in quantities sold at each level; however, Borusan disagrees with the petitioners' interpretation of the SAA's provision regarding quantities and level-of-trade adjustments. Borusan argues that the petitioners have taken this quote out of context, as it is only intended to be illustrative of the Department's concern against double-counting when a party claims both a level-of-trade adjustment and an adjustment for differences in quantities.

DOC Position: We agree with the petitioners that we may adjust for differences in levels of trade only when such a difference is ''demonstrated to affect price comparability,'' as provided at section 773(a)(7)(A)(ii) of the Act. However, this sub-section also explicitly provides for how any such effect on price comparability is to be determined, *i.e.*, based on ''a pattern of consistent price differences between sales at different levels of trade in the country in which normal value is determined.'' *Id*. In this case, as stated in the preliminary results, we determined that a pattern of consistent price differences existed because we found the monthly average prices were higher at one level of trade for virtually all models and months as well as for virtually all sales. *See Preliminary Results* at 6158. Therefore, we cannot accept the petitioners' argument that Borusan must otherwise demonstrate a ''causal link'' between the difference in selling functions and prices in order to receive a level-of-trade adjustment for comparisons involving LOT C sales.

The Department ruled definitively on this issue in *Antifriction Bearings from France et al.*, 62 FR 2081, 2108 (January 15, 1997) (*AFBs 1994–95*). In addressing an argument made by the petitioner in that case that various respondents had failed to demonstrate that differences in prices were due to differences in the selling functions performed at each level of trade, the Department stated:

> The adoption of [the petitioner's] ''due to'' standard would impose an independent causation requirement upon both the level-of-trade adjustment and CEP-offset provisions. Such a requirement is neither required by the statute nor administratively feasible.

Id.

We also note the following regarding the petitioners' arguments concerning the effect on prices of (1) Borusan's discount policy and (2) the quantities sold at each level of trade. First, regarding the argument that the lower net prices at LOT A/B are caused in part by greater discounts granted at this level versus those granted at LOT C, while we agree that such differences in Borusan's discount policy between levels of trade may result in lower net prices at LOT A/B, this does not change that fact that such differences in net prices between levels of trade exist. Regarding the petitioners' argument concerning differences in quantities sold, the SAA provision cited by the petitioners regarding quantity differences vis a vis the level-of-trade analysis concerns the importance of not double-counting any quantity adjustment already granted (no quantity adjustment was made in this case). In this respect, the SAA provides:

> Commerce will isolate the price effect, if any, attributable to the sale at different levels of trade, and will ensure that expenses previously deducted from normal value are not deducted a second time through a level of trade adjustment.

SAA at 830. *See also* Senate Report on the Uruguay Round Agreements Act, which provides as follows:

> [S]ection 224 first creates section 773(a)(7)(A) providing for level of trade adjustments. Under this new provision, Commerce is directed to increase or decrease normal value to make due allowance for any difference (or lack of difference) between normal value and export price or constructed export price that is shown to be wholly or partly due to a difference in level of trade. *To avoid double counting, however, this new section expressly precludes level of trade adjustments to account for differences for which an allowance has already otherwise been made.*

Joint Report of the Committee on Finance et al., Uruguay Round Agreements Act, S. Rep. No. 103–412, at 70 (1994) (emphasis added).

Comment 1C—Reseller-Specific Level-of-Trade Adjustment

The petitioners contend that, in the event the Department continues to grant a level-of-trade adjustment for comparisons involving home market sales made at LOT C, it should make the adjustment on a reseller-specific basis. The petitioners argue that this is a more accurate methodology because it reflects the average amount of additional inventory maintenance performed by the specific reseller involved in each transaction.

Borusan responds that there is no legal basis for making the level-of-trade adjustment on a reseller-specific basis. Borusan states that the Department's revised regulations regarding level of trade state that the Department will normally calculate the amount of a level-of-trade adjustment by: (1) calculating the weighted-averages of the prices of sales at the two home market levels of trade; (2) calculating the average of the percentage differences between those weighted-average prices; and (3) applying this average percentage difference to normal value. See 19 CFR 351.412(e). Thus, Borusan concludes, the adjustment is to be made using a combined weighted-average of all sales at a particular level of trade.

DOC Position: We agree with Borusan that the revised regulations provide for a weighted-average adjustment. Further, the SAA states that ''any adjustments under section 773(a)(7)(A) will be calculated as the percentage by which the weighted-average prices at each of the two levels of trade differ in the market used to establish normal value.'' See SAA at 830. Accordingly, we have not changed the manner in which we have calculated the adjustment for these final results.

