the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List.

Meals Operations Rations Commercial (MORC) Kits

Morc Kits

8790–01-E59–0239A
8790–01-E59–0240A
8790–01-E59–0241A
8790–01-E59–0242A
8790–01-E59–0243A
8790–01-E59–0244A

Infantry Kits

8790–01-E59–0239B
8790–01-E59–0240B
8790–01-E59–0241B
8790–01-E59–0242B
8790–01-E59–0243B
8790–01-E59–0244B

Supplemental Kits For Sandwiches

8790–01-E59–0239C
8790–01-E59–0240C
8790–01-E59–0241C
8790–01-E59–0242C

Variety Pack

8790–01-E59–0239D

(100% of the requirement of the Kansas National Guard)

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–30574 Filed 11–13–98; 8:45 am]

BILLING CODE 6353–01–P

CENSUS MONITORING BOARD

U.S. Census Monitoring Board; Public Meeting

AGENCY: U.S. Census Monitoring Board.

ACTION: Notice of public hearing.

SUMMARY: This notice, in compliance with Pub. L. 105–119, sets forth the meeting date, time and place for a public meeting of the U.S. Census Monitoring Board. The meeting agenda will include a review of the U.S. Census Bureau's planning and preparation for the 2000 Census.

DATES: Monday, November 23, 1998.

TIME: 12 P.M. to 4 P.M.

LOCATION: Federal Building #3, Suitland Federal Center Suitland, Maryland.

FOR FURTHER INFORMATION CONTACT: Contact Estela B. Mendoza, Communications Director (Presidential Members), U.S. Census Monitoring Board, Phone (301) 457–9903, or Michael Miguel, Communications Director (Congressionally Appointed Members), U.S. Census Monitoring Board, Phone (301) 457–5080.

Mark R. Johnson,

Executive Director.

[FR Doc. 98–30606 Filed 11–13–98; 8:45 am]

BILLING CODE 1179–00–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1003]

Grant of Authority; Establishment of a Foreign-Trade Zone, Gregg County, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, Gregg County, Texas (the Grantee), has made application to the Board (FTZ Docket 75–97) requesting the establishment of a foreign-trade zone at the Gregg County Airport, Gregg County, Texas, adjacent to the Shreveport-Bossier City, Louisiana, Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (62 FR 54821, 10/22/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report and finds that the requirements of the Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 234, at the site described in the application, subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 4th day of November 1998.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

ATTEST:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–30567 Filed 11–13–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–028]

Roller Chain, Other Than Bicycle From Japan: Final Results and Partial Recission of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review

SUMMARY: On May 8, 1998, the Department of Commerce (the Department) published the preliminary results and partial recission of the administrative review of the antidumping duty order on roller chain, other than bicycle, from Japan. This review covers fourteen manufacturers/exporters/resellers of roller chain from Japan during the period April 1, 1996, through March 31, 1997.

Based on our analysis of the comments received and the correction of certain clerical errors, we have changed our results from those presented in our preliminary results as described below in the ''*Changes From the Preliminary Results*'' section of this notice. The final results are listed below in the section ''*Final Results of Review*.''

EFFECTIVE DATE: November 16, 1998.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Cameron Werker, AD/CVD Enforcement, Group II, Office Four, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–6320 and (202) 482–3874, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act)

by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR Part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27926 (May 19, 1997)) (''Final Regulations''), do not govern this administrative review, citations to these regulations are provided, where appropriate, as a statement of current Departmental practice.

Background

On May 8, 1998, the Department published its preliminary results of review, Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Roller Chain, Other than Bicycle, from Japan, 63 FR 25450 (RC 96–97 Preliminary Results), of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9926, April 12, 1973).

We gave interested parties an opportunity to comment on the preliminary results. We received comments from: (1) Daido Kogyo Company Ltd. (DK); (2) Izumi Chain Mfg. Company Ltd., (Izumi); (3) Pulton Chain Company Inc. (Pulton); (4) R.K. Excel Company Ltd. (RK);

(5) Kaga Chain Manufacturer (Kaga); (6) Oriental Chain Company (OCM); (7) Sugiyama Chain Company, Ltd. (Sugiyama); and (8) Tsubakimoto Chain Co./U.S.-Tsubaki (Tsubakimoto), (collectively, the respondents), and the petitioner (the American Chain Association (ACA)), on July 2, 1998.

On July 13, 1998, the same parties submitted rebuttal comments. We received additional comments and rebuttal comments on September 1, 1998, and September 9, 1998, respectively, from Izumi, Sugiyama, Tsubakimoto, the petitioner, and from an interested party, Jeffrey Chain Company (Jeffrey Chain). We held a hearing on September 24, 1998, to give interested parties the opportunity to express their views directly to the Department. A segment of this hearing was closed to the public in order to protect certain proprietary information. Based on our analysis of the comments received and the correction of certain clerical and computer programming errors, we have made changes from the preliminary results, as described below in ''Changes From the Preliminary Results'' and ''Interested Party Comments'' section of this notice. The final results are listed below in the section ''Final Results of Review.'' The Department has now completed this administrative review in accordance with Section 751(a) of the Act.

Scope of the Review

The merchandise subject to this review is roller chain, other than bicycle, from Japan. The term ''roller chain, other than bicycle,'' as used in this review, includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmissions and/or conveyance. This chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain. This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7315.11.00 through 7619.90.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

On March 24, 1998, the Department determined that certain models of silent timing chain produced and exported by Kaga for use in automobiles are outside the scope of the antidumping finding. (See Final Scope Ruling: Kaga's Request for Scope Ruling on Automotive Silent Timing Chain, March 24, 1998 on file in room B–099 of the Main Commerce Building).

Verification

As provided in section 782(i) of the Act, on July 6, 1998, the Department conducted a partial verification, at the Department in Washington, D.C., of the differences in merchandise (DIFMER) information provided by Sugiyama. We used standard verification procedures, including examination of relevant accounting, sales, and other financial records containing relevant information. Our verification results are outlined in the verification report on file in the Central Records Unit (CRU) in room B–099 of the main Commerce building, (see Memorandum to Holly Kuga from the Team, Regarding the ''Verification of the Cost of Manufacture and Variable Cost of Manufacture Questionnaire Responses of Roller Chain, Other than Bicycle, from Japan—Sugiyama Chain Co., Ltd.,—Administrative Review, 1996–1997,'' dated August 13, 1998 (Sugiyama Verification Report)).

Partial Rescission of Review

In our preliminary results, we determined that during the period of review (POR), Peer Chain Co., (Peer) made no shipments of subject merchandise to the United States. We confirmed with the United States Customs Service (Customs) that Peer did not have entries of subject roller chain during the POR. Therefore, we rescinded this review with respect to Peer.

Hitachi Metals Techno, Ltd. (HMTL) is affiliated with a roller chain producer subject to this annual review. During this POR, HMTL and HMTL/Hitachi Maxco, Ltd., made no shipments of roller chain to the United States. We confirmed with Customs that HMTL and HMTL/Hitachi Maxco, Ltd., did not have entries of subject roller chain during the POR. Consequently the issue of a separate review rate for HMTL and HMTL/Hitachi Maxco, Ltd., is moot and we rescinded the review for this reason with respect to these parties.

In addition, we determined in our preliminary results that we did not have a basis to consider Daido Tsusho (DT), Nissho Iwai Corporation (NIC) and Alloy Tool Steel Inc. (ATSI) for separate rates in this review and rescinded the reviews for these entities. See RC 96–97 Preliminary Results at 25451.

Changes From the Preliminary Results

We calculated export price (EP), constructed export price (CEP), and normal value (NV) based on the same methodology used in the preliminary results with the exceptions discussed below. Where applicable, we have cited to the relevant interested party comment; otherwise, we address these changes further in the company-specific final analysis memoranda on file in the CRU.

1. We modified the model match methodology with regard to matching similar merchandise. See the Department Position to Model Match Comment 1, below.

2. With respect to DK, we have made a CEP-offset adjustment to NV in our calculations and have corrected one clerical error. See the Department Position to DK Comments 1 and 2 below.

3. We have corrected for a programming error for RK which overstated the quantity and understated

the price of RK's chain sold in kits in the United States.

4. We have determined that the use of facts otherwise available is warranted for Sugiyama and Kaga.

Facts Available (FA)

In accordance with section 776(a) of the Act, we have determined that the use of adverse facts available is warranted for Izumi, Kaga, OCM, Pulton, and Sugiyama for these final results of review.

1. Application of FA

Section 776(a) 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 or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e), facts otherwise available in reaching the applicable determination. In this review, as described in detail below, the above-referenced companies failed to provide the necessary information in the form and manner requested, and, in some instances, the submitted information could not be verified. Thus, pursuant to section 776(a) of the Act, the Department is required to apply, subject to section 782(d), facts otherwise available.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Pursuant to section 782(e) of the Act, notwithstanding the Department's determination that the submitted information is ''deficient'' under section 782(d) of the Act, the Department shall not decline to consider such information if all of the following requirements are satisfied: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

2. Selection of Facts Available

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review, 62 FR 53808, 53819–20 (Oct. 16, 1997) (Pipe and Tubes From Thailand).

A. Total FA

Sugiyama

1. Application of FA

In accordance with section 782(d) of the Act, on August 15, 1997, December 30, 1997, and January 19, 1998, the Department issued supplemental questionnaires to Sugiyama, addressing multiple deficiencies in its questionnaire responses. In addition, Department officials met with Sugiyama's counsel to discuss these deficiencies and how they could be cured. See Memorandum to the File from Cameron Werker (February 6, 1998) on file in the CRU. However, as we discuss below, the information submitted by Sugiyama in its supplemental questionnaire responses continued to be inadequate and/or inappropriate for use in our margin analysis.

In the preliminary results, the Department excluded from its margin calculations home market sales submitted by Sugiyama after the deadline for submission of factual information, and determined to apply adverse FA to those U.S. transactions where the NV relied in whole or in part on the untimely submitted sales. At that point, we explained that we would address the appropriateness of including these untimely sales in our margin analysis in the final results. See RC 96–97 Preliminary Results at 25456. We further found that Sugiyama had failed to cooperate to the best of its ability, and determined that, in selecting among the FA to apply to the sales in question, an adverse inference was warranted. We consequently assigned, as adverse FA, the rate of 42.48 percent that was calculated for Kaga in the preliminary results. Id.

Following the preliminary determination, on June 8, 1998, we met with Sugiyama's counsel, who informed us of additional deficiencies in the company's questionnaire responses. Specifically, Sugiyama's counsel informed the Department that: (1) the company failed to report key information regarding certain affiliated reseller relationships; (2) the company failed to report any home market sales of chain purchased from other manufacturers subject to this review, and resold in the home market; (3) the company does not maintain and, therefore, was unable to report standard or product costs; and (4) Sugiyama reported estimated model-specific overhead, material usage, and labor cost allocations based on the company's ''experience,'' rather than supporting documentation. For a detailed discussion of these deficiencies, see Memorandum to the File from Jack K. Dulberger Regarding ''Meeting with Representatives of Sugiyama Chain Company, Ltd., Regarding the 1996–97 Administrative Review of Roller Chain, Other Than Bicycle, from Japan'' (June 17, 1998) on file in the CRU.

Given the potentially significant impact of these data deficiencies on our margin analysis, we decided to conduct a limited verification of Sugiyama's reported DIFMER information (variable and fixed cost of manufacturing data). The purpose of this partial verification was to ascertain the reliability of the DIFMER response, so that the Department would be able to decide whether to proceed with regular verification of Sugiyama's facilities in Japan. We conducted this verification on July 6, 1998, in Washington, D.C., and concluded that Sugiyama was unable to demonstrate the reliability and completeness of its cost data. Taking into account the fact that the unreliable DIFMER data affected a significant portion of total U.S. sales, we were unable to ascertain what portion of U.S. sales would be affected by the unreported affiliations and unreported home market sales, and other known deficiencies in the response, we determined to cancel the scheduled verification of Sugiyama in Japan. For a more detailed discussion of our verification findings, *see* the Sugiyama Verification Report.

We further determined that Sugiyama failed to satisfy the five requirements enunciated by section 782(e) of the Act. First, a significant portion of the company's home market sales was untimely submitted. Second, because Sugiyama lacked necessary documentation to support its reported costs (*see* Summary of Results of the Partial-Verification section in the Memorandum to Maria Harris Tildon from Holy Kuga Regarding ''Determination of FA Based on Unreliable and/or Deficient Data for

Sugiyama'' (August 14, 1998) (Sugiyama FA Memorandum) on file in the CRU), a substantial portion of its response data could not be verified. Third, because over 40 percent of the company's home market sales were untimely submitted, additional home market sales were not reported at all, and Sugiyama failed to disclose in its questionnaire responses relevant information regarding certain corporate affiliations, the information is so incomplete that it cannot serve as a reliable basis for reaching the applicable determination. Fourth, Sugiyama did not demonstrate that it acted to the best of its ability in providing the necessary information. As explained above, and as detailed in the Sugiyama FA Memorandum, after the November 17 deadline established for submission of new factual information in this review, Sugiyama continued to submit partial corrections to its timely submitted data and to the untimely submitted home market affiliated sales information that it provided to the Department for the first time on January 27, 1998. Finally, even if Sugiyama's submissions contained complete and accurate information, the Department would not be able to use it without undue difficulty in light of the magnitude of the submitted corrections and clarifications.

For the reasons stated above, the application of section 782(e) of the Act does not overcome section 776(a)'s direction to use facts otherwise available for Sugiyama's submissions. We have thus concluded that a determination predicated upon total FA is warranted in this case.

2. Selection of FA. As discussed above, we found significant problems with Sugiyama's submissions. Although we addressed the company's deficiencies with respect to the home market sales database in several supplemental questionnaires, Sugiyama failed to report a significant portion of its home market sales. Specifically, Sugiyama originally reported that one of its affiliated home market resellers had sales to two customers in the home market during the POR. However, in its revised database submitted in January 1998, Sugiyama included previously unreported sales by that reseller to multiple additional customers. After careful review of this submission, we discovered that Sugiyama had increased its home market sales database by more than 40 percent. *See RC 1996–1997 Preliminary Results* at 25456. Moreover, following the preliminary results, Sugiyama disclosed additional reporting problems, including its failure to report key information regarding company affiliations, which precluded the Department from conducting an arms-length test, or from determining what percentage of U.S. sales was affected by this omission without admitting new information from Sugiyama. As described in detail in the Sugiyama FA Memorandum, during the partial-verification in Washington, D.C., we found that much of Sugiyama's cost data was not verifiable. The company's cost allocations were estimates based on Sugiyama's ''experience,'' rather than supporting documentation, and were not representative of POR costs. Accordingly, because Sugiyama did not act to the best of its ability to comply with the request for information, under section 776(b) an adverse inference is warranted. However, because the company substantially cooperated throughout the course of this review, we are resorting to FA that are less adverse to the interests of Sugiyama. *See, e.g., Fresh Cut Flowers from Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53287, 53291–53292 (Oct. 14, 1997) (*Fresh Cut Flowers—Colombia 1997*). As FA, we have applied the rate of 12.68 percent, the margin calculated for another respondent in the 1990–1991 administrative review of this proceeding. This rate is a significant increase from the company's current cash deposit rate and thus is sufficiently adverse to induce cooperation by Sugiyama in future reviews of this proceeding.

Kaga

1. Application of FA. In accordance with section 782(d) of the Act, the Department provided Kaga with the opportunity to explain its deficiencies in our supplemental questionnaires of October 31, 1997, and March 25, 1998. Although Kaga responded to our supplemental requests for information, the information provided was deficient. On April 1, 1998, we received a call from counsel for Kaga, who stated that in responding to our March 25, 1998, request for information regarding missing values, other errors had been discovered. We instructed Kaga to submit revised sales tapes for the U.S. and home market by April 6, 1998, and cautioned Kaga that we would not grant any other extensions to correct for data errors. At the same time, we informed Kaga that if we found errors or had difficulty in using the data on the revised tapes, we may proceed with our determination based on FA. However, in letters submitted on April 28, and April 29, 1998, Kaga admitted that its sales tapes submitted on April 6, 1998, in response to our March 25, 1998, request for information were rife with incorrect price and expense data. Moreover, following the preliminary results, in its letter of June 30, 1998, and in its July 2, 1998, case brief, Kaga disclosed programming errors affecting all CEP sales and an undetermined number of EP sales, and reported conversion and coding errors affecting an undetermined number of U.S. and home market sales. As stated above, the Department issued multiple information requests providing Kaga ample opportunities to cure its deficiencies. Given that Kaga failed to provide the necessary information in the form and manner requested, even after being provided several opportunities to cure these deficiencies, the Department is required, under section 782(d), to apply, subject to section 782(e), facts otherwise available.

We further determine that Kaga failed to satisfy several of the requirements enunciated by section 782(e) of the Act. First, a significant portion of the company's U.S. and home market sales data was untimely submitted. Second, Kaga's information is so incomplete that it cannot serve as a reliable basis for reaching the applicable determination pursuant to subsection (e)(3), since the reported programming errors affect all CEP sales and an undetermined number of EP sales. Further, no information exists on the record regarding the number of U.S. and home market gross unit prices which are incorrect due to Kaga's miscalculations in converting gross unit prices from a per-link to a per-foot basis. In addition, no information exists on the record regarding the number of models of conveyor chain which were incorrectly coded as industrial chain by Kaga. Third, Kaga did not demonstrate that it acted to the best of its ability in providing the necessary information under subsection (e)(4). As noted above, Kaga failed to provide the necessary information even after the Department issued multiple supplemental questionnaires providing Kaga ample opportunity to cure its deficiencies. Fourth, to attempt to correct all of the errors in Kaga's responses would be unduly burdensome on the Department. Thus, even if the Department attempted to correct the responses, given the numerous errors in Kaga's information on the record, the information could be used without undue difficulties, as required by subsection (e)(5).

For the reasons stated above, the application of section 782(e) of the Act does not overcome section 776(a)'s direction to use facts otherwise available for Kaga's submissions. Thus, the use of facts available is warranted in this case.

2. Selection of FA

As discussed above, we found significant problems with Kaga's submissions. Although the Department provided Kaga with the opportunity to explain its deficiencies in our supplemental questionnaires of October 31, 1997, and March 25, 1998, the information provided was deficient. In a submission dated April 28, 1998, Kaga stated that it had discovered inadvertent and previously undisclosed errors. Kaga reported that, as a result of a programming error, home market packing and indirect selling expenses were not calculated properly. For U.S. sales, Kaga stated that the price for two chain models were reported incorrectly. Further, Kaga reported that, as a result of programming errors, the reported U.S. packing and commission values were incorrect. It also noted that the reported indirect selling expenses for both EP customers were incorrect. For the CEP customer, Kaga stated that brokerage, date of sale, sales invoice date, date of shipment, and date of receipt of payment were not reported as requested in the Department's questionnaire. On April 29, 1998, Kaga submitted a letter stating that it had found an additional error in the U.S. sales data base. Kaga stated that due to this programming error, the amount reported for U.S. inland freight from warehouse to one EP customer was incorrect.

In its July 2, 1998, case brief, Kaga reiterated that it had discovered two programming errors in the data processing. According to Kaga, the first error was that only a single character was allowed to the left of the decimal for U.S. gross unit price, resulting in an understatement of Kaga's U.S. sales prices. This, Kaga noted, affected sales to one EP customer and all CEP sales. The second error, affecting only CEP sales, according to Kaga, occurred in its computer submission of January 22, 1998 when in the data processing the prices from Kaga's affiliated importer to its unaffiliated U.S. customers were mistakenly deleted and, instead, used the transfer prices from Kaga to its affiliated importer were used.

In addition, Kaga stated that it found three other errors by the company itself. First, it reported that it miscalculated the per-foot gross unit prices for ''several of its chains'' when converting from a per-link basis for the Department. Second, Kaga noted that it ''mistakenly coded several models of conveyor chain . . . as industrial chain.'' Third, Kaga stated that it included an invoice in the home market sales data which represents an adjustment in price to a pre-existing sale, and that any observation associated with this invoice should be deleted from the home market data base.

As the record evidence demonstrates, despite numerous opportunities, Kaga continued to provide erroneous data, the magnitude of which prevented the Department from using Kaga's information in the margin calculations. We thus find that Kaga did not act to the best of its ability to comply with the request for information under section 776(b) and that, under section 776(b), an adverse inference is warranted. However, because Kaga made an effort to comply throughout the course of this review, we are resorting to facts available that are less adverse to the interests of Kaga. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod From Germany, 63 FR 8953, 8955 (February 23, 1998); and Fresh Cut Flowers-Colombia 1997. Therefore, we have assigned Kaga an adverse FA rate of 12.68 percent (the rate calculated for another respondent in the 1990–1991 review of this proceeding). This rate is a significant increase from the company's current cash deposit rate and is thus sufficiently adverse to induce cooperation by Kaga in future reviews of this proceeding. For a detailed discussion of this issue see the Memorandum From Tom Futtner, Acting Director, AD/CVD Enforcement, Group II, Office 4, to Holly A. Kuga, Acting Deputy Assistant Secretary, Import Administration regarding ''Antidumping Duty Administrative Review: Roller Chain, Other than Bicycle, from Japan (1996–1997)—Determination of Facts Available for Kaga Industries, Co., Ltd.'' (November 4, 1998), on file in the CRU.

OCM. For purposes of the preliminary results, the Department concluded that OCM failed verification and that the determination based on the total adverse FA was warranted for this company. We, accordingly, assigned OCM an adverse FA rate of 17.57 percent and articulated detailed reasons for our decision in the RC 96–97 Preliminary Results and the Memorandum from the Senior Director, AD/CVD Enforcement, Group II, Office 4, to the Acting Deputy Assistant Secretary, Import Administration, regarding ''Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle from Japan (1996–1997): Determination of Facts Available Based on Results of Verification of Oriental Chain Manufacturing Co., Ltd.'' (April 30, 1998) (OCM FA Memorandum), on file in the CRU. For the final results, we have reexamined our verification results and considered the interested party comments (see the Department Position to OCM Comments 1 through 13). We continue to find that OCM did not act to the best of its ability in responding to the Department's questionnaire, however, as we explained in the preliminary results, because OCM made substantial efforts to cooperate throughout the course of this review, we are resorting to FA that are less adverse to the interests of the company. Therefore, we are assigning OCM an adverse FA rate of 12.68 percent, which constitutes a rate calculated for another respondent in a previous review and is a significant increase from OCM's current cash deposit rate and is thus sufficiently adverse to induce cooperation in future segments of this proceeding.

Pulton. For purposes of the preliminary results, the Department concluded that, because Pulton refused to permit verification, a determination based on the total adverse FA was warranted for this company. We, accordingly, assigned an adverse FA rate and articulated detailed reasons for our decision in RC 96–97 Preliminary Results and the Memorandum from the Senior Director, AD/CVD Enforcement, Group II, Office 4, to the Acting Deputy Assistant Secretary, Import Administration, regarding ''Application of Total Facts Available to Pulton Chain Company, Ltd., (Pulton) in the Administrative Review of Roller Chain, Other than Bicycle from Japan (Roller Chain) Covering the POR: April 1, 1996 through March 31, 1997'' (April 30, 1998), on file in the CRU. For the final results, we have considered the interested party comments (see the Department Position to Pulton Comments 1 and 2), and continue to find that Pulton's refusal to permit the Department to verify the information in this review demonstrates that it failed to cooperate by not acting to the best of its ability. Thus, consistent with the Department's practice in cases where a respondent withdraws its participation in a proceeding, in selecting FA for Pulton in this review, an adverse inference is warranted. Therefore, we are assigning Pulton an adverse FA rate of 17.57 percent, which constitutes a rate calculated for another respondent in a previous review.

Izumi. For purposes of the preliminary results, the Department concluded that Izumi failed verification and that a determination based on the total adverse FA was warranted for this company.

We, accordingly, assigned Izumi an adverse FA rate of 17.57 percent and articulated detailed reasons for our decision in the RC 96–97 Preliminary Results and the Memorandum from the Senior Director, AD/CVD Enforcement, Group II, Office 4, to the Acting Deputy Assistant Secretary, Import Administration, regarding ''Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle from Japan (1996–1997): Determination of Facts Available Based on Results of Verification of Izumi Chain Manufacturing Co., Ltd.''(April 30, 1998) (Izumi FA Memorandum), on file in the CRU. For the final results, we have reexamined our verification results and considered the interested party comments (see the Department Position to Izumi Comment 1). However, as we explained in the preliminary results, because Izumi made substantial efforts to cooperate throughout the course of this review, we are resorting to FA that are less adverse to the interests of the company. Therefore, we are assigning Izumi an adverse FA rate of 12.68 percent, which constitutes a rate calculated for another respondent in a previous review.

B. Partial FA for DK and Enuma Chain Manufacturing Company (Enuma)

For purposes of the preliminary results, the Department concluded that because DK and Enuma failed to report DIFMER and/or constructed value (CV) data, an adverse FA was warranted for all unmatched DK and Enuma sales. We, accordingly, assigned DK and Enuma an FA rate of 42.48 percent for any unmatched sales and articulated detailed reasons for our decision in the *RC 96–97 Preliminary Results* and the Memorandum from the Senior Director, AD/CVD Enforcement, Group II, Office 4, to the Acting Deputy Assistant Secretary, Import Administration, regarding ''Application of Partial Facts Available for Certain U.S. Sales of Roller Chain Manufactured by Daido Kogyo Co., Ltd., and Enuma Chain Manufacturing Co., Ltd., and Kaga Industries Co., Ltd.'' (April 30, 1998), on file in the CRU. For the final results, we find that the 42.48 percent calculated rate for Kaga in the preliminary results is not valid. *See* the discussion on FA for Kaga, above. However, since these two respondents refused to provide this information, we are continuing to assign DK and Enuma an adverse FA rate based on the highest rate from the proceeding which has not been invalidated. For purposes of the final results, that rate changed from 42.48 percent to 17.57 percent.

3. Corroboration of Information Used as Facts Available

Section 776(b) of the Act authorizes the Department to use as adverse FA information derived from the petition, the final determination from the less than fair value (LTFV) investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is described in the Statement of Administrative Action (SAA) (at 870) as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.''

The SAA further provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870). Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is an administrative determination. Thus, in an administrative review, if the Department chooses as total adverse FA a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin from that time period (*i.e.*, the Department can normally be satisfied that the information has probative value and that it has complied with the corroboration requirements of section 776(c) of the Act). *See, e.g., Elemental Sulphur from Canada: Preliminary Results of Antidumping Duty Administrative Review,* 62 FR at 971 (January 7, 1997) and *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom* 62 FR 2801 (January 15, 1997) (*AFBs 1997*).

As to the relevance of the margin used for adverse FA, the Department stated in *Tapered Roller Bearings from Japan; Final Results of Antidumping Duty Administrative Review* 62 FR 47454 (September 9, 1997) that it will consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse [FA], the Department will disregard the margin and determine an appropriate margin. *See also Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review,* 60 FR 49567 (September 26, 1995). We have determined that there is no evidence on the record of the 1987–1988 or 1990–1991 administrative reviews, where we calculated the 17.57 and 12.68 percent rates, respectively, which would indicate that the 17.57 or 12.68 percent rates are irrelevant or inappropriate as adverse FA rates for certain respondents in the instant review. Therefore, we have applied, as FA, the 17.57 and 12.68 percent margins from prior administrative reviews of this finding.

Interested Party Comments

We gave interested parties an opportunity to comment on the preliminary results. As noted above, we received comments and rebuttal comments from the petitioner and nine of the respondents and rebuttal comments from one other domestic interested party.

General Issues

Model Match

Comment 1: Sugiyama argues that the Department should modify its model match methodology to take account of the fundamentally different physical characteristics, uses, and manufacturing processes between plated and unplated chain. According to Sugiyama, these differences are reflected in significant cost and price disparities. Sugiyama claims that the Department's preliminary model match methodology ignores these differences, and by matching expensive plated chain to unplated chain, significantly distorts the dumping margin.

RK states that, in the preliminary results, the Department erred in matching U.S. sales of a certain model of chain with home market sales of several different models of chain. RK notes that section 771(16)(B) and (C) of the Act authorize the Department to match U.S. sales of subject merchandise with sales in the comparison market of ''similar merchandise,'' namely, merchandise that is either ''like that merchandise [sold in the United States] in component material or materials and in the purpose for which used, and approximately equal in commercial value to that merchandise,'' or merchandise that is of the ''same general class or kind'' as the subject merchandise, used for a like purpose, and which can ''reasonably be

compared'' with the product sold in the United States. According to RK, in creating an effective model match methodology to identify ''similar'' products, the Department must consider the specific facts and circumstances regarding the product(s) under review and must base the model match system on commercially significant physical characteristics of the subject merchandise (*i.e.,* physical characteristics that affect the commercial value and sales price of the product(s) under review).

Further, RK argues that the Department has a statutory duty to compare products that are the most similar so that the resulting dumping calculations will be as accurate and reliable as possible. RK concludes that both the statute and the Department's model matching decisions in other cases establish the principle that it is inappropriate and unreasonable for the Department to make comparisons between products with important physical differences that directly affect commercial value. Thus, RK contends that it would be unreasonable for the Department to match sales of certain chain models where the models differ fundamentally in terms of their components and materials, their purposes and uses, and their respective commercial values. Accordingly, RK recommends that the Department adjust its model match methodology (1) to account for different types of seals (*e.g,* O-ring versus XW-ring), (2) to account for different types of materials, and (3) to ensure that the model match system does not permit matches across chain type or material.

RK further recommends that the Department adjust its model match methodology to prevent matches across pitch length because almost all parties, including the petitioner, have stated on the record that it is inappropriate to match chains across pitch length. In addition, RK requests that the Department adjust its model match methodology to reflect the consensus of all parties to this review, including the petitioner, that models of chain that differ in terms of certain key characteristics, such as material, finish, and number of strands, should never be considered ''identical'' or ''similar'' merchandise for purposes of model-match in this proceeding.

Kaga contends that the Department's preliminary model match methodology does not result in identical or reasonably similar home market matches based on physical characteristics, commercial value, purposes for which used and other factors which the Department is required by statute to analyze. Kaga argues that by potentially allowing one model match characteristic to determine foreign like product, the Department's methodology essentially relies on the DIFMER test (*i.e.,* the test to determine if the difference in variable costs of manufacturing is greater than 20 percent of the total cost of manufacturing of the U.S. product) to eliminate inappropriate matches.

Kaga maintains that the DIFMER test should be used in conjunction with a model match methodology, which first attempts to eliminate the matching of models which are dissimilar in components, commercial value and the purposes for which they are used. Kaga states that, once merchandise has been determined to be sufficiently similar, the DIFMER test should be applied to eliminate matches that may appear similar based only on an analysis of physical characteristics, commercial value and purpose for which the products are used, as required by the statute. Kaga argues that, because different types of chain (*i.e.*, industrial, motorcycle, leaf, silent timing, and conveyor chain) have very different characteristics, components, uses and commercial value, they should not be matched to each other. Kaga states that pitch is one of the most basic measures of roller chain, noting that virtually all parties, including the petitioner, have agreed that the Department should not cross pitch for model match purposes. Kaga further argues that the Department should not match chain that differ in terms of number of strands and number of attachments. Kaga asserts that chain with different numbers of strands differ in both physical characteristics and uses, and that the presence of attachments distinguishes attachment chain from non-attachment chain in terms of components, purpose for which it is used and commercial value. In addition, Kaga urges that, for the final results, the Department not match sidebow (sidebar) chain to standard roller chain for the final results. Kaga explains that standard roller chain cannot be used in an application which requires sidebow chain because it does not have the necessary flexibility.

More specifically, Kaga contends that the Department matched two models of chain that have two critical distinctions, which render them significantly different from each other. Kaga maintains that one chain is a coupling specifically designed for use with a sprocket, which has additional parts not found on the other chain. According to Kaga, these special features are not captured in the reported VCOM of the product, but do result in increased cost and thus increased price. Moreover, Kaga argues that it sold such a small amount of the chain coupling that it cannot reasonably be considered to have been sold ''in the ordinary course of trade.''

Finally, Kaga asserts that the Department's model match criteria do not meet the statutory definition of identical merchandise because there are certain physical characteristics which are not accounted for in the Department's matching criteria. Kaga cites ''F'' series chain as an example, and claims that although ''F'' series chain is identical to standard chain with the exception of a straight contour side plate, this is a significant physical difference. Thus, Kaga recommends that, in the final results, the Department use the CONNUMs developed by Kaga that take into account these differences. Kaga concludes that in cases where all 18 physical characteristics match, the Department should apply the DIFMER test and make a DIFMER adjustment if the VCOM of the home market and U.S. model are not the same.

The petitioner also urges the Department to consider refining its model match methodology. However, the petitioner recommends that this modification should closely parallel the three-tier approach set out in the antidumping statute. According to the petitioner, the Department should first seek to determine whether a particular U.S. sale can be matched with a contemporaneous sale of an identical product (based on the Department's 18 characteristics) in the comparison market. The petitioner believes that the Department's approach with regard to matching identical merchandise satisfies the statutory criteria set out in section 771(16)(A) of the Act and should be retained.

If such identical matches do not exist, the petitioner next recommends that the Department make a ''similar merchandise'' match under section 771(16)(B) of the Act. Under this test, the merchandise must be identical with respect to the first five elements (type, number of strands, material, finish, and pitch) of the Department's model match criteria in order to be considered similar merchandise. According to petitioner, if these five criteria match, the program should then select the most similar model through examination of the remaining 13 product characteristics. If such a match cannot be made, the petitioner notes that the Department should then seek to make a match under the general ''class or kind'' standard set out in section 771(16)(C) of the Act.

Under this rung of comparison, the petitioner maintains that the

Department should institute a test for ''class or kind'' of merchandise under section 771(16)(C) of the Act to determine which models share the greatest number of the first five of the model match characteristics. The petitioner states that, where two or more home market models share the same number of characteristics (out of the first five), the program should select the most similar product through examination of the remaining 13 criteria, and then calculate an average VCOM if multiple models share the same overall number of characteristics. The petitioner argues that this is in accordance with section 771(16)(C) of the Act, which provides that if the Department is satisfied that a particular home market model is (i) ''produced in the same country and by the same person and of the same general class or kind'' as the model sold in the United States, and (ii) ''like'' that model ''in the purposes for which used,'' then it may be used as a comparison model provided the Department determines that the chain products ''may be reasonably compared.''

In response to Sugiyama's request that the Department match plated chain only to other plated chain and unplated chain only to other unplated chain, the petitioner states that it would not object to the proposed refinement of the Department's model match methodology, provided that (1) it can be accomplished by resort to verifiable information that is already on the record in this review; and (2) it is applied to all respondents. The petitioner believes that the five elements listed above are the most important for determining matches and does not agree with RK that seal type should be added to the five basic model matching criteria or used to create unique chain types. According to the petitioner, under its recommended refinements to the model match methodology, the models that RK is concerned about would not be matched to each other because they differ in one or more of the first five elements.

Further, the petitioner disagrees with Kaga's claim that there are certain physical characteristics that are not accounted for in the Department's model match criteria. According to the petitioner, Kaga's one example is not so significant as to justify an abandonment of the Department's model match criteria. Moreover, the petitioner notes that minor physical differences can easily be taken into account by comparing the VCOMs of the home market and U.S. models and making a DIFMER adjustment, where warranted.

The petitioner notes that section 771(16)(C) of the Act requires that the foreign like product need only be ''of the same general class or kind as the subject merchandise.'' Moreover, the petitioner points out that it need not share similar ''component material or materials'' with the U.S. model nor does the comparison model need to be ''approximately equal in commercial value'' to the U.S. model. In short, the petitioner concludes that section 771(16)(C) of the Act imposes a reasonableness test. Namely, the Department must be accorded some degree of flexibility when determining whether two roller chain models ''may reasonably be compared.'' Thus, the petitioner does not agree with Kaga and RK that chain which differ with respect to one or more of the first five model match criteria can never be used for comparison purposes.

The petitioner asserts that there appears to be no dispute that all of the comparison models questioned by RK and Kaga satisfy the third criterion of the definition, namely, that they were produced in Japan by the same companies that manufactured the U.S. models and are clearly all part of the same general class or kind of merchandise. Moreover, the petitioner contends that, contrary to RK and Kaga's arguments, the comparison chain models are clearly put to uses which are ''like'' those of the U.S. models, and emphasizes that the uses in question need only be similar in nature and not identical.

Department Position: We agree in part with RK, Kaga, Sugiyama and the petitioner. Based on our analysis of the written comments submitted to the Department since the preliminary results in this proceeding, we find that the model match methodology used in our preliminary results should be modified with regard to identifying similar merchandise. To continue to rely on the model match methodology used in our preliminary results would, in some cases, yield inappropriate results; namely, it would group physically diverse chain that has vastly different uses and different commercial values together as similar merchandise.

For purposes of calculating NV, section 771(16) of the Act defines ''foreign like product'' as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. *See* section 771(16) (A) (B) and (C); *see* also 19 CFR 351.411(a). Where there are no identical products sold in the home or other foreign markets, the Department will identify, by employing an appropriate product matching methodology, the product sold in the foreign market that is most similar to the product sold in the United States. Because the antidumping statute does not detail the methodology that must be used in determining what constitutes ''similar'' merchandise, the Department has broad discretion, implicitly delegated to it by Congress, to apply an appropriate model match methodology to determine which home market models are properly comparable with U.S. models under the statute. *See, e.g., Koyo Seiko Co., Ltd, et al.* v. *United States,* 66 F.3d 1204 (Fed. Cir. 1995). The Courts will uphold the Department's model match methodology as long as it is reasonable. *See, e.g., AK Steel Corporation, et al.* v. *United States,* Slip Op. 97–152, Court No. 96–05–01312 (CIT 1997) (*AK Steel*); *NTN Bearing Corp. of America, et al.* v. *United States,* 924 F. Supp. 200 (CIT 1996); *SKF USA Inc., et al.* v. *United States,* 876 F. Supp. 275 (CIT 1995).

In this case, in identifying which physical characteristics should be given the most weight in our determination of appropriate product comparisons, we considered comments from all parties, based upon which we then developed a product matching methodology predicated upon 18 physical characteristics, as outlined in our supplemental questionnaire of December 19, 1997. According to our revised methodology, we attempted to match U.S. sales to contemporaneous sales of identical products in the home market using these 18 product characteristics. Where all 18 product characteristics matched, we considered U.S. and home market models to be identical. Where we found no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product (models which shared the greatest number of physical characteristics with the models sold in the United States). Further, we made a DIFMER adjustment to the home market sales price to account for the actual physical differences between the products sold in the United States and the home market. In those instances, where there were no sales of identical or similar merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the CV of the product sold in the U.S. market during the comparison period. *See RC 96–97 Preliminary Results* at 25457.

For the final results of this review, we conclude, based on the interested parties' comments, that our model match methodology should be further modified. As explained by Sugiyama, RK and Kaga, relying on the above model match methodology would match

chain so physically diverse that they could not be used in similar functions and have different commercial values.

Accordingly, we have amended our matching methodology as follows: roller chain models will be considered ''identical'' if they match with regard to all 18 characteristics; roller chain models will be considered ''similar'' for purposes of model matching only if they share all of the first six characteristics, as outlined in our supplemental questionnaire of December 19, 1997. Based on the comments of respondents and petitioner in this and previous reviews, we have concluded that the following six criteria must be identical for merchandise to be considered similar: (1) type of chain; (2) number of strands; (3) material; (4) finish; (5) pitch; and (6) type of seal. We will then select the most ''similar'' model through a hierarchical ranking of the remaining 12 product characteristics based on the order in which they are incorporated into the CONNUM. We find that this modification to our model matching methodology will yield more accurate results and minimize the effects of potential distortions to our calculations. *See AK Steel* at 42 (the CIT upheld the Department's departure from the original model match methodology, where the facts relied upon by the Department were clearly articulated and were rationally connected to its choice). Although the petitioner does not agree that type of seal should be one of the six criteria, we have concluded based on the comments of respondents (RK, DK, and Enuma) that type of seal is a distinguishing characteristic and an important differentiating feature between types of motorcycle chain.

With respect to RK's comment that the Department should not match specific models of chain, we note that under our modified model match methodology, these chains would no longer be considered similar for model match purposes. Further, with respect to the company-specific model match comments made by Kaga and Sugiyama, we note that the Department's decision to apply total FA to these parties renders their comments moot. *See* the Facts Available Section above.

Comment 2: Sugiyama states that where more than one home market product is considered ''equally similar'' to the U.S. product being analyzed, the Department's computer program randomly selected a single home market match. According to Sugiyama, the Department should correct the programming language to include all equally similar home market products in the product comparison.

Responding to Sugiyama's error allegation, the petitioner points out that Sugiyama was the only respondent to raise this issue. The petitioner states that it was unable to determine whether this alleged error actually occurred. The petitioner takes the position that, if the Department determines that such an error in fact occurred, it agrees that the Department should revise its program for the final results. However, the petitioner insists that any program correction be written by the Department itself.

Department Position: We disagree with Sugiyama's allegation that the Department's preliminary model match program randomly selected a home market match where more than one home market product was considered ''equally similar'' to the U.S. product being analyzed. On the contrary, an analysis of the Department's model match program shows that where there was more than one possible home market match, the program selected the ''most similar'' contemporaneous home market match.