Comment 2: Home Market Indirect Selling Expenses

The petitioners argue that, because Borusan failed to follow the instructions in the Department's initial questionnaire regarding one of its two reported home market indirect selling expense fields, the Department should re-calculate these expenses based on adverse facts available. The petitioners' comments concern the INDIRSH1 expense, for which Borusan calculated separate factors based on the indirect selling expenses of each company that makes the final sale to the unaffiliated customer (*i.e.*, expenses incurred by the mills—Borusan Boru (BBBF), Kartal Boru, and Bosas—for LOT A sales, and expenses incurred by resellers for LOT B [3] and LOT C sales), allocated across home market sales made by each company. Borusan's specific deficiencies with respect to the Department's instructions include the following, according to the petitioners: (1) the failure to provide a list of overhead expenses itemizing the specific elements of each company's expenses, and (2) the submission of worksheets that are meaningless because they do not demonstrate either the amount of each type of expense or

[3] Although, as noted above, we consider Borusan's claimed LOT A and LOT B sales to be made at the same level of trade, we continue to refer to sales made through the back-to-back reseller channel as 'LOT B' sales for ease of reference and in keeping with the terminology used by the interested parties in this case.

the manner in which it was derived and allocated.

The petitioners also list a number of indirect selling expense and sales values that purportedly do not reconcile with Borusan's financial statements. Due to the proprietary nature of this list of selling expenses and sales values, we are unable to summarize or address the petitioners' specific comments in this regard. We address these claims further in the Final Results Analysis Memorandum.

Noting that the Department did not conduct a verification of information provided by Borusan in this review, the petitioners assert that the accuracy of the Department's margin calculation depends almost entirely on Borusan's cooperation and responsiveness, and maintain that Borusan's disregard of the Department's instructions is tantamount to failing verification. The petitioners claim that Borusan should, therefore, be deemed an uncooperative respondent, and its indirect selling expenses should be calculated using adverse facts available, based on the precedent established in *Olympic Adhesives, Inc.* v. *United States*, 899 F.2d 1565, 1571 (Fed. Cir. 1990). The petitioners recommend that the Department apply the highest indirect selling expense factor calculated for any member of the Borusan Group to each producer and reseller in the Borusan Group.

Borusan responds that its indirect selling expenses were adequately documented and, therefore, should not be modified. First, Borusan explains that, in response to the Department's instructions, it provided a complete explanation of how indirect selling expenses were calculated for BBBF, the largest pipe producer in the Borusan Group, and for Bozoklar, an affiliated reseller. Second, Borusan explains that, for this review, it used the same methodology that was verified and accepted by the Department in the 1993–94 and 1994–95 reviews.

DOC Position: Consistent with the past two reviews involving this company, we have accepted Borusan's methodology for reporting indirect selling expenses.

Section 776 of the Act provides, *inter alia*, that the Department shall apply facts available if an interested party withholds information that has been requested by the Department. In this case, there is no basis upon which to apply facts available as Borusan has provided the necessary information requested.

First, we do not agree with the petitioners regarding the adequacy of the supporting documentation submitted by Borusan concerning its INDIRSH1 expense. In its response to our supplemental questionnaire, Borusan provided detailed support for indirect selling expenses incurred by the largest pipe producer (BBBF) and by one of its largest resellers (Bozoklar). *See* Borusan sections A–D supplemental questionnaire response (December 19, 1997) (Borusan supplemental response), at Exhibits 13–14. As we explain further in the Final Results Analysis Memorandum, this documentation supports the reported expense and is in accordance with the company's normal books and records.

Regarding the petitioners' proposal that we treat Borusan as if it had failed verification due to the failure to provide information requested by the Department, as noted above, we have no basis for that decision; accordingly, we have not changed the calculation of Borusan's indirect selling expenses. In addition, we note that: (1) we conducted successful verifications of this company in the past two administrative reviews; (2) no verification was required for Borusan in this administrative review; and (3) the petitioners did not request that we verify Borusan's data in this review.

Comment 3: Allocation of Home Market Inland Freight From Plant to Warehouse, Warranty, and Interest Revenue

The petitioners contend that Borusan's calculations of home market inland freight from plant to warehouse, warranty expenses, and interest revenue on an annual basis are distortive and should have been calculated on a monthly basis. Citing *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan (TRBs from Japan),* 63 FR 2565 (January 15, 1998), the petitioners state that the Department's practice is to accept allocations only if they are not distortive and the respondent is fully cooperative but unable to report the information in a more specific manner.

With respect to inland freight from plant to warehouse, the petitioners argue that the allocation of freight charges across the entire POR is distortive, and maintain that Borusan has not shown that it is unable to report this expense on a monthly basis. Regarding warranty expenses, the petitioners assert that in addition to allocating this expense on an annual basis, Borusan has failed to comply with the Department's instructions to report such expenses on a model-specific basis, or on the most product-specific basis possible. Regarding interest revenue, the petitioners claim that Borusan's customer-specific allocations are insufficient because, as with inland freight and warranty, allocating this revenue on a yearly basis does not properly account for inflation in Turkey. The petitioners request that the Department base freight charges and warranty expenses on adverse facts available by not deducting these expenses from normal value; for interest revenue, the petitioners recommend the highest revenue reported for any customer during the POR.