Company-Specific Issues

DK

Comment 1: DK asserts that the Department erred in finding no difference in the LOT between DK's home market and U.S. sales and asserts that it is entitled to a CEP offset. First, DK claims that the Department incorrectly identified the stage of marketing of CEP sales. Second, DK argues that even conceding this stage of marketing definition, the Department was incorrect in finding that sales to DK's unaffiliated home market customers and sales to Daido Corporation (Daido Corp.) (DK's affiliated U.S. sales subsidiary) were at the same stage in the marketing process. Third, DK asserts that the Department's quantitative and qualitative analysis of selling activities in the home and U.S. markets is in error.

With regard to the first issue, DK argues that the term CEP is defined in section 772(b) of the Act to mean the price after all costs have been deducted back to the factory door. Citing *Sorenson* v. *Secretary of the Treasury*, 475 U.S. 851, 860, 106 S.Ct. 1600, 1606, 80 L.Ed. 2d 855 (1986), DK argues that in designating the CEP LOT to be the sale between the exporter and the U.S. importer, the Department disregarded ''[t]he normal rule of statutory construction [which] assumes that 'identical words used in different parts of the same Act are intended to have the same meaning.'''

DK argues that based on this statutory definition, the Department should not have designated the CEP LOT as the level of the constructed sale from the exporter to the importer. Nevertheless, assuming that the CEP LOT is at the level of the constructed sale from the exporter to the importer, DK argues that the CEP sales and home market sales to unaffiliated customers are still not at the same stage in the marketing process.

Citing *Dynamic Random Access Memory Semiconductors of one Megabit or Above From the Republic of Korea; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent not to Revoke Order*, 63 FR 11411, 11415 (March 9, 1998)/(*DRAMs Preliminary 96–97)* and Dynamic Random Access Memory Semiconductors of one Megabit or Above From the Republic of Korea; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent not to Revoke Order, 62 FR 12794, 12798 (March 18, 1997) (*DRAMs Preliminary 95–96*), DK contends that sales to unaffiliated home market customers and to affiliated U.S. importers are at different stages in the marketing process because there is a significant difference in the ''nature'' of the commercial activities associated with home market sales and with CEP sales. In addition, DK argues, the home market sales occur in a ''competitive environment,'' while the affiliated U.S. importer sales are made in a ''non-competitive environment'' with a corresponding lower level of commercial activity. DK further asserts that Daido Corp., a national distributor in the United States, and DK, a national distributor in Japan, ''play exactly the same roles'' in their respective markets such that sales to Daido Corp. cannot be at the same stage of marketing as sales to unaffiliated home market customers. DK concludes that not only is the Department's finding here in error, but that the marketing stage for sales to Daido Corp. is less advanced than that for sales to home market customers.

As to a comparison between the selling functions, DK claims that the Department incorrectly disregarded significant quantitative and qualitative differences between the selling functions performed in Japan for home market sales and those performed in Japan for CEP sales. Quantitatively, DK argues that only three of the selling functions overlap between home market sales and sales to Daido Corp. DK does not specify the three it is alluding to.

In addition, DK refutes the Department's assertion that advertising and technical services are negligible items since DK did not claim them as

selling expenses. DK notes that it did not claim either item as a direct selling expense, however it did claim advertising expenses as one of the categories in indirect selling expenses. With regard to technical services, DK contends that although there is no accounting categorization for technical services, they nevertheless occur and are accounted for in the costs of salaries for local sales office personnel and engineers.

DK further argues that the Department incorrectly ignored significant qualitative differences between home market sales and sales to Daido Corp. in three areas: developing and maintaining a customer base, maintaining inventory, and maintaining local sales offices. DK argues that these areas demonstrate qualitatively different selling functions for home market sales and CEP sales.

In particular, DK argues that since it, DT, and Daido Corp. are all affiliated with one another, deal in large quantities, and employ electronic ordering, DK need make only a limited effort in maintaining a customer base. Moreover, its records maintenance and collections activities are negligible. DK contends that this differs with the records maintenance and collections activities it carries out for its more numerous home market customers. DK further argues that while it maintains significant inventories for servicing the needs of home market customers, such as the need to rapidly ship a model to a customer, neither DK nor DT (DK's affiliated Japanese trading company) maintain such inventory for sales to Daido Corp., rather they sell only on a made-to-order basis. DK asserts that neither it nor DT maintain inventory for CEP sales. Moreover, DT does not act as an independent distributor by buying chain for its own account, holding inventory, and selling therefrom. Since DT does not own a warehouse, it arranges for freight forwarders to merely hold merchandise at the port while waiting for DK to complete manufacturing of an entire order. Finally, DK asserts that developing and maintaining home market customers and maintaining local offices ''are at the heart of'' doing business in the home market. DK argues that, by contrast, it and DT make ''almost no effort'' in these activities with respect to Daido Corp. because of the latter's ''captive customer'' status.

DK concludes that it has demonstrated a difference in LOT in the two markets and that the LOT of CEP sales is at a less advanced stage than the LOT of home market sales. However, since data is unavailable to show a consistent level of price differences in the home market at different levels of trade, it is entitled to a CEP offset in lieu of a LOT adjustment.

The petitioner agrees with the Department's preliminary results finding that DK is not entitled to a LOT adjustment or a CEP offset. First, the petitioner disagrees with DK's argument that its CEP and home market transaction are at different levels of trade. Specifically, the petitioner states that once U.S. selling expenses and U.S. profit are deducted from the CEP, the sale is at the same LOT as DT's EP price sales.

Moreover, citing prior roller chain reviews, the petitioner asserts that DK's proposed definition of the starting point for comparing CEP and home market transactions as at the ''factory door'' was previously rejected by the Department. (*See Final Results of Antidumping Administrative Review, and Determination not to Revoke in Part: Roller Chain, other than Bicycle, from Japan*, 62 FR 60472, 60479–80 (November 10, 1997) (*Roller Chain 95–96); and Notice of Final Results of Antidumping Administrative Review, and Determination not to Revoke in Part: Roller Chain, other than Bicycle, from Japan*, 62 FR 64322, 64325–26 (December 4, 1996) (*Roller Chain 94–95*). Furthermore, the petitioner cites *Borden Inc.* v. *United States*, (Consolidated Court No. 96–08–01970, Slip. Op. 98–36, 1998 Ct. Intl. Trade, at 66 (March 26, 1998) (*Borden*), to demonstrate that this position has been upheld by the CIT. Specifically, the petitioner points out that regarding the Department's antidumping regulations, the court found that a CEP offset adjustment based on a ''factory door'' approach would be ''distortive'' because it would lead to an ''automatic CEP offset.''

The petitioner also disagrees with DK's argument that the commercial environment for its CEP sales was significantly different than the one for home market sales, necessarily resulting in differing selling activities associated with each type of sale. Further, the petitioner notes that DK did not specifically challenge the Department's finding that no substantive differences appeared between the selling activities performed by DK and DT for EP and CEP sales. In support of the Department's conclusions, the petitioner notes that in the home market, Daido Corp. sells directly to OEMs and through various distributors while for U.S. sales, DT sells directly to OEMs and through DK's U.S. distributor, thus the sales seem to be made at parallel levels of trade.

The petitioner also contends that there is a possibility that the inventory maintained by DK in Japan for its home market customers could easily be used to fill orders for Daido Corp., although the petitioner offers no specific evidence regarding its concern. In addition, the petitioner disagrees with DK that significant differences existed between the selling activities it performed for sales in the two markets.

Finally, the petitioner points out that the Department found that three of the selling activities performed for home market sales were nominal in nature. With respect to four of the six remaining selling activities discussed by Department (inventory/warehousing, preparing chain for shipment, bill collection, and record maintenance), the petitioner contests DK's distinction between the activities performed for home market and those performed for U.S. sales as ''merely differences in degree and not in kind.'' As far as maintaining a customer base in Japan, the petitioner notes that DK did expend additional resources for this activity. Nevertheless, notwithstanding the differences in the latter category, the petitioner concludes that the Department's analysis that sales in the two markets were not made at different LOTs is clearly substantiated by the evidence on the record of this review, and is consistent with the Department's finding for this respondent in the two most recent prior segments of this proceeding.

Department Position: Based on our analysis of the record information, for these final results, we find that a LOT difference exists between DK's U.S. CEP sales and its home market sales.

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or the CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value, that of the sales from which we derive selling, general and administrative expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997) (*Carbon Steel Plate*). The statute and the SAA clearly support analyzing the LOT of CEP sales at the level of the constructed sale to the U.S. importer—that is, the level after

expenses associated with economic activities in the United States have been deducted pursuant to section 772(d) of the Act. The Department has clearly adopted this interpretation in previous cases. *See e.g., Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea; Final Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review and Notice of Determination Not to Revoke Order*, 63 FR 50867, 50872 (September 23, 1998) (*DRAMs Final Results 96–97); see also Notice of Final Determination of Sales at Less Than Fair Value; Static Random Access Memory Semiconductors From the Republic of Korea*, 63 FR 8945 (February 23, 1998) (*SRAMs 1996*). We note that DK, in the hearing, conceded the correctness of the Department's designation of CEP LOT as at the level of the constructed sale from the exporter to the importer. *See* Hearing Transcript, (October 2, 1998) at 49.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

Customer categories such as distributors, retailers, or end-users are commonly used by petitioners or respondents to describe different LOTs, but, without substantiation, they are insufficient to establish that a claimed LOT is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed LOTs.

Our analysis of the marketing process in both the home market and United States begins with goods being sold by the producer and extends to the sale to the final user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States, the respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and the United States, including selling functions, class of customer, and the extent and level of selling expenses for each claimed LOT.

Unless we find that there are different selling functions for sales to the U.S. and home market sales, we will not determine that there are separate LOTs. Different LOTs necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the LOTs. Differences in LOTs are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

If the comparison-market sale is at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See e.g., Carbon Steel Plate* at 61732.

In the questionnaire the Department issued to DK and the other respondents, we requested that they provide information about their channels of distribution in the home and U.S. markets, including selling activities performed and classes of customer. Specifically, we requested information about the following nine types of selling activities: (1) developing and maintaining customers; (2) maintaining inventory; (3) preparing chain for shipment; (4) maintaining customer records; (5) collecting bills; (6) maintaining local offices; (7) technical assistance; (8) advertising; and (9) ''other activities'' (to which DK responded with information regarding liability insurance).

DK sells to two types of customers in the home market (*i.e.*, OEMs and distributors). We found that there was one LOT in the home market—direct sales of roller chain from DK to the unaffiliated home market customers.

DK sales in the U.S. market are made exclusively through its affiliated trading company, DT, who either sells directly to two types of unaffiliated U.S. customers (*i.e.*, OEMs and distributors), or to Daido Corp., DK's U.S. subsidiary. We have designated the former as EP sales because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of the record. We have designated the sales through Daido Corp. as CEP sales because the first sale to an unaffiliated purchaser in the United States was made by Daido Corp. after importation.

We first compared the home market sales to the EP sales, including the selling functions performed for each. We initially note that the structure of the two distribution systems appears very similar in that both DK and DT sell directly to OEMs and distributors. Moreover, we note that there are not substantial differences in selling activities. For home market sales, DK performs the following nine types of selling activities: developing and maintaining customers; maintaining inventory; preparing chain for shipment; maintaining customer records; collecting bills; maintaining local offices; technical assistance; advertising; and providing liability insurance. Based on a careful review of the record evidence, we found that DK/DT performed the following five selling activities for EP sales: developing and maintaining customers, preparing chain for shipment, maintaining customer records, collecting bills, and advertising. Although more selling activities were performed in the home market, we concluded from the overlap that there were not significant differences in selling activities performed in the home and EP markets. Consequently, based on all of the above, we consider home market sales and EP sales to be at the same LOT.

We then compared the U.S. EP sales to the CEP sales. As noted above, EP sales are to two classes of customers while DK makes all of its CEP sales through DT, an affiliated trading company. DT, in turn, resells the merchandise to Daido Corp., its affiliated U.S. sales subsidiary. Daido Corp. then makes CEP sales to unaffiliated customers in the United States (*i.e.*, OEMs and distributors). These differ from EP sales, where DT sells directly to unaffiliated customers, in that DT makes all of its CEP sales through Daido Corp., an affiliated U.S. subsidiary. Thus, because the EP sales are made directly to the OEMs and distributors, while the CEP sales are to Daido Corp. who then sells to OEMs and distributors, we find that the EP and CEP sales appear to be made at different points in the chain of distribution.

Since we have determined that EP and CEP are at different LOTs, we next examined whether the CEP and home market sales were at the same LOT. For purposes of our analysis, we examined information regarding the distribution systems for CEP and home markets sales, including the quantitative and qualitative aspects of the selling functions, the classes of customer, and the selling expenses for each of the companies described above.

Based on our analysis of the record evidence, we have found that DK's CEP and home market transactions are at different stages in the marketing process

and thus at different LOTs. As we noted above, on the home market side, DK sells directly to OEMs and distributors. However, CEP sales go through Daido Corp. to OEMs and distributors in the United States. Therefore, sales to Daido Corp. appear to be at an earlier point in the chain of distribution than DK home market sales to OEMs and distributors.

We then compared the selling functions performed for home market sales and for CEP sales and we found that at the level of the constructed sale from the exporter (DT) to the importer (Daido Corp.), only three selling activities overlap between home market and CEP sales: preparing chain for shipment; maintaining customer records; and collecting bills.

Further, we found that DK performs several selling activities for home market sales not performed by DK/DT for CEP sales. Chief among these are maintaining inventory; maintaining local offices; and developing and maintaining customers. With regard to the first of these items, we note that DK maintains an inventory of finished chain at its home market warehouse which enables it to ship a model to a home market customer within one or two days from receipt of order. In contrast, DT does not maintain a warehouse in Japan for purposes of maintaining an inventory for U.S. sales. Rather, Daido Corp. in the United States maintains an inventory for such sales. Since DT ships to Daido Corp. from the port only when a complete shipment is available, it arranges for freight forwarders to hold the merchandise (DT does not own a warehouse) at the port while waiting for DK to complete manufacturing of an entire order. This is clearly different from maintaining inventory for servicing the needs of home market customers. This distinction is similar to and consistent with prior treatment of such activity. *See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube From Turkey*, 63 FR 35190, 35192–93 (June 29, 1998) (*Steel Pipe and Tube 1998*), where we found two levels of trade in the home market based, in significant part, on the differences in the area inventory maintenance and inventory-related selling activities. In *Steel Pipe and Tube 1998*, one group of affiliated resellers did not take merchandise into inventory prior to sale (merchandise was stocked at the production mill prior to direct shipment to the resellers' customers), while another group of affiliated resellers made sales to customers from inventory that the resellers maintained at their locations. The Department found that the latter group had ''the responsibility of storing merchandise before purchasers have been found.'' *Steel Pipe and Tube 1998* at 35193. The Department further noted that inventory maintenance gave rise to additional selling functions performed by resellers in this LOT (*i.e.*, forecasting, planning, ordering, incurring inventory carrying costs, and delivery-related functions) which were not performed by the resellers who did not maintain inventory. The Department further found that ''inventory maintenance is a principal selling function that distinguishes these levels [of trade].'' *Id.*

In summary, DK has clearly described its process in the CEP market as temporarily stockpiling or staging roller chain at its freight forwarders' facilities at the port, which we find to be different from maintaining inventory for servicing the needs of home market customers, in that in maintaining a warehouse inventory, orders can be filled immediately. However, U.S. sales cannot be filled immediately from the port of export. Rather, the U.S. customer must wait until full shiploads are accumulated and transported to the United States.

Although the petitioner argues that inventory maintained by DK in Japan for home market customers could be used to fill CEP sales, we note that DK's questionnaire responses consistently describe how for CEP sales, DK and DT operate as previously described. We note that DK has clearly explained how it stages merchandise from DK's factory at the port until the full order is available, and then consolidates all merchandise consolidated into a single shipment for Daido Corp. We find nothing in the record contradicting this description.

With respect to the remaining activities for home market sales, developing and maintaining home market customers and maintaining local offices, we note that DK/DT do not perform any such activities for CEP sales.

Finally, as to the two home market selling activities we discussed as negligible in our preliminary results, DK clarified the extent to which these selling activities—advertising and technical services—were performed for home market customers. DK pointed out that its engineering and sales office personnel provide technical assistance, including design services, to home market customers. In addition, DK claimed advertising expenses as one of the categories of its indirect selling expenses. In comparison, we find that these selling activities were performed for home market but not for CEP sales.

Based on our analysis of the record evidence, we conclude that there are significant differences between the selling functions performed in Japan for home market sales and those performed in Japan for CEP sales.

The Department considers the totality of the circumstances in evaluating whether qualitatively and quantitatively different selling functions are performed for purchasers at different places in the chain of distribution. *See Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod From Canada*, 63 FR 9182, 9193 (February 24, 1998). The record evidence in this review indicates that there are significant quantitative and qualitative differences in the selling activities performed by DK and DT/DK for sales in the home market and CEP sales to the United States. This finding supports our conclusion that the home market and CEP sales occur at different stages of marketing and thus at different LOTs.

In addition, based on the above analysis, we determined that DK sold the subject merchandise during the POR at a LOT in the home market which was more advanced than the LOT of the CEP sales of subject merchandise in the United States. Since we found that DK has a single LOT in the home market, we cannot quantify the difference in prices at two (or more) home market LOTs. Consequently, we do not have the data necessary to make a LOT adjustment for DK. Therefore, we have made a CEP-offset adjustment to NV in our calculations for DK pursuant to section 773(a)(7)(B) of the Act. We have made no adjustment for purposes of comparisons to EP sales since we have determined home market and EP sales to be at the same LOT.

Comment 2: The petitioner states that the Department failed to deduct international freight and packing expenses for DK's CEP sales. Specifically, DK reported international freight expenses and U.S. packing expenses under the variable names ''INFRTDKY'' and ''DKPACKU,'' respectively. According to the petitioner, the Department, however, used different variable names in calculating CEP. The petitioner requests that the Department revise its program for the final results. We received no comment on this issue from DK.

Department Position: We agree with the petitioner and have corrected these adjustments in our calculations for the final results.

Sugiyama

Comment 1: Sugiyama argues that, for the final results, the Department should calculate a margin for Sugiyama based

on all verifiable data, including the sales information submitted to the Department after the questionnaire responses were due. Sugiyama claims that this untimely submitted information was nonetheless verifiable and, thus, it provides the Department with a reasonable basis for actual margin analysis. Sugiyama explains that the information was untimely submitted because the company was dependent on receiving certain sales data from its shareholder, over whom Sugiyama had no control. Therefore, according to the company, the untimeliness factor is not an indication of Sugiyama's failure to cooperate. Sugiyama concludes that the Department should accept this information instead of applying adverse FA.

Notwithstanding Sugiyama's assertion that the Department should use its information, Sugiyama further argues that, if the Department determines to use FA in this situation, the Department must be guided by the standard articulated by the CIT in *Borden*, where the Court rejected the Department's use of adverse FA, despite the fact that the respondent in that case provided less than ideal information to the Department. Thus, according to the company, applying adverse FA to Sugiyama in this review would be inappropriate in light of the *Borden* decision.

The petitioner notes that the Department conducted a partial verification of Sugiyama in Washington, D.C. on July 6, 1998, and conditioned its undertaking a full verification in Japan on Sugiyama's successful partial verification. The petitioner takes the position that Sugiyama's responses, unless successfully verified, should be rejected by the Department.

Department Position: We disagree with Sugiyama. As we explained in detail in the ''Application of Facts Available'' section of this notice, as well as in the Sugiyama Verification and FA Memoranda, the record amply demonstrates that the information provided by Sugiyama during the course of this proceeding was deficient, untimely and unverifiable. Thus, sections 776(a)(2) (A), (B), and (D) of the Act mandate that the Department reject Sugiyama's responses and apply total FA. Moreover, Sugiyama has no basis to complain about a lack of opportunities to cure its deficiencies under section 782(d) of the Act. As the record demonstrates, the Department issued several supplemental questionnaires, held numerous meetings with the counsel, and even conducted an atypical ''mini-verification'' procedure to provide Sugiyama with the final opportunity to prove that its information was complete and reliable.

Furthermore, Sugiyama misinterprets the CIT's *Borden* decision. Decided on a specific set of facts, the Court in *Borden* held that the Department did not abuse its discretion by applying total FA to the respondent who submitted untimely and deficient data. The Court was concerned, however, that the Department prematurely concluded that adverse inference was warranted in applying FA, where the Department did not make an additional finding that the respondent had failed to act to the best of its ability. *See Borden,* Slip Op. at 74–76. Thus, in light of the Department's findings with respect to Sugiyama's submissions (*see* the Sugiyama Verification Report and the Sugiyama FA Memoranda), the decision to apply total FA is entirely consistent with *Borden*. The issue of drawing an adverse inference in applying FA to Sugiyama, the proper focus of the *Borden* decision, is addressed in the Facts Available section, above.

Comment 2: With respect to the Department's decision to cancel the verification in Japan, Sugiyama claims that it devoted much time and many resources to prepare for the verification, and was fully organized to host the Department's verifiers. Sugiyama asserts that it brought to the Department's attention DIFMER issues in advance of the verification, as soon as the company discovered these errors during the preparation for verification. Although Sugiyama acknowledges that certain aspects of its DIFMER methodology were problematic, and that the Department has discretion to decide upon its appropriateness, the company disagrees that these issues justified the cancellation of the entire verification.

Elaborating on the DIFMER problems contained in Sugiyama's responses, the company disagrees that 43 percent of its U.S. sales are affected by the rejected DIFMER data. Rather, Sugiyama points out, assuming that certain alleged programming errors and home market sales omissions are corrected by the Department, only 11 percent, by quantity, of U.S. sales are affected. Sugiyama maintains that the Department's action in declining to verify Sugiyama was unnecessary and urges the Department to accept as verified all information it submitted and to use that information in calculating a dumping margin for Sugiyama.

Sugiyama next proposes the following alternatives that the Department should consider in dealing with the company's DIFMER deficiencies: (1) calculate a margin for all sales with identical matches, and apply the resulting margin to the similar match sales as a ''surrogate'' for DIFMER; (2) calculate a margin for all sales with identical matches, and simply omit the DIFMER adjustment in calculating the margin for U.S. sales with similar matches; (3) calculate a margin for all sales with identical matches, but apply the DIFMER only where it would increase the NV; (4) calculate a margin for all sales, applying the maximum DIFMER of 20 percent to all sales with similar matches, in accordance with *Gray Portland Cement from Mexico,* 63 FR 12764, 12779 (March 16, 1998); or (5) apply only a partial FA rate to all U.S. sales with similar matches. Sugiyama points out that the last option would be consistent with the Department's decision in this review to apply partial FA for non-identical merchandise to two respondents (DK and Enuma), who refused to provide the DIFMER information as requested by the Department. If the Department selects this last option, Sugiyama proposes that the Department apply a less adverse rate of 17.57 percent from the preliminary results.

Department Position: We disagree with Sugiyama's argument that our cancellation of a full verification was unnecessary. As the petitioner noted (*see* comment 1, above), the Department conditioned its undertaking a full verification of Sugiyama in Japan on the success of the partial verification conducted in Washington. For the reasons discussed in the ''*Facts Available*'' section above, Sugiyama's partial verification was not successful. Therefore, it was appropriate for the Department not to conduct the full verification in Japan.

Furthermore, as discussed in the ''*Facts Available*'' section, above, the Department has determined that the information provided by Sugiyama is unreliable and inadequate for the purpose of calculating a margin for the final determination. Because we concluded that Sugiyama failed to provide its responses to the Department's questionnaire in the form and manner requested, and some of these responses were untimely, section 776(a) requires the Department to use facts otherwise available with respect to Sugiyama.

Comment 3: Assuming that the Department maintains its decision enunciated in the August 14, 1998, FA Memorandum, to apply total FA to Sugiyama, the company argues that, consistent with *Fresh Cut Flowers—Colombia 1997,* the Department should select a non-adverse FA rate normally applied to ''cooperative'' respondents. Sugiyama claims that an adverse rate is

designed to provide an incentive for unwilling or unmotivated respondents to cooperate with the Department's request for information, rather than to punish for methodological errors made by actively participating respondents, such as Sugiyama.

Sugiyama further explains that its efforts to respond to the Department's requests, although ''imperfect,'' demonstrate that the company acted to the best of its ability and that it did not knowingly withhold information. Sugiyama claims that it undertook major efforts to prepare responses, including thousands of hours of data collection and preparation, even though the company had not been involved in antidumping proceedings in recent years, and thus did not have in place systems designed to readily collect the information requested by the Department.

Sugiyama asserts that the application of the 42.48 percent adverse FA rate from the preliminary results would force the company to shut down and end its participation entirely. Sugiyama contends that the cooperative FA rate that was used in the preliminary results for other companies who, like Sugiyama, acted to the best of their ability to cooperate, would adequately serve to carry out the FA policy without forcing the company into insolvency.

Jeffrey Chain, a U.S. producer and importer of roller chain, joins Sugiyama in its efforts to persuade the Department to apply a less adverse FA rate that would recognize Sugiyama's participatory efforts in this proceeding. Jeffrey Chain argues that the Department's decision should take into account the fact that Sugiyama substantially cooperated in this review. Thus, according to Jeffrey Chain, the rate selected by the Department should be consistent with the rates applied to other cooperative respondents in this review, and one which encourages cooperative behavior from future respondents in the proceeding. Jeffrey Chain notes that, under section 776 of the Act, the Department must distinguish between respondents who comply with the Department's requests for information, and those who refuse to comply, to generally encourage respondents' participation and cooperation.

Jeffrey Chain reminds the Department that Sugiyama prepared numerous questionnaire responses and was prepared for the Department's verification, thereby manifesting ''substantial compliance'' with the Department's requests for information. Moreover, Jeffrey Chain contends that the record does not demonstrate that Sugiyama did not cooperate fully with, or refused to provide information to, the Department. Jeffrey Chain concludes that, in light of Sugiyama's relatively low margins in past segments of the proceeding, a less adverse FA rate used for other cooperative respondents in the preliminary results would be sufficiently adverse to ensure Sugiyama's future participation and prevent it from benefitting from its failure to submit certain information in the current segment.

The petitioner supports the Department's decision expressed in the August 14, 1998, Memorandum to apply total FA to Sugiyama. However, the petitioner acknowledges that Sugiyama substantially cooperated with the Department in this review. The petitioner suggests that the Department is in a ''unique position'' to evaluate whether Sugiyama acted to the best of its ability, a decision which the petitioner defers to the Department. Were the Department to determine for the final results that Sugiyama, in fact, substantially cooperated in the review, the petitioner claims it would support a less adverse FA rate of 17.57 percent.

Department Position: We disagree, for the reasons discussed in the Facts Available section above, with Sugiyama's arguments that it acted to the best of its ability, and find that an adverse inference is warranted for Sugiyama for these final results of review. Because we have determined that the 42.48 percent rate calculated for Kaga for the preliminary results of this review is no longer valid (*see* the Department Position to Pulton Comment 2, below), it is not necessary to address the company's arguments regarding the merits of this rate. However, we have considered Sugiyama's efforts, throughout the course of this review, to comply with the Department's requests for information and, accordingly, assigned to Sugiyama a less adverse FA rate of 12.68 percent. As noted previously, this rate is a significant increase from the company's current cash deposit rate and thus is sufficiently adverse to induce cooperation by Sugiyama in future reviews of this proceeding.

Comment 4: Sugiyama made several comments regarding LOT, calculation of DIFMER, its related resellers' cutting cost, discounts, and FA for one particular sale with a date of sale prior to the POR.

Department Position: We note that the Department's decision to apply total FA for Sugiyama for the final results renders these comments moot.

RK

Comment 1: RK states that in the preliminary results, the Department made a programming error that substantially overstated the quantity and substantially understated the price of RK's motorcycle chain sold in kits in the United States. RK argues that for the final results, the Department should make minor adjustments in programming language so that the amount and price of chain sold in the United States in kits are calculated accurately.

The petitioner agrees with RK that the Department made a clerical error with respect to the treatment of RK's U.S. kit sales and does not object to the correction proposed by RK.

Department Position: We agree with RK and the petitioner and have made the appropriate changes to RK's margin calculation program.

Pulton

Comment 1: Citing the Department's *Antidumping Duties; Countervailing Duties; Final Rule* 19 CFR Part 351 et al., 62 Fed. Reg. 27296, 27340 (1998), Pulton claims that, in determining whether a company has acted to the best of its ability, the Department considers, on a case-specific basis, whether the failure to respond was caused by practical difficulties that made the company ''unable to respond.'' Pulton contends that it withdrew from verification due to such practical difficulties.

Pulton argues that, given its lack of personnel resources, it would have been commercially impossible and overly burdensome to submit to verification. In support of this argument, Pulton states that it is a small company that employs only two people in its Foreign Trade Division and that most employees speak only a minimal amount of English. Pulton asserts that submitting to verification would have served to shut down its Foreign Trade Division for two weeks, resulting in substantial lost sales.

Pulton claims however, that because it responded in a timely manner to the main questionnaire and all of the Department's supplemental questionnaires, it has clearly acted to the best of its ability to comply with the Department's requests. Pulton asserts that, because most of its records are manually created and maintained, it would have been difficult to produce documents at verification at a reasonable speed. Pulton, in fact, questions whether any company, such as itself, which lacks significant computer capability, could pass a verification in the present day.

Citing *Borden* at 76, Pulton argues that, since there is no evidence on the record that it could have responded fully to the Department's verification requests, an adverse inference is unwarranted.

Pulton claims that the circumstances in this case are similar to those of *Allied-Signal Aerospace Co.* v. *United States,* 996 F.2d 1185, 1192 (Fed. Cir. 1993) (*Allied-Signal*), where the Court of Appeals for the Federal Circuit (CAFC) found that the Department's decision to characterize a respondent as uncooperative was unreasonable. Pulton argues that, as in *Allied-Signal,* the Department's conclusion that Pulton failed to cooperate to the best of its ability was unreasonable.

The petitioner argues that relevant cases and the Department's decisions clearly indicate that the agency should not choose a more favorable margin for Pulton simply because it made a business judgement that participating in verification was not cost-effective. The petitioner argues that there is no evidentiary support (*i.e.,* an affidavit or other certified submission) in the record for Pulton's assertion that verification would have shut down Pulton's Foreign Trade Division for two weeks, or that it would have cost the company a substantial amount in lost sales.

The petitioner further claims that Pulton has not cited any cases where the Department did not impose an adverse FA margin simply because it would have been costly and difficult for a respondent to comply with verification, or where the Department's decision to apply an adverse FA margin under such circumstances has been overturned. The petitioner differentiates this case from *Borden,* by arguing that the respondent in *Borden* clearly had attempted to comply with the Department's requests by making a number of attempts to generate the requested cost data. In contrast, Pulton provided the Department with a speculative rationale that the verification would have been impossible simply because Pulton had predetermined that participation would be too expensive.

The petitioner also refutes the relevance of *Allied-Signal* by arguing that, in *Allied-Signal,* the respondent had alerted the agency of its difficulty in responding to the Department's questionnaire, and had indicated its willingness to participate in a simplified review process. Pulton, on the other hand, merely submitted a short, unsubstantiated letter asserting that it would ''not be cost-effective to participate in verification'' because of the expense of submitting to verification, Pulton's insufficient staff support and the small value of its roller chain sales to the United States. The petitioner further argues that there is no indication that Pulton ever sought to work out an accommodation with the Department.

According to the petitioner, Pulton's situation is analogous to *Empressa Nacional Siderurgica, S.A.* v. *United States,* 880 F. Supp. 876, 880 (CIT 1995) (*Empressa Nacional*). In that case, the respondent argued on the basis of *Allied-Signal* that, as a result of its cooperation, the Department should not have chosen as BIA the highest rate calculated in the preliminary determination. The Court disagreed, noting that the respondent, ENSIDESA, ''did not request an extension of time until the last day before the information was due,'' and that despite receiving the extension, it informed the Department on the due date that it was not submitting any of the data requested.

Department Position: We disagree with Pulton and continue to use an adverse inference in applying total FA. The facts on the record have not changed since the preliminary determination, where we applied total adverse FA to Pulton. The reasons for this decision were articulated in detail in the Memorandum to Maria Harris Tildon from Holly A. Kuga Regarding the ''Application of Total Facts Available to Pulton (April 30, 1998) (Pulton FA Memorandum). We disagree with Pulton that it acted to the best of its ability simply because it submitted its responses to all sections of the Department's questionnaire in a timely manner. As the Department explained in the Pulton FA Memorandum, Pulton's timely responses were meaningless, because the Department was unable to check the completeness and accuracy of this information in light of Pulton's sudden refusal to undergo verification. *See Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod From Venezuela,* 63 FR 8946, 8947 (Febr. 23, 1998) (*Steel Wire Rod From Venezuela*); and *Notice of Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Romania,* 61 FR 24274, 24275 (May 14, 1996).

Moreover, Pulton made no attempt to seek guidance from the Department prior to the scheduled verification so that reasonable accommodations could be made to help the company overcome its practical difficulties without undermining the integrity of the verification process. Instead, Pulton made a calculated business decision that it was not ''cost effective'' to participate in verification. In light of the above, we reiterate our position from the preliminary results that Pulton did not act to the best of its ability.

Pulton's reliance on the *Borden* decision is misplaced. In *Borden,* unlike in this case, the respondent was fully prepared to undergo the verification process, making several attempts to comply with the Department's requests for certain cost data, which were eventually rejected for untimeliness and incompleteness prior to verification. The Court generally agreed that the application of total FA in that case was appropriate, but disagreed that adverse inference was warranted in the selection of FA, where the Department made no finding that the respondent did not act to the best of its ability. *See Borden* at 74–76. In this case, unlike in *Borden,* we made a finding that Pulton did not act to the best of its ability, and articulated, in detail, the reasons for our decision in the Pulton FA Memorandum and *RC 1996–1997 Preliminary Results.*

Pulton's reliance on *Allied-Signal* is similarly inappropriate. In *Allied Signal,* the CAFC found that the Department's decision to characterize a respondent as ''uncooperative'' was unreasonable, where the respondent ''alerted the ITA to its difficulty in responding to the questionnaire and indicated its willingness to participate in a simplified review process.'' *Allied-Signal* at 1192. Unlike in *Allied-Signal,* Pulton made no such effort to approach the Department to seek accommodations, but simply informed us shortly before the verification was to commence that it was not willing to participate. Thus, consistent with the Department's practice in cases where the respondent withdraws its participation in a proceeding, in selecting FA for Pulton in this review, an adverse inference is warranted.

Comment 2: Pulton notes that the 42.48 percent margin used by the Department as FA for Pulton was calculated for Kaga in the preliminary results and it is the second highest calculated rate ever applied to any respondent in the history of this proceeding. Pulton states that, when the Department relies on secondary information as FA, it is required, to the extent practicable, to corroborate this information from independent sources. Pulton argues that Kaga's preliminary results margin has not been corroborated because the Department did not examine its reliability or relevance. Pulton argues that, while the Department assumed that this margin was properly calculated, Kaga's May 18, 1998, letter disclosed that ''the data processing firm which produced Kaga's U.S. sales diskette made a programming

error in transferring U.S. selling price data from Kaga's diskette into the ITA's required format.'' Pulton claims that this indicates that the data used was rife with error and, therefore, unreliable.

Pulton next takes issue with the relevance of the 42.48 percent rate, noting that it reached a settlement with the Department in the 1993–1994 review for a 17.57 percent rate, following the CIT's invalidation of the 43.29 percent rate because it was ''extremely outdated'' and ''no other calculated rate in this investigation has ever come close to this level.'' *See Pulton Chain* v. *U.S.*, Slip Op. 97–162 at 8 (CIT 1997) (*Pulton*). Pulton argues that the 42.48 percent rate, which is remarkably close to the invalidated 43.29 percent rate, is ''arbitrary and capricious and has no basis in law or fact.'' Pulton concludes that there is nothing in this proceeding to indicate that 43.29 percent is in any way relevant to its own situation. Pulton suggests that the Department use the information Pulton submitted to calculate a margin in this review, or at least abstain from using an adverse inference in selecting FA.

The petitioner argues that the 42.48 percent rate calculated for Kaga should be imposed on Pulton, and if that rate is recalculated due to errors in Kaga's submission, Pulton should receive the highest calculated rate or 17.57 percent, whichever is higher. The petitioner notes that the Department was not required to corroborate the 42.48 percent rate because the statute only requires corroboration if the agency ''relies on secondary information rather than on information obtained in the course of an investigation or review.''

Citing *Fresh Cut Flowers—Columbia 1997* at 62 FR 53291, the petitioner states that, as a matter of policy, a respondent like Pulton, who has not cooperated in the review and has refused to undergo verification, should not receive a margin lower than the one applied to Kaga, who participated fully.

Addressing Pulton's argument with respect to the 42.48 percent rate that was invalidated by the CIT in *Pulton*, the petitioner contends that the rate was rejected in part because it was ''never used as an assessment rate and was apparently considered likely to be inaccurate when promulgated.'' In this case, unlike in *Pulton*, the petitioner claims that the 42.48 percent rate was a calculated rate for Kaga in the preliminary results of this proceeding.

Citing the *Steel Wire Rod from Venezuela*, the petitioner argues that the Department should not rely on Pulton's information to perform margin calculations because, absent verification, it is not possible to check whether Pulton has submitted accurate data and, consequently, there is no assurance that the resulting margins will be sufficient. Petitioner states that the statute, under section 776(a) of the Act, expressly provides that the Department shall use FA if the respondent fails to provide the necessary information, or if the information is unverifiable, the situation that Pulton has created in this review.

Department Position: Because the 42.48 percent rate calculated for Kaga for the preliminary results of this review has been changed for these final results and is no longer under consideration (*see* discussion on FA for Kaga in *''Facts Available'' (FA)* section, above), it is not necessary to address the arguments regarding the merits of this rate. As explained in detail in the Pulton FA Memorandum, we are continuing to assign Pulton an adverse FA rate, only now that rate has been changed from 42.48 to 17.57 percent, the highest rate from previous segments of this proceeding, excluding the invalidated 43.29 percent rate.

Kaga

Comment 1: Kaga states that, subsequent to the Department's preliminary determination, it discovered two programming errors made in assembling its data in the proper computer format. The first error, according to Kaga, occurred when only a single character was allowed to the left of the decimal for U.S. gross unit price (GRSUPRU), resulting in an understatement of Kaga's U.S. sales prices. According to Kaga, this affected both EP and CEP sales. The second error (which affects only CEP sales) occurred in its computer data submission of January 22, 1998, when the prices from Kaga's affiliated importer to its unaffiliated U.S. customers were mistakenly deleted and, instead, used the transfer prices from Kaga to its affiliated importer were used. Kaga states that it submitted the correct prices in its first computer data submission filed on September 12, 1997.

In addition, Kaga states that it found three other errors which it made. First, according to Kaga, it miscalculated the per-foot gross unit prices for several of its chains sold in the home market when converting from a per-link basis in its books to a per-foot basis for the Department. Second, Kaga states that it mistakenly coded several models of conveyor chain as industrial chain. Kaga argues that the information showing that those models are conveyor chain is already on the record as part of Kaga's product catalog. Third, Kaga claims that it included an invoice in the sales data, which represents an adjustment in price to a pre-existing sale rather than a sale, and requests that any observations associated with the invoice be deleted from its home market data base.

Kaga requests that it be allowed to submit the correct price information as well as any invoices which the Department deems necessary, and that the Department correct Kaga's programming and clerical errors for purposes of the final results.

Kaga contends that the Department's regulations allow for the correction of errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional errors. Furthermore, Kaga contends that the CIT in *Koyo Seiko Co., Ltd.*, v. *United States*, 746 F.Supp. 1108, 1110 (CIT 1990) (*Koyo Seiko*), and the CAFC in *NTN Bearing Corporation* v. *United States 74f.3d 1204,1208* (CAFC (1995) (*NTN 1995*), ruled that the Department should not only correct its own errors but those made by the respondents, so that the Department may fulfill its obligation to determine dumping margins as accurately as possible.

Kaga states that the purpose of the preliminary results is to give parties an opportunity for comment and request that the Department correct these errors in order to calculate accurate dumping margins. Further, Kaga contends that the Department must correct errors when they are obvious on their face or when correct evidence is already on the record. Further, Kaga states that in the interest of calculating the most accurate dumping margins, the Department must not knowingly use incorrect information. According to Kaga, these principles require that the Department correct the errors generated by the data processing firm because they are obvious and apparent on the record and the errors made by Kaga itself because these errors are simply clerical in nature.

The petitioner claims that the proposed corrections and new data submitted with Kaga's case brief reflect significant errors that the Department should not accept at this late stage of the proceeding. Moreover, the petitioner notes that the new data is untimely under 19 CFR 353.31(a)(1)(ii) (1997). The petitioner acknowledges that the Department has some discretion in determining whether to accept late filed evidence. However, the petitioner contends that the CIT in *Usinor Sacilor* v. *United States*, 872 F. Supp 1000,1008 (CIT 1994) (*Usinor*), *Sugiyama Chain Co.*, v. *United States*, 797 F. Supp 989,

995 (CIT 1992) (*Sugiyama*), and *NSK Ltd.* v. *United States*, 798 F. Supp. 721, 725 (CIT 1992) (*NSK*), have affirmed the Department's decisions to reject proposed corrections submitted after the deadlines. Moreover, with respect to at least one correction proposed by Kaga, the petitioner argues that Kaga has not cited to any evidence on the record, nor has it now provided information to support its claim. The petitioner argues that the extensive changes requested by Kaga do not meet at least four of the Department's six conditions for correction of clerical errors because: (i) the alleged errors are more substantial than the kinds the Department previously has labeled clerical; (ii) much of the information needed to corroborate the proposed changes either is not on the record or could only be reconciled by the Department through extensive manual review and, moreover, the reliability of any such corrected information would be questionable; (iii) although Kaga alerted the Department prior to the preliminary determination to submissions errors, Kaga has failed to offer a credible reason why it was so slow in discovering these errors; (iv) Kaga waited to supplement the record and still has not provided fully corrected information; and (v) the proposed corrections would affect several portions of the response and entail ''substantial revision,'' under the Department's six-pronged test for determining whether it will accept corrections of clerical errors. *See Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833, 42834 (August 19, 1996) (*Fresh Cut Flowers—Colombia 1996*)). Furthermore, according to petitioner, the new submission Kaga wants to make cannot be used unless the agency determines that it is ''reliable.'' The petitioner argues that, given the nature and extent of the proposed changes, this standard can only be satisfied through a full scale verification of Kaga.