Borusan responds generally that: (1) its responses to the Department's information requests concerning these expenses were complete; (2) while the Department requested further explanation regarding how Borusan calculated these charges, it never instructed Borusan to recalculate the expenses once Borusan supplied these explanations; and (3) the petitioners have provided no evidence for their assertion that Borusan's methodology with respect to these expenses is distortive.

Regarding inland freight expenses, Borusan cites to its supplemental questionnaire response, wherein the company provides an explanation regarding why it would be extremely burdensome to tie particular freight invoices to particular sales invoices. Borusan argues that its approach is reasonable given the large number of home market sales. In addition, Borusan notes that it based its reporting of freight charges on calendar year 1996, which the company maintains is conservative since, in so doing, it applied an average 1996 charge per ton to POR sales, including those made in 1997. According to Borusan, it is the Department's practice to accept values from the fiscal year that most closely approximates the POR when the POR spans two fiscal years.

Regarding the warranty expense, Borusan states that the Department's supplemental questionnaire focused on inquiring into why Borusan had calculated warranty expenses on a calendar-year basis instead of on a POR basis. Borusan states that it explained in its responses the calculation of warranty on a fiscal year basis is appropriate because it most closely reflects the POR. Borusan adds that, as with inland freight, it is conservative to calculate home market warranty expenses on a calendar-year (1996) basis given the high inflation rate in Turkey.

Finally, regarding interest revenue, Borusan states that, as explained in its supplemental response, it is unable to tie these charges to individual

transactions. Borusan adds that calculating this item on an annual basis is less distortive than a monthly calculation because interest collected in one month generally relates to invoices from a prior month.

DOC Position: We do not agree with the petitioners' claim that, because Borusan's home market inland freight expense, warranty expense, and interest revenue were not reported on a monthly basis, we should base these items on adverse facts available. However, we have determined that Borusan incorrectly reported home market inland freight expenses for certain LOT B sales, because the terms of sale indicate that these expenses were not incurred on such sales. We have not adjusted for inland freight with respect to LOT B sales.

We first address the petitioners' claims regarding monthly versus annual expense allocations. In our supplemental questionnaire, we asked Borusan for further clarification regarding a number of aspects of its reporting of these items, including requests for further descriptions of the allocation methodologies used in calculating the per-unit amounts reported in Borusan's home market sales database. Our questions concerned primarily: (1) the allocation of the inland freight expense to subject versus non-subject merchandise; (2) the feasibility of reporting the inland freight expense on a transaction-specific basis; (3) the direct versus indirect nature of the warranty expense; and (4) the rationale for reporting the warranty expense on a calendar-year, as opposed to POR, basis. *See, e.g.*, questions 34–36, and 39, of the Department's supplemental questionnaire (November 21, 1997). Borusan addressed each of our questions in turn in its supplemental response. *See* Borusan Supplemental Response at 29–33. Borusan's initial questionnaire response also addressed the basis for its reporting of interest revenue using a customer-specific methodology. See Borusan Questionnaire Response for sections B–D (September 8, 1997) (Borusan sections B–D response).

While we requested further information regarding various aspects of Borusan's allocation methodologies, we did not request the company to report these items on a monthly basis in either the initial or the supplemental questionnaire. Given that we did not request that Borusan report these items in this manner, it would be inappropriate to resort to adverse facts available as requested by the petitioners.[4]

However, we did not deduct freight expenses reported in the home market sales listing for LOT B sales, because Borusan has clearly indicated that such sales are made on an FOB-mill basis. Borusan allocated its freight expenses on a reseller-specific basis, allocating total freight expenses across all sales by each reseller, regardless of whether the sale was made at claimed LOT B or at LOT C. In response to our request that it report inland freight expenses on a transaction-specific basis, Borusan explained in its supplemental response (at 30–31) that it was unable to do so due to the large number of transactions involved, and, instead, continued to allocate these expenses across all sales by reseller. Thus, if a reseller made both LOT B and LOT C sales, Borusan reported per-unit freight expenses (Inland Freight, Plant to Distribution Warehouse; Inland Freight, Plant/Warehouse to Customer) for both LOT B and LOT C sales made by that reseller. In providing this explanation, Borusan referred to delivery expenses incurred on ''back-to-back'' sales. However, Borusan has clearly indicated, in a number of places in its questionnaire responses and in its case briefs, that the terms of sale for LOT B sales do not include delivery. *See* Borusan section A response at 13 (describing the delivery process on LOT B sales: ''The customer arranges for the transportation of the merchandise from the mill to the intended destination.''); *see also* Borusan sections B–D response at B–15, regarding terms of delivery for each channel of distribution; *see also* Borusan rebuttal brief at 5: (''LOT B sales involve shipment of the merchandise on an FOB-mill basis directly to the customers without the merchandise entering into the resellers' inventory.'') Although one element of the inland freight from plant to warehouse expense (truck loading expense) is reportedly incurred on all domestic shipments of merchandise produced by one mill (BBBF), Borusan provided no means of isolating this expense from the other inland freight expenses that it did not in fact incur on LOT B sales. Accordingly, for these final results, we have not made a deduction for inland freight expenses with respect to sales made at LOT B.

[4] In the event that future reviews of this order are requested, we will reconsider whether to request certain selling expense information on a monthly basis.

Comment 4: Pre-Sale Warehouse Expenses

The petitioners assert that the Department should deny any adjustment to normal value for Borusan's pre-sale warehouse expenses based on Borusan's failure to quantify these expenses properly. According to the petitioners, Borusan did not take the following actions, as required by the initial questionnaire: (1) Borusan did not list all warehouse locations used to distribute the foreign like product; (2) Borusan did not follow the instructions that it report as pre-sale warehouse expenses direct warehouse expenses only, and that it include indirect expenses for pre-sale warehousing among its reported indirect selling expenses; and (3) Borusan did not describe how the indirect and the direct costs of warehouse operations were separated. The petitioners state that, instead, Borusan simply calculated the reported pre-sale warehouse expense for each reseller by dividing the total warehouse expense incurred during 1996, including indirect expenses, by the total quantity of goods sold out of stock in 1996. In light of these alleged failures to comply with the Department's instructions, the petitioners assert that the Department should deny any deduction to normal value for pre-sale warehouse expenses.

Borusan responds that it properly documented its pre-sale warehouse expenses incurred in connection with home market sales. First, Borusan claims, the Department's policy, pursuant to section 773(a)(6) of the Act, is to make an adjustment to normal value for warehouse expenses, such as these, that are incurred at remote selling locations, citing *Certain Porcelain-on-Steel Cookware From Mexico: Final Results of Administrative Review,* 62 FR 42496 (August 7, 1997) (*Cookware from Mexico*). Borusan adds that its calculation of pre-sale warehouse expenses was prepared according to the methodology that was verified and accepted by the Department during the two most recent reviews. Finally, Borusan states, the Department did not ask in a supplemental questionnaire for additional information regarding Borusan's calculation of pre-sale warehouse expenses and, because the petitioners have provided no evidence to serve as a basis for the denial of an adjustment for Borusan's pre-sale warehouse expenses, the Department should continue to make this adjustment to normal value.

DOC Position: We have accepted as a movement expense the pre-sale warehouse expenses claimed by

Borusan. With respect to the petitioners' concern regarding the listing of warehouse locations, we note that Borusan did provide, in its initial questionnaire response (at Exhibit B–7), a list of locations for warehouses leased by its affiliated resellers. (Borusan incurred this expense for sales involving such leased warehouses but not with respect to warehouses owned by its affiliates.) With respect to the petitioners' concern regarding direct versus indirect warehouse expenses, first, we consider warehousing expenses that are incurred after the foreign like product leaves the original place of shipment as movement expenses. *See* 19 CFR 351.401(e)(2). Second, Borusan properly isolated this expense to only those sales on which it was incurred, *i.e.*, sales of merchandise stored in leased warehouses. Accordingly, we have accepted Borusan's reporting of this expense.

Comment 5: Packing Costs

The petitioners argue that Borusan failed to create a factual record supporting its calculation of packing costs for both the comparison market and the United States market and, therefore, the Department should calculate Borusan's packing costs using adverse facts available.

First, the petitioners claim that sections B and C of the Department's questionnaire instructed Borusan to do the following: (1) Describe the packing types used in the comparison market and those used to prepare merchandise for shipment to the United States; (2) submit worksheets listing the packing materials used, the average cost of each material, how much of each material was used, the average labor hours by packing type and the average per-hour labor cost, including benefits; and, (3) provide a list of overhead expenses incurred in packing and demonstrate how those expenses were allocated by packing type.

Instead, the petitioners argue, Borusan merely stated that: (1) It packs standard pipe for shipment in both the export and the domestic markets by tying bundles of pipes together with metal straps; and, (2) the reported packing cost includes the costs of labor, materials and overhead incurred during each month allocated over the total metric tons packed.