According to the petitioner, although Kaga focuses on how its facts are analogous to the *Koyo Seiko* and *NTN* decisions, both cases are factually distinct from Kaga's situation. First, the petitioner argues that, unlike *Koyo Seiko*, where the Department did not dispute that ''the errors were purely clerical and would not require further examination of the facts,'' the resolution of the issues raised by Kaga in this review would require ''extensive additional examination,'' and the petitioner would require verification of the materials that Kaga submitted with its case brief. Further, the petitioner states that, although several of Kaga's alleged errors involve manipulation of data, the necessary corrective steps are much more complicated than most purely clerical errors. Second, the petitioner points out that the *Koyo Seiko* court noted that the respondent in that case ''notified Commerce of the errors promptly upon their discovery.'' The petitioner claims that, although Kaga may have notified the Department of its errors soon after discovery, the errors should have been uncovered at an earlier date. Moreover, the petitioner asserts that, although in *Koyo Seiko* the Department was already in possession of an accurate hard copy of U.S. sales figures in the administrative record, this is not the case here. Third, the petitioner notes that, unlike *Koyo Seiko*, the Department did not previously possess accurate pricing information for affected EP transactions. In addition, the petitioner maintains that the accuracy of several other proposed corrections cannot be determined without undertaking an extensive, manual review of the computerized data in Kaga's September 12, 1997, submissions and that there is no evidence on the record to support some of the proposed changes. Fourth, the petitioner contends that, whereas in *NTN* the clerical errors were limited to coding errors and an error involving the listing of sales, the correction of Kaga's errors is a significantly more involved exercise. Finally, the petitioner notes that in other cases (*e.g.*, *Sugiyama* and *RHP Bearings* v. *United States*, 19 CIT 1389, 1390 (1995)), the Department and the courts have been more reluctant to label a respondent's error clerical.

In response to the petitioner's comments, Kaga states that it is not seeking to submit new information. It emphasizes that it is simply asking the Department to correct certain ministerial errors contained in its sales data submission of January 22, 1998. Kaga contends that the correction of the programming errors will not require submission of new information.

Kaga claims that none of the court cases cited by the petitioner supports its argument. According to Kaga, each case is different from Kaga's situation. Kaga contends that, contrary to the petitioner's interpretation of *Usinor*, the court in that case held that the Department abused its discretion in rejecting the plaintiff's corrections. According to Kaga, *Sugiyama* involves corrections of ministerial errors in the final results of the administrative review, not the preliminary result which is exactly Kaga's situation. Finally, Kaga argues that the ACA is wrong in characterizing the decision in *NSK* as standing for the proposition that ''the submission of detailed factual information at the prehearing state of an administrative review is clearly untimely under any circumstances.'' Kaga maintains that the petitioner fails to note that the *NSK* decision involved the submission of detailed new information. Kaga notes that it does not seek to submit ''detailed new information.''

Further, Kaga claims that the ministerial errors which it has discovered fully meet the Department's six requirements for accepting clerical errors because: (i) the company has demonstrated that its errors are clerical in nature; (ii) its corrective documentation is reliable and Kaga invites the Department to conduct a verification of its records; (iii) ample record evidence exists to demonstrate Kaga's willingness, cooperation, and expedience in reporting its errors; (iv) Kaga informed the Department of all its clerical errors by July 2, 1998, the due date for submission of the case brief ; (v) Kaga's clerical errors do not constitute substantial revision; and (vi) Kaga has not been verified, thus the corrections do not contradict verified information.

Department Position: We agree with the petitioner that Kaga has not satisfied the Department's standard for clerical error corrections and, thus, the requested corrections have not been made. As a result of the *NTN* decision, we have reevaluated our policy for accepting clerical errors of respondents. *See* Preamble to Antidumping Duties, 62 FR 27296 (May 17, 1997). We may now accept corrections of such errors if all of the following conditions are satisfied: (1) the error in question must be demonstrated to be a clerical error, not a methodological error, an error in judgement, or a substantive error; (2) we must be satisfied that the corrective documentation provided in support of the clerical error allegation is reliable; (3) the respondent must have availed itself of the earliest reasonable opportunity to correct the error; (4) the clerical error allegation, and any corrective documentation, must be submitted to the Department no later than the due date for the respondent's administrative case brief; (5) the clerical error must not entail a substantial revision of the response; and (6) the respondent's corrective documentation must not contradict information previously determined to be accurate at verification. *See Fresh Cut Flowers—Colombia 1996.*

As noted above, in its case brief of July 2, 1998, Kaga claimed to have discovered two programming errors made in assembling its data in the

proper computer format. The first programming error, according to Kaga, occurred when a single character was allowed to the left of the decimal for U.S. gross unit price (GRSUPRU) resulting in an understatement of Kaga's U.S. sales prices. This error, Kaga claimed, affected sales to one EP customer and all CEP sales. We have applied the six criteria set forth in *Fresh Cut Flowers—Colombia 1996* and have found that Kaga did not meet the second criterion for accepting corrections of errors; namely, that the corrective documentation provided in support of the clerical error is reliable. An examination of the arguments and supporting documents provided in Kaga's case brief and the record of the proceeding demonstrates that, contrary to Kaga's claim, the decimal programming error affects EP sales only. Further, the price list submitted by Kaga for its EP customer does not reconcile with a number of invoices from Kaga to the EP customer. In order to reconcile the prices on the list with the invoices necessitates a conversion from a per-link basis for each model of chain, and we discovered that in several instances it would appear that Kaga failed to perform the conversion correctly. Thus, we are not satisfied that the corrective documentation provided by Kaga in support of its error allegation is reliable.

The next programming error, affecting only CEP sales, according to Kaga, occurred in its computer submission of January 22, 1998, when the prices from Kaga's affiliated importer to its unaffiliated U.S. customers were mistakenly deleted and, instead, used the transfer prices from Kaga to its affiliated importer were used. Kaga claims that the correct prices for CEP sales were submitted on the record in Kaga's September 12, 1997, submission). To support this claim Kaga submitted the invoices issued during the POR by Kaga's affiliated reseller to its unaffiliated customers. We find that the CEP prices provided in Kaga's September 12, 1997 submission do not reconcile in most instances with the invoices issued by Kaga's affiliated reseller to its unaffiliated customer. Therefore, because we are not satisfied that the corrective documentation provided by Kaga in support of its second error allegation is reliable, we conclude that Kaga did not satisfy the second condition from *Fresh Cut Flowers—Columbia 1996* that the corrective documentation provided in support of the error allegation be reliable.

In addition to the alleged programming errors discussed above, Kaga, in its July 2, 1998, case brief also claimed that it found three other errors made by Kaga itself. First, Kaga reported that it miscalculated the per-foot gross unit prices for ''several of its chains'' when converting from a per-link basis for the Department. According to Kaga, in order to determine the per-foot price of models of chain, the per-foot gross unit price is derived by dividing the total sales price of the piece by the total length in feet. In reviewing the conditions set forth in *Fresh Cut Flowers—Colombia 1996,* we find that Kaga failed to meet the fourth condition: although Kaga alleged its own errors no later than July 2, 1998, the due date for its case brief, Kaga did not provide the information needed to correct the alleged errors, nor the number of home market gross unit prices (GRSUPRH) and U.S. GRSUPRUs, which are incorrect due to Kaga's miscalculations in converting gross unit prices from a per-link to a per foot basis. Thus, Kaga failed to provide corrective documentation under the fourth condition set forth in *Fresh Cut Flowers—Colombia 1996.*

Second, Kaga noted that it ''mistakenly coded several models of conveyor chain * * * as industrial chain'' and argued that the information showing that those models are conveyor chain is already on the record as part of Kaga's product catalog. Kaga represented that corrections need to be made to several fields in Kaga's U.S. and home market databases to reflect the accurate physical characteristics of the incorrectly coded chain. In this instance, we find that in its July 2, 1998, case brief, Kaga failed to provide any information regarding the specific models of conveyor chain which were incorrectly coded, nor did it provide the number of U.S. and home market transactions affected by its coding error. Thus, we are not satisfied that Kaga provided corrective documentation required by the fourth condition in *Fresh Cut Flowers—Colombia 1996.*

Third, Kaga claimed that it included an invoice in the home market sales data which represents an adjustment in price to a pre-existing sale, and that any observation associated with this invoice should be deleted from the home market sales data base. As above, Kaga did not attach any evidence to its case brief to corroborate its claim. Therefore, Kaga failed to provide corrective documentation required by the fourth condition in *Fresh Cut Flowers—Colombia 1996.*

Comment 2: Kaga states that on March 24, 1998, the Department issued *Final Scope Ruling— Antidumping Finding on Roller Chain, Other Than Bicycle from Japan—Request by Kaga Industries Co., Ltd., for a Ruling on Automotive Silent Timing Chain.* Kaga maintains that the sole factor excluding Kaga's automotive timing chain from the scope of the antidumping finding is the fact that the chain models do not have rollers. According to Kaga, based on the Department's scope ruling, with the stated exceptions of models 25 and 35 and leaf chain, all chain manufactured by Kaga without rollers should be excluded from the scope of the antidumping finding.

Kaga claims that several models of Kaga chain lack rollers, but were not listed among the excluded silent timing chain in the Department's March 24, 1998 final scope ruling. Therefore, Kaga requests that the Department remove all C163, C168, and 05T chain from the database used to calculate Kaga's antidumping duty margin.

The petitioner states that the Department has adopted formal procedures for addressing scope questions affecting antidumping orders. Further, the petitioner maintains that these procedures were followed when the Department considered Kaga's request that certain silent timing chain be excluded from the scope of the antidumping finding. According to the petitioner, Kaga seeks through its case brief to circumvent these established procedures and obtain additional exclusion from the roller chain finding without subjecting its request to full consideration by the parties and the Department. The petitioner states that it strongly objects to this ''back door'' approach to scope questions and urges the Department to deny Kaga's request. The petitioner points out that Kaga has the option of submitting a formal ruling request in the 1997–98 roller chain review.

Department Position: We agree with the petitioner that the Department has a formal and established procedure for addressing scope questions. Kaga's instant request for exclusion of the above noted models is untimely as part of the administrative review proceeding and was not in accordance with the regulations governing scope procedures. Therefore, we are not excluding the requested models from the 1996–97 review of roller chain. Kaga may file a scope request regarding the models of chain in question in accordance with 19 CFR 351.225(1998) at any time in the future.

Comment 3: Kaga argues that the Department in its computer program erroneously made an adjustment for commission on CEP sales and an adjustment for CEP profit on EP sales.

According to the petitioner, based on a review of Department's computer

program, there is no evidence that the Department made such programming errors.

Kaga next argues that the Department should not have applied FA to certain U.S. sales of leaf chain which did not indicate the number of strands. According to Kaga, by virtue of its physical construction, leaf chain cannot be multi-strand. Kaga argues that this contention is supported by information contained in its product catalog which is on the record of this proceeding. Therefore, Kaga requests that the Department treat these models as single strand chain for purposes of the final results and that the Department not resort to FA.

The petitioner responds that some, *but not all,* of the sales to which the Department applied FA were leaf chain. However, the petitioner agrees that, given the unique characteristics of leaf chain, it should not be considered to be multi-strand. Further, the petitioner states that, if the Department can confirm from the evidence already on the record that a particular sale to which the Department applied FA is a leaf chain sale, the petitioner would not object to a programming change to treat these sales as single strand chain.

Finally, Kaga claims the Department based the calculation of CEP profit on an exchange rate of 100 yen/dollar. For purposes of the final results, Kaga requests that the Department use the actual average exchange rate for the period which Kaga calculated and appended to its case brief. Kaga argues that this would be in accordance with the Department's preference to use actual exchange rates data.

According to the petitioner, Kaga does not identify the source of the exchange rates appended to its case brief, nor does it disclose how the individual monthly averages were calculated. The petitioner argues that, given these uncertainties, and given the fact that the new information is untimely, it should be rejected by the Department.

Department Position: The Department has determined that total FA is warranted for Kaga in this review. Therefore, Kaga's arguments, discussed above, regarding (1) programming errors, (2) the application of FA to certain U.S. sales, and (3) the Department's calculation of CEP profit, are moot.

OCM

Comment 1: Verification—Home Market Sales Reporting Methodology. Reiterating the reasons, described in its November 17, 1997 supplemental response, that OCM could not report all home market sales of the foreign like product within the time provided for submitting the questionnaire response, the company claims that it, in fact, reported home market sales of models which were identical to models sold to the United States, as well as all home market sales of standard roller chain models which were similar to U.S. attachment or special chain models. OCM based its similar model decision on type of chain (all chain sold in the United States during the POR was industrial chain), number of strands, material, finish, and pitch length. OCM asserts that, when a standard chain and attachment or special chain are identical in these characteristics, the chain will usually differ in terms of only two product characteristics. For attachment chain, the difference would lie in the type and spacing of the attachment. For special chain, the difference would lie in the special feature plus a dimension, such as pitch length.

OCM disagrees with the Department's statement in the *Memorandum from Cameron Werker and Frank Thomson to Holly Kuga Re: Verification of Responses of Oriental Manufacturing Co., Ltd. in the Antidumping Duty Administrative Review of Roller Chain, other than Bicycle, from Japan,* at 8, (April 30, 1998) (OCM Verification Report) that, despite the Department's request in the verification agenda that OCM provide a list of all home market models of roller chain, OCM failed to provide an adequate list. OCM claims that, contrary to this statement, the company presented a list that contained all home market models of the same type and pitch length as those models sold in the United States during the POR (Verification Exhibit 4 (VE 4-list)). OCM argues that the Department never indicated that the verification list of home market models was inadequate and that, consequently, it should now be assumed that the list was in fact considered by the Department to be adequate. OCM asserts that the fact that it only presented a list of home market models with the same type and pitch length as those models sold in the United States does not in any way support the OCM Verification Report's summary of findings that ''OCM's stated methodology for reporting home market sales clearly excludes certain similar models [the Department] would have used in model matching.''

Next, OCM states that it would be factually incorrect to link the finding in the OCM Verification Report that ''there could be cases in which the pitch length is different between products, but the products could still be characterized as similar for the purposes of product matching'' to the Department's finding that ''OCM's stated methodology for reporting home market sales clearly excludes certain similar models we would have used in model matching.'' OCM maintains that home market models with different pitch lengths than the U.S. model will ordinarily not be most similar because they will have less than 16 product characteristics in common. OCM states that, in general, five other product characteristics change with the pitch length. Meanwhile, according to OCM, when pitch lengths are identical, the U.S. model and the most similar home market model will have 16 product characteristics in common. OCM maintains that there is only one instance in this review whereby a home market model with a different pitch length from a U.S. model is the most similar match.

Department Position: We disagree with OCM's statement that it reported all appropriate identical and similar home market models of roller chain. First, we disagree with OCM's assertion that the list provided at verification should be assumed adequate because, according to OCM, the Department never indicated that the list was inadequate. A review of the OCM Verification Report clearly demonstrates that the list provided at verification was not consistent with the requirements of the Department's January 16, 1998, verification agenda, and that the Department made multiple attempts to obtain more complete information regarding home market sales at verification. Specifically, upon receiving OCM's list at verification, the Department informed OCM that the list was not complete as required by the Department's verification agenda. In response to the Department's questions regarding whether a complete list could be provided, company officials explained that, because there were thousands of home market roller chain models, it would not have been practical or useful to list all of these models (*see* OCM Verification Report at 8). Also at verification, OCM conceded that its list was not complete given that ''while they consider pitch length to be the defining characteristic of roller chain, there could be cases in which the pitch length is different between products, but the products could still be characterized as similar for the purposes of product matching.'' *See* OCM Verification Report at 8. We also note OCM's statement that when a standard chain and attachment or special chain are identical in terms of type of chain, number of strands, material, finish, and pitch length, then for special chain, the different characteristics would lie in the

special feature plus a dimension such as pitch length, is inherently contradictory.

Furthermore, the Department was aware of OCM's statements in its questionnaire response that it did not report all home market sales, given the limited time and large number of models which OCM sold in the home market. As articulated in the OCM FA Memorandum, it has been the Department's practice in previous segments of this proceeding to allow respondents (*e.g.*, Pulton and Izumi) to report only a limited number of home market sales, contingent upon a determination by the Department that the reported home market sales constitute all appropriate home market comparison sales. We afforded OCM the same latitude in this review. However, unlike other cases, we have determined that OCM's reported home market sales do not constitute all appropriate home market comparison sales. The request for a complete list of all home market sales was a means by which to determine whether OCM had reported all appropriate home market comparison sales. Namely, by reviewing which models had been sold, but not reported, we could determine whether, in fact, OCM had reported all models of the same type and pitch as those sold in the United States, and whether more similar models had been sold in the home market than had been reported for comparison purposes. We note that OCM, during verification, provided us with a second (much shorter) list of models that it suggested should have been reported to the Department but, in fact, had not been.

Despite the failure of OCM to provide a complete list of home market sales at verification, the Department nevertheless attempted to use the information available to ascertain the appropriateness of the home market sales which were reported. However, we were unsuccessful in this attempt. OCM's suggestion that the Department should now accept OCM's home market reporting methodology is inappropriate given the fact that, at verification, OCM did not provide the necessary documentation to support its claim that it had reported the most appropriate home market comparison models.

Finally, OCM incorrectly links the Verification Report summary of findings statement that OCM's reporting of home market sales ''clearly excludes certain models [the Department] would have used in model matching'' solely with the above discussion. In fact, this finding was based partly on the above issue, but also on other factual discoveries made at verification. Please see the Department's position to comments 3, 4, 9, 10 and 13, below.

Comment 2: Verification—Pitch Length of Specific Models. OCM contests the OCM Verification Report statements on page 9 that

> The Department found models in the brochure with slightly different pitch lengths than those reported in verification exhibit 4 that were similar in regard to the other roller chain characteristics (see OCM Extra Heavy Duty Chain models on page 7 of Verification Exhibit 4). Company officials stated that, given their adopted methodology, even though these other characteristics were similar, because the pitch length was not identical to the U.S. model, these products would not have been placed on the list in Verification Exhibit 4.

OCM argues that the fact that it omitted certain models from the VE–4 list does not necessarily mean it excluded models from the reported home market sales database that the Department might have used as comparisons for U.S. sales. Since the models referenced from the product brochure are groups of models with the same pitch length but other different dimensions, OCM notes that models with different pitch lengths almost never have any other physical dimensions in common and, therefore, would be less similar than models with the same pitch and few other characteristics that differed.

Department Position: Based on the Department's determination in these final results of review that products that are not identical with respect to six specific characteristics, including pitch, should not be considered similar merchandise for purposes of our calculations, this point is moot. We note however, that at the time we issued our questionnaire, and even in the preliminary results, we were considering the possibility that matching across pitch and the other five characteristics was appropriate. Had we not amended our matching methodology for these final results, OCM's reporting methodology would not necessarily have resulted in identification of the most appropriate home market matches for all U.S. sales.

Comment 3: Verification—Models Included in the Home Market Sales Database. OCM disputes the OCM Verification Report statement on page 13 that

> Contrary to OCM's assertion that its home market database was constructed exclusive of roller chain models containing non-standard links or chain that was endless, we found that nine of the ten sales reviewed from June 1996 in OCM's home market data base contained either an offset link, joint link, connecting link, or was endless as evidenced from the June 1996 home market sales ledger. Verification Exhibit 12 contains supporting documentation.

OCM claims that 8 of the 9 home market sales referenced above are of a standard chain model sold with a loose connecting link provided for use by the customer in assembling the chain. OCM claims that the Japanese symbol for ''loose'' appears on the sales ledger lines for these sales and that this distinction was explained to the verifiers. OCM also claims that the ninth home market sale referenced above was a special chain and, therefore, the connecting, or joint link discussion does not apply.