The petitioners argue further that, while section D of the Department's questionnaire requests a complete and detailed description of each stage of the production process, Borusan's description of the packing stage merely states that the pipe is marked and bundled for final shipment. While acknowledging that Borusan lists some packing materials in response to this item, the petitioners maintain that Borusan neglected to explain whether all bundles are packed in the same manner, or to report the quantities and costs of each packing material used. Likewise, the petitioners argue, Borusan failed to provide average labor hours and average labor costs per hour for packing, and provided no explanation for its allocation of packing overhead expenses. Finally, the petitioners challenge Borusan's methodology for allocating packing costs by weight, and insist that packing costs in the pipe industry are largely a function of the number of pieces being packed, not the weight.

For these reasons, the petitioners suggest that, consistent with *Circular Welded Non-Alloy Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 37014, 37020 (July 10, 1997) (*Pipe and Tube from Mexico*), the Department should double the average reported home market packing costs and use that as the U.S. packing cost as adverse facts available.

Borusan responds that the petitioners' arguments are without merit, and maintains that the petitioners have overlooked important information contained in Borusan's response. First, Borusan asserts that varnishing costs are materials costs (and were fully discussed in Borusan's sections B–D response at D–41–42) and not packing costs as argued by the petitioners. Second, Borusan claims that it provided allocation worksheets (at Exhibit D–13) that clearly explain the derivation of the reported per-unit costs for each month of the POR.

With respect to the petitioners' argument that Borusan failed to provide a list of variable overhead expenses incurred in packing, Borusan points out that it reported (at D–8) a list of the packing material used to bundle the pipes for shipment, plus the amount and description of each overhead expense incurred in packing.

Finally, Borusan claims that, while the petitioners objected to Borusan's allocation of packing costs based on weight, they offered no evidence to support a claim that Borusan's allocation methodology is distortive or inaccurate. Instead, Borusan argues, the methodology is reasonable and, furthermore, is consistent with the methodology verified and accepted by the Department during the two most recent reviews.

DOC Position: The petitioners' argument in favor of calculating Borusan's packing costs by use of adverse facts available is essentially two-pronged: (1) That Borusan has failed to act to the best of its ability to provide the complete information requested, and (2) that Borusan's chosen methodology, which allocates packing costs on the basis of weight, instead of pieces, is not reflective of actual practice in the pipe industry.

Regarding the first point, Borusan listed (at D–8) its material inputs by type, including packing materials. Further, Borusan's product brochure (at Exhibit A–27) explains that the merchandise is packaged as ''bare bundles.'' The petitioners have provided no evidence to indicate that Borusan has neglected to report all packing materials by type.

In addition, in response to our questionnaire, Borusan provided (at Exhibits D–13, D–14 and D–15) monthly transformation cost tables for its three production facilities. Borusan also provided (at Exhibits D–21 and D–23, respectively) worksheets illustrating the cost calculations for the highest volume U.S. product and the highest volume home market product. Borusan explained in its questionnaire response (at D–44) that all of the costs used in Exhibits D–13, D–14 and D–15 were taken from data contained in the company's internal monthly ledgers.

Regarding the second point, we note that in *Pipe and Tube From Mexico*, the petitioners' suggested model by which we use adverse facts available to calculate packing costs, the packing costs were calculated on a weight basis, the same methodology challenged as unreliable by the petitioners in this review. Furthermore, our acceptance of Borusan's methodology, which was verified and accepted by the Department in the two most recent reviews, is consistent with prior segments of this proceeding.

Comment 6: Allocation of Domestic Brokerage and Handling on U.S. Sales

The petitioners argue that Borusan should not have reported Turkish lashing charges, customs charges, loading charges, and port fees based on the weight of each U.S. shipment, since such charges are actually incurred on an *ad valorem* basis. The petitioners explain that basing such charges on weight results in a distortion when entries cover merchandise of varying values. Therefore, the petitioners assert, the Department should apply the highest domestic brokerage and handling amount reported for any U.S. transaction to all U.S. sales as facts available.

Borusan responds that the petitioners assertion that brokerage and handling

costs are incurred on an *ad valorem* basis is incorrect. Borusan asserts that a percentage charge contained in Borusan's response, which is cited by the petitioner in support of its claim that these expenses are incurred on an *ad valorem* basis, is in fact simply the value-added-tax rate collected on the customs charges and does not relate to the amount of the customs charges in any way.

DOC Position: The information on the record supports Borusan's position that the brokerage and handling charges, which Borusan reported on a shipment-specific basis, reflect the actual charges incurred by Borusan in connection with its U.S. shipments. *See* Borusan sections B–D response at Exhibit C–5. Therefore, we have not accepted the petitioners' arguments.