OCM suggests, therefore, that the Department's OCM Verification Report summary of findings statements that (1) OCM reported sales in the home market of models it specifically stated that it intended to exclude and did not report certain models of home market sales which were identical to U.S. sales, and (2) Company officials were unable to fully explain all the discrepancies, with a minor exception, are invalid. According to OCM, the minor exception consists of seven U.S. sales of special configuration chain. OCM notes that, although it sold identical merchandise in the home market, while preparing its U.S. sales database, it did not recognize these seven sales as special chain and so did not include the identical merchandise in its reported home market sales. OCM further contests the Department's conclusion that the Department was unable to determine what percentage of reported sales was affected by OCM's failure to report costs for endless chain or chain with offset, joint, or connecting links. OCM suggests that this conclusion by the Department implies that the failure to report such costs was an error. OCM maintains that the Department's statement that ''OCM's reported variable cost of manufacture for home market models covers different models than those identified in the sales listing'' is, thus, no longer relevant. According to OCM, it only reported home market sales of standard chain as it intended and, therefore, properly reported costs for only standard chain.

With regard to this issue, OCM claims that, at verification, the verifiers did not identify the nine sales they believed to contain a connecting link, joint link, attached offset link, or endless chain. OCM claims that it was not able to correct the Department's error until now because it did not become aware of the error until after the OCM Verification Report was filed and, therefore, the case brief is the earliest opportunity it had to discuss this error.

Department Position: We disagree with OCM. We maintain that our

Verification Report is accurate in all respects. Notwithstanding OCM's claim that its home market database was constructed without roller chain models containing non-standard links or chain that was endless, we found that nine out of ten sales reviewed at verification contained some type of non-standard link (*see* OCM Verification Report at 13 and Verification Exhibit 12). Moreover, when asked by the Department at verification why those specific sales appeared in the home market sales database, given that OCM officials had just informed the verification team that the home market sales listing excluded such models, company officials repeatedly stated that the sales were mistakenly entered onto the home market sales listing (*see* OCM Verification Report at 13). Contrary to OCM's statements in its case brief, these comments by OCM officials, directly confronted with these specific sales at verification, demonstrate that the Department did, in fact, identify the nine sales it believed to contain non-standard links, and that the Department verifiers asked company officials to explain the discrepancy. Therefore, OCM's contention that the OCM Verification Report was the first time OCM was made aware of the nine sales is clearly incorrect. Furthermore, given the discussions on this exact point between the verification team and company officials, OCM's assertion that it would have explained that these sales were of standard chain with loose connecting links provided for use by the customer in assembling the chain, is at best self-serving. Because of the importance of this finding at verification, we discussed this issue at great length with company officials, and, in fact, pointed out these specific sales from the home market sales ledger in requesting an explanation of the nature of these sales and models. Company officials repeatedly asserted that these sales should not have been reported because they contained joint or connecting links, and stated that ''temporary work staff with no knowledge of roller chain was hired to construct the home market data base.'' Therefore, OCM's claim that this finding is ''incorrect'' and that the ''ITA made a mistake'' represents a post-hoc attempt to correct one of its numerous verification failures to accurately present and explain information requested by the verifiers that is crucial to complete a successful verification.

Notwithstanding these facts, OCM does not dispute that the nine sales identified by the Department comprised special chain and that at least eight of those identified contained a connecting link. Whether or not the links were connected to the chain or not, as belatedly argued by OCM, the fact that the non-standard links were included with the chain is not disputed. Company officials were clearly unaware whether such sales were reported in the home market sales listing, or to what extent such sales were reported. Furthermore, OCM obviously failed to report the costs of these extra non-standard links, which appeared in nine of ten sales reviewed, since OCM maintains it did not account for the ''loose'' non-standard links in its cost reporting. Moreover, OCM's inability to accurately identify the sales it intended to report (*see* OCM Verification Report at 13) demonstrates that not only could the Department not determine the magnitude of this discrepancy, but neither could OCM. Therefore, we are likewise unable to determine the extent of products for which OCM did not report cost.

Comment 4: Verification—Unreported Home Market Sales. OCM next points to the OCM FA Memorandum, in which the Department makes the following statement:

> OCM also provided a list of standard chain models sold in the home market that it believed should have been included in its home market sales data base. OCM noted that this list was not necessarily inclusive.

OCM contests the Department's conclusion that six of the eleven models presented by OCM in this list (VE–4) should have been reported in OCM's home market database. OCM claims that page 14 of the OCM Verification Report confirms that six of the models in question were either not sold in Japan, were sold ''outside the 90–60 day rule period,'' or were ''home market sales of special configuration chain'' and, therefore, were correctly omitted from the home market sales database.

OCM further disputes the OCM Verification Report conclusion that the Department was ''unable to determine the magnitude of the unreported home market sales of these models.'' OCM asserts that VE–4, in fact, lists the number of home market sales for each model and the date of each sale. OCM further states that the discussion at verification regarding these models occurred prior to the discussion regarding special configuration chain, and that this is probably the reason that the Department did not realize that the five models were actually special chain. OCM asserts that the possibility that the sales of these five models might be special configuration chain was never raised by anyone, and now that OCM has identified these sales as being properly excluded from the home market data base, the statements in the OCM FA Memorandum and OCM Verification Report are ''no longer correct.'' OCM also notes that it has no recollection of stating that ''this list was not necessarily all inclusive.''

OCM claims that the above argument proves that the OCM Verification Report summary of findings is invalid and, in fact, lends support to the OCM assertion that it acted consistently in not reporting sales of special configuration chain in the home market sales database.

Department Position: We disagree with OCM. First, OCM's above assertion that the Verification Report confirms that six of the models in question were not sold in Japan is incorrect. Page 14 of the OCM Verification Report clearly states that

> Examination of the ''sales by model'' book confirmed that there were sales of six of the 11 models identified in verification exhibit 4 which had not been reported in the home market sales database but should have been reported.

Further, regarding the list provided at the start of verification, which is contained in verification exhibit 4, we do not understand OCM's statement it has no recollection of stating that, ''this list was not necessarily all inclusive.'' Even before introductory comments could be made by the Department at the start of verification, OCM officials were in the process of hand-writing a list of roller chain models sold in the United States, which potentially were also sold in the home market and, therefore, should have been reported in OCM's home market database (*see* OCM Verification Report at 2). As stated by OCM officials themselves, the list was constructed at the very last minute, and only after noticing that the home market database did not contain some major standard models (*e.g.* models 100–3R and 100–4R). Therefore, OCM officials noted 11 of these types of roller chain models on a piece of paper (*see* Verification Exhibit 4), and submitted this hand-written note to the Department verifiers, stating that it was a cursory list and that, given the ''last minute nature'' of its preparation, it may or may not include models sold in both the U.S. and home markets that may not have been reported in the home market database (*see* OCM Verification Report at 2).

Furthermore, we continue to conclude that we are unable to determine the magnitude of the unreported home market sales of these models (*i.e.*, the models contained in VE–4, which were

described at the beginning of verification as models that may have been improperly excluded from the home market database). We disagree with OCM that the spreadsheet presented at verification as supporting documentation for the above-referenced list of models is a comprehensive list of all home market sales, reporting the date of each sale related to the models contained in the above-referenced list. While we do not dispute that the spreadsheet was reconciled to the ''sales by models'' book to ascertain the completeness of the worksheet, we note that it was not possible to completely review OCM's records, given the structure and nature of the records, to establish that these were the only sales of these models made in the home market and that, in fact, these were the only unreported models. Therefore, we were, in fact, unable to determine the magnitude of the unreported home market sales of these models.

Additionally, OCM did not at any time prior to, or during, verification state that sales of these models were properly excluded from its home market database because they constituted special chain. Specifically, OCM stated that it hired temporary employees who were not knowledgeable about roller chain to assist with the compilation of the sales databases. OCM officials further stated that, rather than select all appropriate sales from its records, the temporary employees were instructed not to include any models containing a non-standard link or attachment on the databases, and even given the instructions, there were still discrepancies in the databases that OCM officials were unaware of prior to their discovery by the Department at verification. OCM could not explain many of the discrepancies, and simply attributed them to the inexperience of the temporary work staff. *See* OCM Verification Report at 12 and 13. OCM's post-hoc argument that these sales were properly excluded from the home market sales database, thereby rendering the Department's statements regarding this issue in the OCM FA Memorandum and the OCM Verification Report inaccurate, is without merit and contrary to facts on the record. Therefore, our conclusions in the OCM Verification Report regarding these sales have not changed.

Comment 5: Verification—Price Discrepancy for One Sale. OCM refutes the OCM Verification Report statement that ''OCM incorrectly over-reported the price for observation 691 (invoice number DF–1384) by 6.4 percent.'' OCM claims that the price reported for U.S. observation 691 was, in fact, the same price as on the invoice for DF–1384. OCM claims that the page of the invoice that contains this price was not included in Verification Exhibit 17.

Department Position: We agree with OCM that the price it reported for U.S. observation 691 is the same price as recorded on the invoice. The OCM Verification Report contained a typographical error in that it was not U.S. observation 691 that was incorrect, but rather U.S. observation 693. The price for U.S. observation 693 was incorrectly over-reported by 6.4 percent.

Comment 6: Verification—Home Market Inland Freight. OCM disputes the Department's findings regarding inland freight in the OCM verification report. Specifically, OCM refutes the conclusion that

> The freight rates in the August 15 response did not include all home market destinations as identified on the freight rate contracts. For example, company officials confirmed that OCM shipped goods to customers in Yokohama, Sakata, Sapporo, Shintome (sic—Shintone), and Awazu, for which there are rates in the above-mentioned contracts, but were not included in Attachment B22 of the August 15 response. * * * We were unable to determine which sales in the home market sales listing were shipped to these destinations because, although OCM provided a complete list of customer names in its questionnaire responses, it did not provide a key code to the location of each home market customer is (sic—in) response to the Department's request for (''Destination'') in the original questionnaire.

OCM claims that it did provide a key code to the location of each home market customer in the form of area code listings and that it included, at Attachment B–22 of its questionnaire response, an inland freight cost chart linking the area codes in the home market customer list to destination names (*i.e.*, prefectures and cities). OCM notes, however, that it failed to list certain cities in the above-discussed chart; thus, ''identifying the shipments which went to Yokohama, Sakata, Sapporo, Shintone and Awazu requires some knowledge of Japanese geography.'' (Brief at 21) Notwithstanding this statement, OCM claims that, by using the customer list and the inland freight cost chart, the Department should have been able to identify sales to Yokohama, Sakata, and Awazu.

OCM states that since Yokohama is located in the Kanto area and the freight rate reported in the verification report for Kanto ''is approximately the same as that reported by OCM * * * for the Kanto area * * * the ITA should have had no problem here.'' (Brief at 22) OCM makes a similar claim with regard to the Tohoku region, and for Awazu in the Hokuriku area.

Regarding shipments to Sapporo, OCM states that, while its transportation carrier in Hokkaido has one freight rate for Sapporo and one rate for all other locations in Hokkaido, it applied only the Sapporo rate to all Hokkaido shipments, in order to simplify the inland freight cost calculation. Furthermore, OCM acknowledges that it ''provided less than complete information'' for Sapporo and Shintone. Finally, OCM also acknowledges that its area code designation for shipments to another region was incorrectly reported.

Department Position: We disagree with OCM regarding the findings at verification with respect to OCM's reported home market inland freight. In its case brief, OCM states that for three of the destinations in question, there should have been no problem determining the freight rate because all that is needed to determine which inland freight rate to use is a ''knowledge of Japanese geography.'' It is not reasonable for a respondent to expect that the Department should have such a level of detailed knowledge at its finger-tips in the course of conducting administrative reviews. It is incumbent upon the respondent to provide all the necessary information and detail for the Department to be able to ascertain if certain expenses were properly reported. As it is the respondent's burden to explain its methodology and what it has reported to the Department, we requested at verification that OCM explain under which area code these locations should be characterized. We established rates from OCM's source documentation, but at no time did OCM inform the Department that the areas of Yokohama, Sakata, and Awazu fit into any area codes already listed in OCM's inland freight cost chart. Therefore, as stated in the OCM Verification Report, ''we were unable to determine which sales in the home market sales listing were shipped to these destinations.'' We further disagree with OCM's claim that, since the freight rates in the source documents are ''approximately'' the same as the reported freight costs, we should have accepted its reported freight costs. The point of verification is to determine the accuracy of the reported values by tying them to those in the source documents, not to accept ''approximate'' values at verification for data that was never provided in response to the Department's antidumping questionnaire.

Regarding the latter two locations, OCM has acknowledged that it provided ''less than complete information'' (Brief at 22), which left the Department unable

to determine which sales in the home market sales listing were shipped to these destinations.

Comment 7: Verification—Weights Used to Calculate Home Market Freight and Brokerage. OCM argues that, notwithstanding the problems regarding the product-specific weights it used for its freight calculations, the Department should accept its reported home market freight and brokerage costs. OCM states that, while it would have been easy to merely use the weights listed in its catalog, it attempted to refine the chain weights. Therefore, in some cases, it used weights from the catalog; in other cases, it used weights from a ''master list'' of the refined chain weights, or a third weight which incorporated the packing material weight. OCM argues that the discrepancies between these weights are minor and do not justify disregarding its reported inland freight and brokerage and handling charges. For example, OCM states that the maximum difference between the catalog weight and the weight used to calculate the inland freight and brokerage and handling charges was 3.81 percent. OCM recommends that the Department utilize weights listed in its catalog, which are accurate weights and used by OCM in the ordinary course of business, to calculate revised inland freight and brokerage and handling charges for the final results of review. In those cases where a model's weight is not listed in its catalog, OCM recommends using the ''master list'' weights.

Department Position: We disagree with OCM that the Department should accept its reported home market freight and brokerage costs. As OCM notes in its argument, it attempted to ''refine'' its chain weights, although OCM never explained what it meant by ''refine.'' OCM further notes that, in certain instances, it utilized the catalog weights; in other instances it used weights from a ''master list of the refined chain weights, and in still other instances, it used a third weight which incorporated the packing material weight.'' While the Department applauds OCM's efforts to ''refine'' its chain weights for purposes of reporting its inland freight and brokerage expenses, OCM was unable to explain or substantiate the weight reported for the models selected at verification. Furthermore, OCM could not substantiate the weights reported on the ''master list'' when asked to do so at verification. Moreover, after OCM was unable to reconcile the weights for the models selected using one or more of the above-referenced methodologies, OCM officials explained that they were mistaken regarding the methodology, and that the product catalog was used to determine the reported weights. We were still unable to reconcile all the freight expenses in the sales listing using the catalog weights (*see* OCM Verification Report at 20). In short, the Department was unable to reconcile the reviewed model-specific freight charges to the reported company freight rates by using either the product weights listed in the catalog or the weights provided by the ''master list'' (*see* OCM FA Memorandum).

Moreover, we disagree with OCM's recommendation that the Department simply use the weights listed in its catalog or the ''master list,'' in instances where the catalog does not report the weight, as a surrogate for weight. First, it is OCM's responsibility to report the accurate weight of each product. OCM's suggestion that the Department go through its home market sales database and match each product to the catalog in order to assign a ''correct'' weight would be burdensome and overly time-consuming. Moreover, OCM's suggestion that we use the ''master list'' weights when the catalog does not report a weight, and catalog weights where they exist, would constitute the use of unsubstantiated information, given that we were unable to reconcile either the ''master list'' or the catalog weights to any source documents. Therefore, we do not agree with this assertion.

Comment 8: Verification—Material Costs. OCM notes that only one reference exists in the Verification Report's summary of findings regarding the Department's testing of its methodology for updating material costs. The reference notes that OCM used the material costs for the four largest selling chain models to update its standard material costs to the POR, which OCM agrees with. OCM then notes that the Department conducted an extensive exercise to arrive at a 1996 material cost for model 40 chain. This exercise resulted in a cost significantly lower than the standard cost figure from 1993. OCM states that this is consistent with everything OCM explained to the Department regarding material cost changes between the standard cost system and the POR costs.

Department Position: As noted by OCM, the summary of findings section of the OCM Verification Report does contain a reference to the materials cost adjustment calculated by OCM. The OCM Verification Report also contains a detailed description of the procedures and results of each test conducted by the Department on this issue, and although the Department found that the 1996 reported cost of model 40 chain was lower than the standard cost figure from 1993 as stated by OCM, the OCM verification report contains substantially more relevant information regarding OCM's methodology. Specifically, we found that although OCM's standard costs for raw material inputs were developed using the standard cost survey covering the period April 1993 through September 1993, OCM calculated its raw materials cost variance for purposes of the dumping calculation as the difference between the prices paid for raw materials during December 1993 and December 1996. We note that OCM failed to disclose in its questionnaire response that for purposes of calculating a raw material cost variance it substituted December 1993 costs for the standard costs (reflective of the period April 1993 through September 1993) and compared this substitute to raw material costs incurred in only December 1996 rather than for the POR.

At verification, we compared the December 1993 prices paid for raw material inputs to the standard raw material costs for models 40, 50, 60 and 80, to determine if the reported December 1993 data was reflective of the standard costs. We found that the December 1993 material costs were not reflective of the April through September 1993 standard costs, thus indicating that the reported variance (between December 1993 and December 1996 costs) was not reflective of what the raw material price variance would be between the standard costs and the 1996 material costs. Moreover, we found an additional discrepancy in the reported December 1993 cost of the roller contained in model 80–1R. This discrepancy was due to the fact that OCM sourced this roller from two vendors in December 1993, but calculated the cost based on purchases from only one vendor, thus further bringing into question the validity of the data.

We selected the next three highest selling models and tested the difference between the April through September 1993 standard costs and December 1996 actual costs. We found that the average reduction in material costs for these three models was significantly different from the average reduction in materials costs for the four models discussed above (*see* OCM Verification Report at 22 through 24).

Further, we note that in attempting to calculate a material cost variance, OCM did not account for differences in material usage between the period used to derive the standard costs, or even December 1993, and the POR. Therefore, although OCM is correct in stating that the models the Department tested at

verification showed material costs which were lower in 1996 than 1993, this result was based on incomplete and inappropriate cost data provided by OCM and, therefore, is unreliable for purposes of calculating a dumping margin.

Thus, OCM, in its comment, fails to address the results of all the tests conducted by the Department at verification, which identify discrepancies in OCM's calculations as well as evidence that OCM's material cost adjustment based on four models is not representative of the subject merchandise as a whole. For a more extensive analysis of our findings at verification on this issue, see the OCM FA Memorandum, which details the differences between the cost methodology OCM reportedly utilized in its questionnaire response and that which OCM described at verification, as well as our verification findings.

Lastly, OCM seems to discuss only the Summary of Findings section of the OCM Verification Report regarding any discrepancies and conclusions resulting from verification. First, the OCM Verification Report, like any other Verification Report, draws no conclusions. It is simply designed to report the findings from verification. Second, the Summary of Findings section is just that, a summary. The full text of the verification report contains detailed accounts of all procedures and results of the verification, and must be read in its entirety in order to fully understand the full scope of the verification.

Comment 9: Verification—Whether to Compare Standard Chain to Special Chain. OCM refers to a worksheet in the OCM Verification Report (exhibit 24–C) in support of its argument that special configuration chain should not be compared to standard configuration chain. OCM notes that this exhibit illustrates that, for model 40–1R, various special chains are significantly higher in cost than the standard chain model. OCM's purpose of including these figures was to illustrate that special chain has a substantially higher production cost than standard chain and, thus, the two types of chain should not be compared. OCM claims that the OCM Verification Report states that the verifiers confirmed the accuracy of the figures on the worksheet, but disagreed with OCM's methodology for making the comparison between special and standard chain. The verifiers determined that the special models cost more (but significantly less than that which OCM calculated) than the standard chain because the verifiers multiplied the special configurations' manufacturing costs by three due to a differential in the number of links in the special and standard chains. OCM argues that, regardless of the cost differential disagreement between its methodology and the verifiers methodology, the fact remains that special chain is significantly more expensive to produce than standard chain.

Department Position: As stated by OCM, the purpose of the worksheets contained in exhibit 24–C of the OCM verification report was to illustrate the cost differences between a standard model chain (*i.e.,* model 40–1R) and the same model chain with non-standard links (*i.e.,* connecting link, offset link, both connecting and offset links, and endless connection). After reviewing the worksheets provided by OCM at verification and receiving explanations from company officials of the calculations contained therein, we found that the cost differences were not as OCM portrayed them. In fact, after recalculating the costs of the chain with non-standard links, which was necessary because the 40–1R model used by OCM as the base model contained 240 links while all the other comparison models with special links contained 70 or 71 links, we found that the cost differences between the base model and the comparison models were dramatically less than calculated by OCM (assuming the cost data used for these tests had been reliable) (*see* OCM Verification Report at 24 and 25). Again, if the cost data had been reliable, based on the recalculation at verification, the standard model chain and the same model with a non-standard link were comparable according to the Department's matching criteria and DIFMER test.

Comment 10: FA—Whether OCM Provided the Necessary Information in the Form and Manner Requested. OCM asserts that it provided the necessary information in the form and manner requested. OCM addresses, in turn, the Department's findings that (1) ''OCM * * * did not report all appropriate home market sales and cost information,'' and (2) the Department was ''unable to verify the accuracy and completeness of OCM's costs.''