Comment 7: Interest Expense Factor

The petitioners make the following comments regarding Borusan's reported interest expense factor. First, they raise a general allocation claim, i.e., that Borusan incorrectly calculated this factor by taking the Borusan Group companies' annual expense amounts and dividing by 12. The petitioners propose that, as in the 1994–95 review, the Department should allocate the annual interest expense reported by Borusan to each month of the POR using the ratio of monthly-to-annual-interest expenses for the four largest of the Borusan Group firms.

Regarding the specific items that comprise Borusan's reported interest expense, the petitioners comment on the calculation of this item in the preliminary results as follows: (1) The Department correctly denied the claim made by Borusan in its supplemental response that foreign exchange losses should be excluded because they are due to inflation; (2) Borusan incorrectly included foreign exchange gains related to sales; (3) Borusan incorrectly amortized foreign exchange losses; and (4) Borusan incorrectly included various income items as offsets to its financial expenses, while improperly excluding a miscellaneous ''other financial expenses'' item. Regarding each of these items, the petitioners also claim that it is not possible to reconcile Borusan's breakout of reported income and expense items with the totals reported in Borusan's financial statements.

The petitioners' primary arguments concerning each of these issues are as follows. With respect to (1), the petitioners state that Borusan's own financial statement treats foreign exchange losses as an expense, not as an inflation adjustment. Regarding (2), while the petitioners acknowledge that gains on financial assets such as cash balances are appropriate offsets to financing costs, they maintain that Borusan has not explained sufficiently why its reported gains are appropriate offsets, particularly in light of the fact that the Department excluded Borusan's foreign exchange gains in the past two reviews (finding that Borusan's reported foreign exchange gains were related to sales, not production operations). Regarding (3), the petitioners state that exchange rate losses should not be amortized but, instead, all period losses should be included in the interest expense factor, and maintain that Borusan has not reported this expense in accordance with its normal books and records. Finally, with respect to (4), the petitioners state that the Department should not allow Borusan's claimed offsets for various categories of interest income (which concern offsets other than the exchange rate gain offset discussed in item 2, above), but should include the ''other financial expenses'' item because Borusan did not explain sufficiently why this should be excluded.

While Borusan does not address the petitioners' general comment that the Department should allocate interest expenses to each month of the POR using the ratio of monthly-to-annual-interest expenses for the four largest of the Borusan Group firms, it does respond to each of the other comments raised by the petitioners.

First, Borusan contends that, as claimed in the supplemental questionnaire, exchange rate losses are caused by inflation and should not be included in interest expense. Second, Borusan states that, consistent with the two most recent reviews, it did not make any offset for exchange gains related to sales. Third, Borusan disagrees with the petitioners' contention that there is no precedent for Borusan's amortization of exchange rate losses on foreign currency debt. In fact, Borusan claims, it is the Department's practice to amortize such translation losses over the life of the loan. Fourth, Borusan disputes the petitioners' suggestion that it did not substantiate its claimed interest income offsets, and maintains that its ''other financial expenses'' item should be excluded because it concerns bank commissions, which are reported in a separate field.

DOC Position: We first note that, consistent with prior segments of this proceeding and with the petitioners' arguments in this segment of the proceeding, we have allocated Borusan's interest expenses to each month of the POR using the ratio of monthly-to-annual-interest expenses for the four largest of the Borusan Group companies. *See 1994–95 Final Results* at 69074.

Regarding the petitioners' comments on the calculation of the interest factor, we agree with the petitioners that exchange losses on foreign currency debt represent a cost of borrowing and, therefore, should be included in the financial expense calculation. *See 1993–94 Final Results* at 51632 (''The Department has clearly established that translation losses on dollar-denominated loans, as reflected in the company's income statement, are appropriately included in the cost of production because they reflect an actual increase in the amount of local currency that will have to be paid to settle these loans.'') We have continued to include such losses in the interest expense calculation.

We disagree, however, with the petitioners' assertion that none of Borusan's reported exchange rate gains should be allowed. Our practice is to include foreign exchange gains as an offset to finance expenses if they are related to the cost of acquiring debt for purposes of financing production operations, and to exclude this item if it relates to sales. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey (Rebar from Turkey),* 62 FR 9737, 9741 (March 4, 1997); *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey,* 61 FR 30309, 30324 (June 14, 1996). In applying this standard in the prior two segments of this proceeding, we did not allow any of Borusan's reported exchange rate gains as an offset, finding that such gains ''were not debt-related, but rather involved export sales activities (*i.e.,* the gains arising from foreign-currency denominated export receivables).'' *1994–95 Final Results* at 69074; *see also 1993–94 Final Results* at 51632 (''In this case, we find that foreign exchange gains are related to sales, not production; therefore, they should not be used as an offset for calculating home market interest expenses.'')

However, unlike prior reviews, in the instant proceeding Borusan has included in its interest expense calculation only those exchange rate gains related to cash balances and inventory, while excluding those related to sales (accounts receivable). *See Borusan sections B–D response* at Exhibit D–20 (separating exchange rate gains ''earned on accounts receivable'' from those earned on ''cash balances and other,'' and demonstrating that these two items equal ''total foreign exchange gains''); *see also Borusan*

supplemental response, Attachment J[5]). Exchange rate gains on cash balances and inventory are short-term in nature and do not constitute a separate investing activity. Accordingly, we have accepted these exchange gains as an offset to finance expenses.

We also disagree with the petitioners' contention that Borusan should not be permitted to amortize its exchange rate losses. For purposes of our analysis, it is appropriate to amortize the foreign exchange losses over the life of the associated debt, since the gain or loss is realized only as the loans are paid. *See, e.g., Rebar from Turkey* at 9743. However, we also disagree with Borusan's proposed weighted-average amortization of the foreign exchange losses. Instead, we have amortized the foreign exchange loss incurred on each loan over the life of the associated loan.

Finally, regarding Borusan's claimed ''other income'' offsets and its rationale for not including its ''other financial expenses'' item, we note the following. First, as a general matter, we disagree with the petitioners' contention that it is not possible to substantiate the breakout of reported income and expense items from the totals reported in the financial statements. In fact, other than an amount called discount on term transactions, Borusan provided a detailed breakdown of the items listed in its financial expense calculation and a brief description of each item included therein. *See* Borusan sections B–D response at D–20.

It is the Department's practice to allow a respondent to offset financial expenses with short-term interest income earned from the general operations of the company. *See, e.g., Timken* v. *United States,* 852 F. Supp. 1040, 1048 (CIT 1994). The Department does not, however, offset interest expense with interest income earned on long-term investments because long-term investment does not relate to current operations. *See Notice of 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, 31991 (June 19, 1995). Therefore, we have included income offsets that Borusan demonstrated were short-term in nature. We note in particular that the largest such offset, Borusan's 'other financial income,' relates to short-term bank interest; the absence of long-term notes receivable on Borusan's financial statements indicates that this amount is from short-term sources. We did not allow one claimed offset, 'discount on term transactions,' for which Borusan failed to explain either the source of the income or the short or long-term nature of the item.

We also agree with Borusan that 'other financial expenses' concern bank commissions, which were reported separately. Accordingly, we have not added such expenses to Borusan's interest expense calculation, as requested by the petitioners.

Comment 8: Purchases From Affiliated Suppliers

The petitioners argue that the Department should revalue the costs of coil and zinc purchased by Borusan's mills (BBBF, Kartal Boru, and Bosas) from affiliated parties. The petitioners state that the following data in Borusan's response indicate below-market pricing of such inputs: (1) BBBF's coil purchases from an affiliated party covered only the cost of production, plus transportation, exclusive of the affiliated party's selling, general and administrative expenses or profit; and (2) proprietary information in Borusan's response (as further described in the Final Results Analysis Memorandum) indicates that Kartal Boru's and Bosas' coil purchases, and BBBF's zinc purchases also were not made at market prices.

Borusan responds that the petitioners' allegation regarding prices paid to suppliers selectively ignores information provided in Borusan's supplemental response that demonstrates that the mills paid market prices for affiliated party coil and zinc inputs. Borusan claims that the petitioners distort the administrative record by characterizing BBBF's coil purchases from its affiliated supplier as 'substantial.'

DOC Position: We consider the inputs in question (coil and zinc) to be major inputs with respect to the production of subject merchandise. Accordingly, we have valued purchases of coil and zinc by Borusan's mills from affiliated parties at the higher of the cost of producing the input, the transfer price, or the market price. *See* section 773(f)(3) of the Act; *see also* 19 CFR 351.407(b). We describe our methodology for doing so in the Final Results Analysis Memorandum.

Comment 9: G&A and Interest Expense

The petitioners argue that the G&A and interest expense factors must be recalculated because the denominator (COGS) includes packing, which, when the factors are applied to COMs exclusive of packing, understates the G&A and interest expense calculations. The petitioners suggest that the Department should add packing to COM to correct the understatement of G&A and interest expenses, citing *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea,* 62 FR 55574, 55581 (October 27, 1997).

Borusan responds that it has used the same methodology in the two most recent reviews and that this methodology was verified and accepted by the Department. Borusan contends that packing represents an insignificant portion of the understatement and is more than offset by applying historical G&A and interest expense factors to replacement costs.

DOC Position: We agree with the petitioners and have added packing to COM when calculating the G&A and interest expenses. Although Borusan asserts that the distortion is negligible, there is still an understatement of these expenses. As for Borusan's claim that we are applying a historical G&A and interest expense factor to replacement costs, both G&A and interest have been adjusted to account for inflation before calculating the G&A and interest expense factors.