Regarding the Department's finding that ''OCM * * * did not report all appropriate home market sales and cost information,'' OCM first addresses sales issues. OCM argues that it reported all home market sales of models which were identical to those models sold in the United States, but due to the extraordinary burden, it did not report all home market sales of the foreign like product. OCM refers to its explanation in the November 17 supplemental response for its failure to report all home market sales of the foreign like product in the time permitted. Specifically, OCM reiterates that (1) since its electronically stored data base is purged after 100 days, OCM would have had to manually input the data, which would be an impossible task given that its sales ledger contained approximately 148,000 line items; and (2) the research time to locate the data relevant to the requested product characteristics for every home market special chain model and attachment chain model sold during the relevant period could have taken months. OCM states the Department never objected to its response statements, and that this non-response suggests implicit agreement that OCM would not have to report all home market sales. In fact, OCM cites the OCM FA Memorandum, which states that it would allow OCM to report limited home market sales contingent upon a determination that it had reported all appropriate home market comparison sales.

OCM notes that, for U.S. sales of attachment chain or special chain models, where no identical merchandise was sold in the home market, it selected as similar the standard chain models identical to the U.S. models in terms of the following characteristics: type of chain; material; finish; number of strands; and pitch length. OCM states that the similar model issue is not overly significant (*i.e.,* 49 out of 117 U.S. models, and 246 out of 696 U.S. sales lacked an identical match). OCM believes that the Department's concern with its home market sales reporting focused on the ''extent of unreported home market sales of merchandise identical or similar to merchandise sold in the United States.'' OCM refers to the OCM FA Memorandum, in which we stated that

> In its most recent supplemental response, OCM did not revise its model match selections in accordance with the Department's instruction re: revised model match methodology (*i.e.,* it continued to identify identical and similar product matches based on the four product characteristics discussed above, rather than the 18 characteristics the Department deemed appropriate for model match) * * * and
>
> OCM's stated matching methodology clearly excludes certain home market sales of identical and similar merchandise we would have used in model matching since the Department's matching methodology is based on 18 product characteristics, not just the four product characteristics used by OCM.

OCM claims that, in fact, there is no evidence that OCM's model match methodology excluded certain home market sales of merchandise the

Department would have used. Moreover, the Department's OCM FA Memorandum and OCM Verification Report do not specifically identify models excluded by OCM that the Department would have used in model matching.

OCM further states that it is unclear if the summary of findings in the OCM Verification Report are based on the notion that OCM used just five, rather than 18, product characteristics to select similar home market models. If so, OCM contends, the above explanation demonstrates that there is no supporting evidence for this finding.

OCM next addresses the OCM Verification Report statement, in which we stated that

> Company officials acknowledged, however, that while they consider pitch length to be the defining characteristic of roller chain, there could be cases in which the pitch length is different between products, but the products could still be characterized as similar for purposes of product matching.

OCM acknowledges that this statement is true, but insists that it does not in any way undercut its sales reporting methodology because only in very rare cases would a model with a different pitch length be most similar to a U.S. model. OCM reiterates that models with different pitch lengths will differ in at least six product characteristics, whereas models with the same pitch length (*i.e.*, standard models that are the base chain of the attachment chain and have the same pitch length) will only vary by two or three product characteristics in most cases. OCM notes that, in determining home market similar matches, it selected the standard chain model of the same pitch length as the most similar model.

Regarding configuration of models, OCM reiterates that it included only standard configuration chain sales in the home market sales data base because (1) special configurations are physically different from the standard configuration of the same model, (2) the manufacturing cost for special chain is significantly higher than that of standard chain, and (3) at the time it prepared the home market data base, OCM believed that its U.S. sales were all made in standard configuration. OCM claims that its position that only home market standard configuration chain sales should be compared with U.S. standard configuration chain sales is consistent with and supported by the statute. OCM states that the first choice in the hierarchy of merchandise that can serve as the foreign like product is defined by section 771(16)(A) of the Act as ''The subject merchandise and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, that merchandise.'' Because special configuration chain is not ''identical in physical characteristics with'' standard chain, it would not be the first choice in the hierarchy and should not be compared to standard chain. Instead, standard chain is the first choice in the hierarchy described in the statute, and this is correctly what OCM used in reporting the foreign like product.

OCM next repeats its arguments regarding the Department's finding that nine of the ten sales examined in OCM's June 1996 sales ledger contained an offset link, a joint link, a connecting link, or was endless. OCM states that this finding is incorrect.

Referencing the issue raised in *Comment 3* regarding the seven U.S. sales of special configuration chain, OCM claims that its error with regard to reporting home market sales of special configuration chain does not support the preliminary results notice conclusion that the Department was ''unable to determine the extent of unreported home market sales of merchandise identical or similar to merchandise sold in the United States.''

OCM claims that the preliminary results notice and OCM FA Memorandum cite one cost reporting discrepancy (*i.e.*, that OCM did not report variable costs of manufacture (VCOMs) for certain models of chain sold in both the U.S. and home markets during the POR.) OCM states that it has already demonstrated that the Department was wrong in concluding that OCM reported sales of special chain in the home market sales data base, so in fact OCM reported the correct VCOM's for all models. OCM acknowledges, however, that it reported the incorrect VCOM for the seven U.S. sales of special chain, but insists that this was the only discrepancy for this issue.

According to OCM, the above comments demonstrate that the Department may not predicate its use of total FA on allegations that OCM's method for selecting home market identical and similar models was inappropriate, since its methodology resulted in the selection of all identical and most similar home market models. OCM asserts that the descriptions of its model match methodology should resolve any doubts that the Department had about OCM's similar model selection methodology and should put to rest the Department's assertion that OCM ''excluded certain home market sales of identical and similar models we would have used in model matching.''

Department Position: We disagree with OCM's claim that it provided the necessary information in the form and manner requested as required by section 776(a)(2)(B) of the Act. Regarding the first of OCM's three assertions meant to support the above claim, we continue to maintain that OCM did not report all appropriate home market sales and cost information. OCM itself states that it unilaterally decided which product characteristics to use in selecting similar home market models to U.S. sales (*i.e.*, 5 of the 18 product characteristics identified by the Department). As stated in the OCM FA Memorandum, and acknowledged by OCM, the Department allowed OCM to report limited home market sales contingent upon a determination at verification that it had reported all appropriate home market comparison sales. OCM had every opportunity to justify and substantiate the appropriateness and accuracy of its home market reporting methodology during verification. However, in almost every instance, we found unexplained discrepancies. First, OCM's questionnaire response claimed that it reported all home market sales of merchandise identical to that sold in the United States. However, at verification, we discovered that OCM had, in fact, made certain sales of specialty chain in the United States, but did not report home market sales of the same merchandise. Second, at verification, OCM officials informed us that they had directed their staff to report home market sales of only standard chain with no special links (*i.e.*, not to report standard chain with non-standard links). However, since certain chain sold to the United States contained non-standard links, this methodology clearly would result in exclusion of models that might have been the most appropriate matches for certain U.S. sales. Third, while reviewing the reported sales at verification, we found that OCM had reported some home market sales of standard chain with non-standard links (despite its intention otherwise). Finally, we note that OCM classified standard chain with a loose attachment as plain standard chain. Therefore, we disagree with OCM that its methodology resulted in the selection of all identical and most similar home market models.

We also disagree with OCM's contentions regarding our findings that ''we were unable to verify the accuracy and completeness of OCM's costs.'' First, with respect to cost, we note that OCM failed to report any cost for specialty chain or for standard chain with non-standard links. Second, OCM's questionnaire responses did not contain

accurate information on how the cost differences were calculated. Furthermore, we found at verification discrepancies in OCM's calculations as well as evidence that OCM's material cost adjustment based on four models is not representative of the rest of the subject merchandise.

In addition, in adjusting reported standard labor costs, OCM did not address the issue of standard production times, which are a part of the calculated model-specific labor costs. Finally, with respect to both the material and the labor cost variances, we note that the data used to calculate those variances does not correspond to the period on which the standard costs are based (*i.e.*, OCM compared costs between two periods, neither of which corresponded to the standard cost base period). For further discussion *see* the Department Position for Comment 11, the OCM FA Memorandum and the OCM Verification Report.

Comment 11: FA—Whether the Findings of Verification Justify Use of Total FA. OCM claims that, with the exception of the chain weights and freight rates, the numbers submitted by OCM consistently matched those in its accounting records and could be traced through the accounting system. OCM notes that, although the Department found that the cost data could not be verified, the OCM verification report states that OCM's reported 1993 cost data ''reconciled * * * with'' internal cost ledgers. OCM also notes that the Department verified that the four models used to update the material costs were, in fact, the four top selling models to all markets during the POR, and that the Department successfully traced the December 1996 material costs through OCM's accounting system and financial statements. OCM goes on to state that the accuracy of its labor cost data used to update the standard costs to the POR, and its factory overhead expenses used in the VCOM calculations, were likewise confirmed.

OCM states that the above information contradicts the Department's preliminary results conclusions that (1) the information could not be verified, (2) the Department could not establish whether the reported costs reflect actual costs for the POR, and (3) the Department was unable to establish the credibility of the information contained in OCM's questionnaire responses. OCM then asserts that these statements make no sense in light of the overall OCM Verification Report. OCM states, however, that if the cost data it submitted was not the data the Department wanted it to report, the issue is a reporting problem, not a verification problem. OCM acknowledges the problems it had reconciling standard costs to actual costs.

OCM states that, since the problems were in fact reporting issues rather than verification issues, there are three implications arising from this. First, the Department can no longer claim that OCM failed verification and use that as a rationale for total FA. Second, the CAFC's decision in *Olympic Adhesives, Inc.* v. *United States,* 899 F.2d 1565 (Fed. Cir., 1990) (*Olympic Adhesives*), restrains the Department from using total FA where a company reported standard costs because it could not report actual costs, and because the facts show that OCM complied with section 782(c)(1) of the Act. Third, OCM claims that, since a failed verification no longer supports the use of total FA, OCM has now met the five criteria contained in 19 USC 1677m(e) in which Congress directs the Department to use information submitted by a respondent even if it does not meet all applicable requirements established by the Department. Thus, OCM concludes that evidence cited by the preliminary results notice does not support the proposition that OCM's ''information cannot be verified.''

Department Position: We disagree with OCM's claim that, with the exception of the chain weights and freight rates, the information submitted by OCM consistently matched that in its accounting records and could be traced through the accounting system. OCM's statement that the OCM Verification Report states that OCM's reported 1993 cost data ''reconciled * * * with'' internal cost ledgers is accurate, but disingenuous. Specifically, the 1993 materials costs were the result of an extensive research survey, the findings of which were recorded in the ''Unit Materials and Weight Book.'' The information contained in this book was subsequently transferred to OCM's ''Cost of Production Book,'' which is the basis for OCM's 1993 costs (*see* OCM Verification Report at 21). However, the fact that some information from the standard cost research survey could be traced through OCM's internal records is not the real issue. Rather, the issue is that OCM did not utilize the data from its standard cost research survey. Instead, OCM reported material cost information from December 1993, a month outside the period used to derive the standard costs.

Furthermore, even though the four models OCM used to update the material costs were in fact the four top selling models to all markets during the POR, they did not comprise a significant percentage of total sales during the POR and, therefore, did not reflect an actual variance for OCM's costs. We do not agree with OCM, however, that this is a reporting problem. Clearly, OCM elected to use data that did not correspond to the variance it was attempting to calculate, although it did not so state in its questionnaire response. Thus, the supposed variance is invalid. (*see* OCM Verification Report at 23). The fact remains that the Department found that the cost data could not be verified. *See* OCM comments 8 and 10.

OCM's assertion that the accuracy of its labor cost data used to update the standard costs to the POR, and factory overhead expenses used in the VCOM calculations were likewise confirmed, are also inaccurate. The Department was able to confirm the accuracy of OCM's aggregate factory overhead expenses for 1996; however, in attempting to ascertain the validity of OCM's reported labor cost data, which was used to update the standard costs to the POR, we found that OCM did not calculate a variance between standard and actual POR production times, which should be a part of the reported model-specific labor costs (*see* OCM FA Memorandum at 7).

Furthermore, we found that OCM attempted to calculate a labor rate variance based on the periods April 1993—March 1994 and April 1996—March 1997 while standard labor costs were based on the period April 1993—September 1993. As an explanation for this, OCM stated that, since the standards were an average, the fact that the labor rate variance was calculated based on comparison of two 12 month periods and the standard rates were based on six months should not matter. We disagree with OCM that this was an appropriate methodology for calculating its labor and overhead variances.

The Department's position in the preliminary results of this review that we could not reconcile OCM's reported material and labor costs to its internal books and records and, therefore, could not establish whether the reported costs reflect actual costs for the POR are consistent with our findings at verification and detailed in the OCM Verification Report. The fact remains that the Department was unable to establish the credibility of the information contained in OCM's questionnaire responses.

Comment 12: FA—Whether OCM Acted to the Best of its Ability. OCM argues that the OCM Verification Report statement that ''OCM has not * * * acted to the best of its ability in providing the necessary information'' is incorrect. OCM refers to the conclusion

that ''OCM elected not to follow the Department's clear instructions * * * that OCM must report all appropriate home market sales and utilize an appropriate cost methodology.'' OCM claims it has already addressed the Department's findings regarding its reporting of home market sales.

Regarding cost-related examples cited by the preliminary results notice, OCM first addresses the following statement:

> For example, the company used standard cost data to report model-specific material and labor costs, even though the Department does not accept standard costs for purposes of antidumping analysis.

OCM asserts that it stated in its August 15, 1997, response that it did not maintain product-specific actual cost data. OCM states that penalizing it for failing to report non-existent data is contrary to sections 776(a) and 782(c)(1) of the Act, as well as *Olympic Adhesives* and *Borden*.

OCM maintains that it attempted to calculate product-specific actual costs, but that none of its ideas, or those of the Department suggested in meetings between OCM's counsel and the Department on November 18, 1997 and December 18, 1997, were achievable in a reasonable amount of time. OCM reiterates the four ideas it considered to produce model-specific actual manufacturing costs, and outlines the reasons that it could not execute these ideas. OCM then acknowledges that, while one of the Department's verifiers was able to calculate actual 1996 material costs for one model using documents provided at verification, this task would have taken one individual roughly 1.5 to 3 work weeks to calculate the costs for all models sold in the United States. OCM next notes that, for labor costs, it would have been impossible to calculate actual costs because OCM does not maintain information about labor or machine time spent on each product.

OCM asserts that the Department's position that standard costs are unacceptable ''for purposes of antidumping analysis'' is inconsistent with section 782(d)(c)(1) of the Act. OCM claims that there is compelling evidence that OCM acted to the best of its ability because: (1) OCM actively and aggressively attempted to produce the information requested; (2) none of the possible methods to calculate a model-specific actual cost were reasonable; and, (3) OCM suggested and subsequently submitted an alternative form of data.

OCM next addresses the Department's concern that, in calculating a variance between standard and actual costs for the POR, the company compared data that did not reflect either the period used to calculate the standard costs (April 1993–September 1993) or the POR (April 1996–March 1997). OCM asserts that it used POR data (December 1996) for both material and labor costs, but acknowledges that it did not use the standard cost base period (April 1993–September 1993) in updating its calculations. In the case of labor costs, OCM asserts that, since labor cost data from the standard cost data period was not available, its conduct in this regard clearly reflected acting to the best of its ability to provide responsible and responsive information to the Department.

Regarding material costs, OCM believes that December was an appropriately representative month in both 1993 and 1996 to update the standard material costs, as the material costs did not change very much from month to month and December reflected a month within both the POR and the end of the calendar year. OCM argues that, just because other time periods could have been used, this does not indicate that OCM did not act to the best of its ability by choosing December of 1993 and 1996. OCM claims that the fact that December 1993 is not part of the standard cost base period does not establish that the choice of December 1993 is indicative that OCM did not act to the best of its ability.

Finally, OCM addresses the Department's concern that it ''calculated its variance for its four highest selling models of roller chain and applied a simple average of these variances to the standard costs reported for all other models.'' OCM first notes that this statement applies exclusively to material costs. Next, OCM estimates that it would take an inordinate amount of time to calculate updated model-specific material cost figures. OCM then asserts that, while it ''certainly could have used more than four models'' to update the material cost figures, the fact that it only used four models is not a basis for concluding that OCM did not act to the best of its ability.

Department Position: There is no disagreement among all parties in this review that OCM failed to follow the Department's instructions to report its home market sales of roller chain models and the product characteristics related to those products. Rather, as stated numerous times above, OCM unilaterally decided which of the 18 characteristics selected by the Department were most important. Notwithstanding OCM's actions, the Department accepted OCM's reporting methodology with the understanding that it was incumbent upon OCM to demonstrate, at verification, that its limited reporting methodology was in fact appropriate. As discussed above (*see* OCM comments 1 through 4), we found at verification that: (1) OCM's methodology, as stated, was not reflected in the actual home market database; (2) OCM did not provide complete and accurate home market sales in accordance with its stated methodology; and (3) OCM omitted sales of roller chain models that could have been deemed similar to U.S. models that did not have identical matches.

Second, regarding cost issues, the Department neither rejected OCM's reported standard costs or deemed them unverifiable just because they were standard costs. Rather, upon finding the deficiencies between the methodology explained in the questionnaire responses and those explained at verification, coupled with the fact that OCM failed to report costs of the ''loose'' links sold (and packaged) with certain models of chain, we determined that we were unable to establish the credibility of OCM's reported costs. *See* OCM comments 8 and 10 as well as the OCM Verification Report and OCM FA Memorandum. Thus, we disagree with OCM that it acted to the best of its ability in providing the necessary information. While we understand the stated problems OCM encountered in the compilation of all the necessary data in order to accurately respond to the Department's questionnaire and supplemental questionnaires, our findings at verification clearly demonstrate that OCM did not act to the best of its ability in providing the necessary information.

Comment 13: Whether the Department's Decision to Use Adverse FA is in Accordance with Law and is Supported by Substantial Evidence. OCM contends that, in order for the Department to apply adverse FA, it must first determine that OCM did not cooperate to the best of its ability. OCM asserts that there is no basis for such a finding. First, it has reported all home market sales of all identical and most similar home market models. Second, the existence of the seven unmatched U.S. sales is insignificant. Third, it has demonstrated that it properly excluded home market sales of the models the Department claimed should have been reported. Fourth, two models with the same pitch length will be more similar than two models with different pitch lengths, despite possibly having certain other characteristics in common. Fifth, its matching selection process, which is based on matching home market

standard chain sales against U.S. sales of standard chain, attachment chain or special chain (all of which were the same pitch length as the home market models) was appropriate. Sixth, it actively and aggressively sought to find a method for producing VCOM and TCOM information that would be acceptable to the Department and, in fact, suggested an alternative form of the information, namely, the appropriate cost data that represented updated material, labor and overhead costs. Therefore, OCM concludes that there is no evidence in the preliminary results notice, or in the OCM FA Memorandum to support the Department's position that OCM did not act to the best of its ability to comply with the Department's information request. OCM argues that there are only indirect references in the OCM FA Memorandum about counsel being ''informed'' and ''reminded'' about OCM's obligations. OCM asserts that, just because the Department ''instructed,'' ''informed'' and ''reminded'' it of its obligations does not mean that OCM did not act to the best of its ability.

OCM argues that, other than the seven U.S. sales of special configuration chain, there should be no issue regarding OCM's sales reporting, and that there is no impediment to calculating actual dumping margins for all identical models. OCM also states that its standard costs updated to the POR should be used (in VCOM and TCOM) in calculating difference in merchandise adjustments for similar model matches. OCM argues that, if the Department continues to determine that its cost information is unusable, then the Department should use a non-adverse FA rate for OCM's U.S. sales which do not have an identical home market model match. OCM argues that the Department should correct the errors identified herein and revise OCM's dumping margin accordingly.

Petitioner notes that, in its case brief, OCM argues that many of the Department's findings were based on its own mistakes in reviewing the company's data at verification and on an erroneous interpretation of OCM's model match criteria. Petitioner recognizes that, while it was not present during verification and thus cannot evaluate several of OCM's fact-specific arguments, an examination of the available materials indicates that the Department conducted a thorough analysis of the relevant information, documented significant weakness in OCM's questionnaire responses, and, after giving OCM opportunities to submit revised materials, correctly determined that it had no choice but to apply an FA margin.

Petitioner notes that the Department concluded that it could not rely on OCM's submitted data in calculating dumping margins because the data failed to satisfy the requirements of section 782(e) of the Act. Specifically, petitioner states that the Department found that it could not reconcile OCM's material and labor costs with its internal books and records, that OCM failed to report all appropriate home market sales and cost information after being informed of deficient responses, that the Department could not determine the extent of unreported home market sales or VCOM's, and that OCM did not act to the best of its ability to report data as the Department requested.