Comment 10: Circumstance-of-Sale Adjustment for Imputed Credit

Borusan claims that the Department failed to make a circumstance-of-sale (COS) adjustment to normal value for imputed credit expenses when normal value was based on CV. Borusan argues that, pursuant to section 773(a)(8) of the Act, the Department's well-established practice dictates that it make such an adjustment, citing, *e.g., Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod From Canada,* 63 FR 9182, 9195 (February 24, 1998); *TRB's From Japan* at 2583; *Amended Final Results of Antidumping Duty Administrative Review: Fresh Kiwi Fruit From New Zealand,* 62 FR 47440 (September 9, 1997)).

The petitioners respond that: (1) due to Borusan's failure to quantify the COS adjustment it seeks, no such adjustment is warranted, and (2) if the Department does grant a COS adjustment, such adjustment should be based on a proper calculation of Borusan's net prices. Regarding the adequacy of Borusan's credit calculation, the petitioners claim that Borusan calculated a POR-average home market interest rate, and maintain that Borusan's failure to provide monthly interest rates makes it impossible to properly calculate home market credit expenses for purposes of

[5] The petitioners argue, based on proprietary information, that the information provided in this exhibit is insufficient to allow the Department to change its position from the past two reviews and grant an offset for exchange gains. We address this aspect of the petitioners' argument in the Final Results Analysis Memorandum.

the COS adjustment. The petitioners assert that the various interest rates charged to Borusan during the POR vary widely, and suggest that, due to the high inflation in Turkey, it would be unfair to calculate interest expense on an average basis. Further, the petitioners add, it is the Department's practice to calculate costs on a monthly basis, citing *Pipe and Tube from Mexico* at 37016.

The petitioners argue in the alternative that, if the Department does make the COS adjustment requested by Borusan, imputed home market credit expenses must be based on a proper calculation of Borusan's net prices. Specifically, the petitioners argue, Borusan's calculation of net price does not include a deduction for the quantity rebate granted to certain customers by Borusan, thereby overstating the net price to which the credit expense is applied.

DOC Position: Pursuant to section 773(a)(8) of the Act, a COS adjustment for home market imputed credit expenses should be made when CV is the basis for normal value. We use imputed credit expenses to measure the effect of a specific respondent's selling practices in the United States and in the comparison market. Because Borusan's U.S. sales were export price sales, the adjustment entails adding U.S. imputed credit to the CV, and subtracting home market imputed credit from the CV. Although we added the U.S. imputed credit for the preliminary results, we neglected to deduct the home market imputed credit. We have made this correction for the final results.

We disagree with the petitioners' assertion that, because Borusan did not calculate its home market credit expense using monthly interest rates, we should disallow this adjustment. Borusan calculated this expense on a weighted-average basis, *i.e.*, the total principle times the number of days utilized for each short-term loan. This methodology is consistent with that used in calculating interest for both the 1993–94 and the 1994–95 reviews of this proceeding, and we did not request that Borusan recalculate this expense using monthly interest rates. Under these facts, it would be inappropriate to deny this adjustment.

We also disagree that a deduction for the quantity rebate, as proposed by the petitioners, is appropriate, because the quantity rebate is not part of the opportunity cost of the use of money in each sale. Instead, the quantity rebate is given after payment has been made by Borusan's customer.

Final Results of Review

As a result of our review, we determine that the following margin exists for the period May 1, 1996, through April 30, 1997:

Manufacturer/exporter	Margin (percent)
The Borusan Group	0.02

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. As discussed above, because the number of transactions involved in this review and other simplification methods prevent entry-by-entry assessments, we have calculated importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales. We will direct Customs to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period.[6] While the Department is aware that the entered value of the reviewed sales is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered 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 of these final results of administrative review, as provided by section 751(a) of the Act: (1) the cash deposit rate for Borusan will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in these final results of review or in the most recent final results in which that manufacturer participated; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 14.74 percent, the all others rate established in the less-than-fair-value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as final reminder to importers of their responsibility 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 in the subsequent assessment of double antidumping duties.

This notice also is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

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

Dated: June 18, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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[6] We note that, in the preliminary results, we erroneously indicated that if the assessment rates that we calculated for the final results were *de minimis*, we would not instruct Customs to assess duties. However, section 353.6 (b) of our regulations requires the assessment of duties for any importer-specific assessment rates greater than zero. Accordingly, we have not disregarded *de minimis* rates for assessment purposes.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of proposed boundary expansion for the Padilla Bay National Estuarine Research Reserve.

SUMMARY: The Sanctuaries and Reserves Division of OCRM is considering a requesting by the Washington State Department of Ecology to include the 92