Petitioner argues that while OCM asserts that it did not fail verification, OCM acknowledged that the Department has questioned whether its data ''is so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,'' and whether OCM has acted to the best of its ability to provide the requested information. Petitioner asserts that, consequently, OCM's data fail the third prong of the ''facts available'' test, regardless of the accuracy of the information itself.

Petitioner then addresses OCM's argument that, although the company was unable to submit certain information in the form requested, it attempted to work with the Department to provide information in alternate forms, and therefore acted to the best of its ability to provide the requested information. Petitioner notes that OCM suggests that the Department cannot penalize a company by imposing an FA margin for failure to produce nonexistent data. Petitioner acknowledges that the courts have explained that the mere inability to report requested information because a respondent does not record such information in its system does not itself exempt the respondent from application of best information available, the predecessor to FA. *Cf. Hussey Copper, Ltd.* v. *United States*, 834 F. Supp. 413, 424 (CIT 1993).

Petitioner argues that there is ample support on the record to justify application of an FA margin to OCM. However, petitioner also acknowledges that the OCM Verification Report did, in fact, indicate that there were substantial areas of OCM's responses in which the Department found virtually no discrepancies. Moreover, petitioner notes that OCM has not participated in recent roller chain proceedings. Petitioner concludes that it ultimately supports the Department's decision to apply a less adverse FA margin to OCM.

Department Position: We disagree with OCM. As fully discussed in OCM comments 1 through 4 and 8 through 12, above, we were unable to establish the credibility of the home market sales and cost data reported in OCM's questionnaire responses. Moreover, as discussed in the comments above, we continue to determine that OCM did not act to the best of its ability in providing all the necessary data. As in the preliminary results, we continue to find that, in determining the dumping margin for OCM, the application of adverse FA is warranted in this case. *See* the OCM FA Memorandum for a discussion of the adverse facts available rate applied to OCM.

Tsubakimoto

Comment 1: Scope of the Tsubakimoto Revocation Notice. Tsubakimoto argues that the petitioner's attempt to limit the scope of the Department's revocation notice with respect to Tsubakimoto is untimely. Tsubakimoto states that on two prior occasions, the petitioner has attempted to contest the Department's determination to revoke the order as it applies to Tsubakimoto. Tsubakimoto notes that the petitioner filed a complaint with the Court of International Trade (CIT) contesting the Department's *Revocation in Part of Antidumping Finding: Roller Chain, Other than Bicycle, From Japan*, 54 FR 33259 (August 14, 1989) (1989 *Revocation Notice*). However, the CIT dismissed the case as being untimely filed. *See American Chain Association* v. *United States*, 13 CIT 1090, 1092, and 1095, 746 F. Supp. 112 (December 28, 1989). Furthermore, Tsubakimoto contends that the petitioner attempted to circumvent the findings of the CIT by subsequently filing a challenge to the final results of the Department's 1986–1987 administrative review. Tsubakimoto notes that once again the CIT dismissed the case, stating the ''antidumping duty determination was revoked without timely challenge.'' *See American Chain Association* v. *United States*, 14 CIT 666, 746 F. Supp 116 (September 17, 1990). Tsubakimoto continues that in this same ruling the CIT stated that a revocation ''becomes final when a litigant misses the statutory deadline for challenging that determination, as the plaintiff did here.'' Id.

In the subject administrative review, Tsubakimoto argues that the petitioner is trying to address an issue which it has twice before been precluded from challenging by the CIT. Tsubakimoto

argues that if the Department permits the petitioner to challenge the scope of the revocation, it will unlawfully extend the statutory deadline for challenging such a determination. Tsubakimoto, therefore, requests that the Department dismiss the petitioner's comments as untimely and continue its current practice with respect to the Tsubakimoto revocation.

The petitioner argues that Tsubakimoto's ''timeliness'' argument is merely a diversionary tactic, with no basis in law or fact. Regarding the CIT's dismissal of its challenge of the Department's *1989 Revocation Notice*, the petitioner maintains that there is no evidence that any of the parties ever contemplated that the appeals might potentially address the current scope question. The petitioner asserts that for Tsubakimoto to suggest otherwise is disingenuous. The petitioner stresses that throughout the course of this review, it has emphasized that it is not seeking coverage of roller chain manufactured by Tsubakimoto, but is seeking to clarify that the scope of the revocation is consistent with its express terms—that it is limited to roller chain that is *both* manufactured *and* exported by Tsubakimoto. The petitioner maintains that this question is timely and notes that in the three prior reviews it consistently requested that the Department calculate margins for all merchandise by a certain other manufacturer even if that merchandise had been exported by Tsubakimoto. The petitioner argues however that it was not until the beginning of the current review that Tsubakimoto admitted that it was, in fact, exporting roller chain to the United States manufactured by the company in question. *See* Comment 4 below for further discussion of this allegation.

Department Position: The Department has considered petitioner's request for an administrative review of Tsubakimoto as a reseller of chain produced by other Japanese companies rather than as a challenge to the Department's final determination of Tsubakimoto's revocation. As stated by petitioner, it is not attempting to alter the scope of the revocation notice since it is not seeking coverage of roller chain manufactured by Tsubakimoto, but rather, is seeking clarification regarding merchandise which is exported by Tsubakimoto but manufactured by another Japanese producer. In that regard, we agree that clarification is warranted and have reviewed the evidence on the record. *See* Tsubakimoto Comment 2 for further discussion of revocation of Tsubakimoto as a reseller/exporter.

Comment 2: Revocation of Tsubakimoto as a Reseller/Exporter. The petitioner submits that the Department's preliminary determination that the 1989 revocation applies to Tsubakimoto in both its capacity as a manufacturer/exporter and reseller/exporter is not supported by the relevant facts on the record, is otherwise contrary to law, and should be reversed in the final results.

The petitioner first argues that, in determining the scope of the Department's revocation determination with respect to Tsubakimoto, it is important to consider the language of the revocation notice. Specifically, the notice states, in relevant part that ''This partial revocation applies to all unliquidated entries of this merchandise manufactured and exported by Tsubakimoto * * *'' *See 1989 Revocation Notice.* The petitioner contends that by its very terms, the revocation only applies to merchandise that has been both manufactured and exported by Tsubakimoto since it is a fundamental tenet of statutory construction that ''the plain and unambiguous meaning of a statute prevails in the absence of clearly expressed legislative intent to the contrary.'' *F.lli de Cecco di Felippo Fara San Martino S.p.A.* v. *United States*, Consolidated Court No. 96–08–01930, 1997 Ct. Int'l Trade LEXIS at 17 (October 2, 1997). The petitioner further states that only ''the most extraordinary showing of contrary intentions'' will lead the courts to disregard the plain meaning of statutory language. *Id.* Arguing that these principles of construction apply when determining the scope of the Tsubakimoto revocation, the petitioner contends that it is clear on its face that the phase ''merchandise manufactured and exported by Tsubakimoto'' only reached roller chain actually produced by Tsubakimoto. In order to cover merchandise manufactured by the other parties, the petitioner maintains that the phrase would have to have been written in the disjunctive (*e.g.*, ''merchandise manufactured or exported by Tsubakimoto'').

The petitioner argues that past Department determinations support the straightforward reading of the Tsubakimoto revocation notice, citing *Steel Wire Strand for Pressed Concrete from Japan* 55 FR 28796 (1990) (*Steel Wire Strand from Japan*) as the only other case in which the Department has been called upon to interpret the phrase ''manufactured and exported.'' The petitioner notes that the Department determined that ''the exclusion in that case was applicable only to merchandise manufactured and exported by the respondent, not to merchandise exported by the respondent that had been *produced* by another manufacturer.''

The petitioner further argues that when the Department seeks to reach beyond merchandise produced by a named foreign respondent, it carefully tailors the language of its revocation notices to accomplish this objective. *See e.g., Steel Wire Rope from the Republic of Korea: Effective Date of Revocation in Part of Antidumping Duty Order*, 63 FR 20380 (April 24, 1998), *Pressure Sensitive Plastic Tape from Italy: Final Results of Antidumping Administrative Review and Revocation in Part*, 53 FR 16444 (May 9, 1988), *Spun Acrylic Yarn from Japan: Final Results of Antidumping Administrative Review and Revocation in Part*, 52 FR 43781 (November 16, 1987), *Elemental Sulphur from Canada: Preliminary Results of Administrative Review of Antidumping Finding and Intent to Revoke in Part*, 49 FR 32632 (August 15, 1984), and *Ferrite Cores (of the Type Used in Consumer Electronic Products) from Japan: Preliminary Results of Antidumping Administrative Review and Intent to Revoke in Part,* 52 FR 11524 (April 9, 1987). In each of these cases, the petitioner states that the Department used language stipulating that the scope of the notice covered merchandise ''manufactured and/or exported'' by the entity in question. The petitioner also cites the Department's approach to the potential revocation of other Japanese roller chain producers and exporters in the 1980–1981 review (*see Roller Chain other than Bicycle from Japan: Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke in Part*, 47 FR 44597 (October 8, 1982)), in which the Department also used the language ''manufactured and exported,'' as illustrative of their argument. The petitioner argues that the quoted language clearly demonstrates that (1) the Department understood the phrase ''manufactured and exported by'' to require both elements (*i.e.*, both production and exportation); and (2) when formulating revocation language applicable to a reseller/exporter, the Department was quite careful to specify the precise source of the chain in question.

Therefore, the petitioner maintains that the Department was simply wrong when it stated in *RC 96–97 Preliminary Results* that ''determinations in other administrative proceedings concerning roller chain from Japan indicate that Tsubakimoto was revoked as a manufacturer/exporter and reseller/

exporter.'' The petitioner contends that the prior determinations clearly demonstrate that the language employed in that notice was intended to limit the revocation to roller chain that is both manufactured and exported by Tsubakimoto (*i.e.*, not to include roller chain produced by other manufacturers and exported by Tsubakimoto).

The petitioner does not dispute Tsubakimoto's claim that the Department calculated margins for roller chain ''manufactured and exported by Tsubakimoto'' but also for roller chain which Tsubakimoto purchased from affiliated suppliers and sold during the period looked at for revocation. However, the petitioner states that this in no way undermines the clear and unambiguous language of the Tsubakimoto revocation notice. The petitioner suggests that roller chain manufactured by one of the affiliated suppliers was not treated as Tsubakimoto-manufactured chain in the 1986–1987 review, but rather was treated as roller chain purchased from an ''outside independent'' company, as articulated in Tsubakimoto's questionnaire response at the time. The petitioner notes that the Department did not collapse Tsubakimoto and the supplier in question but instead permitted Tsubakimoto to report the ''constructed value'' of the supplier-manufactured chain based upon the prices that Tsubakimoto paid the affiliated supplier for the chain. Lastly on this point, the petitioner states that there is no evidence that the margins calculated for the roller chain purchased from affiliated suppliers has a material impact on Tsubakimoto's weighted-average dumping margin. In fact, the petitioner contends that the weighted-average margin would have been *de minimis* whether or not it included the affiliated-party sales. The petitioner then asserts that the margins calculated for roller chain purchased from affiliated suppliers did not directly affect the antidumping duties owed on Tsubakimoto-produced chain or vice versa since the assessment rates were calculated on a sale-by-sale basis, and that these transaction-specific margins were not used in assessing antidumping duties on the Tsubakimoto exports. To support this argument, the petitioner cites *Roller Chain other than Bicycle from Japan; Final Results of Antidumping Duty Administrative Review and Intent to Revoke in Part*, 54 FR 3099, 3100 (January 23, 1989) (*1989 RC Final Results*), which states that ''Individual differences between United States price and foreign market value may vary from the percentage stated above.''

The petitioner continues by arguing that the affiliated producer in question (as mentioned above) was listed separately in the 1986–1987 notice of initiation. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews* 52 FR 18937 (1987). The petitioner maintains that the Department would have had an obligation to calculate margins for roller chain manufactured by this company even if it had not initiated a review of Tsubakimoto-produced chain. As it turned out, the petitioner continues, the affiliated producer in question was responsible for providing data with respect to its direct U.S. sales, while Tsubakimoto was responsible for furnishing data concerning the affiliated producer's chain which it resold to the United States. However, the petitioner maintains that this does not mean that these two sales channels bore no relationship whatsoever. The petitioner asserts that they were merely two different avenues through which identical chain reached the U.S. market. Moreover, the petitioner notes that the final results notice of the 1980–1983 backlog reviews presumably identifies a cash deposit rate for any sales of the affiliated producer's merchandise through Tsubakimoto since it has a rate for the manufacturer's merchandise exported by all others. The petitioner suggests that given the fact that in subsequent reviews this affiliated producer has received antidumping margins over the *de minimis* cut-off, the Department could well have concluded that if this affiliated producer's roller chain were covered by the Tsubakimoto revocation notice, the affiliated producer would restructure its selling activities so as to avoid/evade the strictures of the U.S. antidumping laws. In other words, the petitioner suggests that the affiliated producer could potentially have used Tsubakimoto as a conduit to sell dumped product to the United States. The petitioner states that had it been aware that the revocation notice was intended to reach sales of the affiliated producers'-manufactured roller chain, it would have raised the issue as part of the 1986–1987 proceeding.

Moreover, the petitioner contends that the relevant Customs Service liquidation instructions separately addressed roller chain ''produced by Tsubakimoto.'' The petitioner states that following the completion of the 1986–1987 roller chain administrative review, the results were challenged in the U.S. Court of International Trade (CIT). As a result, the petitioner continues, on March 23, 1989, the Department communicated to the Customs Service that ''The Court of International Trade, however, has enjoined the liquidation of unliquidated entries of roller chain, other than bicycle, from Japan, produced by Tsubakimoto Chain, which are covered by the final results * * *'' The petitioner argues that it is patently obvious that these liquidation instructions only applied to roller chain produced by Tsubakimoto itself and did not apply to roller chain manufactured by other Japanese roller chain producers. Furthermore, the petitioner notes that following the termination of the CIT appeal, Customs instructions were sent out on September 20, 1989 stating that ''effective immediately, field offices may resume liquidation of future entries of the subject merchandise manufactured by Tsubakimoto without regard to antidumping duties.'' The petitioner adds that the above instructions were modified on October 26, 1989 to read that only roller chain that was both ''manufactured and exported by Tsubakimoto'' was to be liquidated ''without regard to antidumping duties.''

The petitioner warns that Tsubakimoto's assertion that the Department ''has never issued separate cash deposit rates or assessment instruction for any entries by Tsubakimoto of chain manufactured by affiliated parties'' should be carefully considered. The petitioner states that while the statement may potentially be correct depending on the intended meaning of the term ''separate,'' it hides a larger truth. Specifically, the petitioner asserts that since 1989, the Department has consistently calculated antidumping cash deposit rates for the affiliated producer's-manufactured roller chain which exceeded the *de minimis* cut-off. The petitioner argues that if Tsubakimoto has chosen not to post the applicable antidumping cash deposits on its affiliated producer's exports, it has done so unilaterally, without consulting the Department or the Customs Service.

Lastly, the petitioner maintains that there is absolutely no support in the record of the 1986–1987 review for the proposition that the Department had determined to collapse Tsubakimoto and its affiliated producer as alluded to by Tsubakimoto in its June 19, 1997 submission. The petitioner states that all three companies were treated as ''independent companies'' as requested by Tsubakimoto.

Tsubakimoto argues that the Department properly determined in its preliminary results ''that the 1989 notice of revocation in part applies to

Tsubakimoto in both its capacity as a manufacturer/exporter and reseller/exporter of roller chain.'' *See RC 96–97 Preliminary Results.* Tsubakimoto maintains that the record shows, throughout the course of the antidumping proceeding, the Department has consistently treated Tsubakimoto's sales of subject merchandise in the same manner (*i.e.*, sales of chain manufactured by affiliated companies were treated as Tsubakimoto sales for review purposes). Tsubakimoto states that neither the language of the revocation, nor the underlying proceedings that lead up to the revocation, contain any reference that the Department was excluding sales made by Tsubakimoto of chain produced by other parties.

Tsubakimoto asserts that in the 1986/1987 administrative review, as well as in all prior reviews, the Department calculated its antidumping margin with respect to Tsubakimoto based upon all sales made by Tsubakimoto. *See RC 1989 Final Results. See also Roller Chain, Other Than Bicycle, From Japan: Final Results of Antidumping Duty Administrative Review,* 51 FR 43755 (December 4, 1986). Tsubakimoto reiterates its claim that the record is devoid of any evidence which indicates that the Department intended to exclude any reviewed sales from the revocation. Tsubakimoto continues that, based upon its submitted sales data (both as a manufacturer and reseller), the Department concluded that ''there is no likelihood of resumption of sales at less than fair value by Tsubakimoto.'' *RC 1989 Final Results* at 3101. Also citing the *RC 1989 Final Results,* Tsubakimoto states that the Department, when identifying Tsubakimoto, stated that ''This review covers Tsubakimoto * * *, a manufacturer/exporter of Japanese roller chain.'' Tsubakimoto argues that this sentence reveals that the Department reviewed Tsubakimoto both in its role as a manufacturer and exporter of subject merchandise without any limitation as to the manufacturer of the chain being exported. Moreover, Tsubakimoto notes that the Department's revocation notice stated that revocation applies to ''all unliquidated entries of this merchandise manufactured and exported by Tsubakimoto and entered, or withdrawn from warehouse, for consumption on or after September 1, 1983.'' *See 1989 Revocation Notice.*

Tsubakimoto further states that subsequent to the revocation notice, the Department continued its practice and has never issued separate cash deposit rates or assessment instructions for Tsubakimoto entries manufactured by affiliated producers. Tsubakimoto notes that following the *1989 Revocation Notice,* the Department instructed the Customs Service to liquidate Tsubakimoto's entries without regard to the manufacturer of the chain. Moreover, Tsubakimoto notes that in *RC 96–97 Preliminary Results,* the Department stated that ''the Department's determinations in other administrative proceedings concerning roller chain from Japan indicate that Tsubakimoto was revoked as a manufacturer/exporter and reseller/exporter.'' Furthermore, Tsubakimoto argues, the concept of assessment rates does not pertain to either the weighted-average margin analysis or the final results on which the Department based its revocation. Tsubakimoto asserts that there was no separate rate established for Tsubakimoto's sales of chain made by other producers; no separate margin analysis programs or printouts issued; and all of the final results consistently listed only one cash deposit rate for Tsubakimoto.

Therefore, Tsubakimoto maintains that, given the Department's practice and based upon the underlying facts of the record, the revocation applies to all imports by Tsubakimoto. Tsubakimoto argues that it would be illogical, and contrary to law, for the Department to review all of Tsubakimoto's sales as one channel of trade and to calculate one unified weighted-average margin and only revoke the order with respect to one type of chain.

Tsubakimoto further argues that the petitioner's argument that the Department should adopt certain principles relating to statutory construction is completely irrelevant to the present matter. Tsubakimoto states that there is no statutory mandate that the Department follow any particular course of analysis when applying its past determinations. Tsubakimoto maintains that the Department is guided by the general principles that its actions be in accordance with law, reasonable, and supported by substantial evidence. Tsubakimoto claims that these guiding principles give the Department the discretion which is necessary in many cases when the Department is interpreting and applying its own previous determinations as it is in this case.

Tsubakimoto refutes the relevance of the cases cited by the petitioner in its attempt to emphasize the significance of the language ''manufactured and exported.'' Tsubakimoto states that with regard to *Wire Strand from Japan,* the language of the determination clearly shows that the company in question was not exporting products manufactured by another producer during the relevant period of time and that if it were to export merchandise manufactured by another manufacturer, such merchandise would be subject to cash deposits, etc. Tsubakimoto argues that in the instant case, Tsubakimoto was exporting chain manufactured by other producers, a fact of which the Department and the petitioner were well aware. Moreover, according to Tsubakimoto, the Department's determinations were based on its analysis of all of Tsubakimoto's sales. Tsubakimoto therefore maintains that the petitioner had every opportunity during each of the respective reviews, and the revocation proceeding itself, to object to the Department's treatment of Tsubakimoto's sales of chain produced by other manufacturers but did not do so and that it is now too late. Tsubakimoto argues that the petitioner's citations to other non-chain notices are equally unpersuasive and that the petitioner's argument is based on a literal reading of the language in each notice without any attempt to analyze the facts of each individual case. Regarding the petitioner's citation to roller chain determinations in 1982 and 1983, Tsubakimoto notes that the Department clearly specified different channels of trade when it wished to treat the channels differently. In the present case, Tsubakimoto states that the Department did not add any language to its notices, either during the reviews, or in the revocation, that indicated that Tsubakimoto's sales of chain produced by other manufacturers were to be treated differently.

Tsubakimoto next states that it does not understand how the petitioner's argument that Tsubakimoto purchased chain from ''outside independent'' companies supports its claim that the Department has not consistently treated Tsubakimoto sales without regard to manufacturer. Tsubakimoto contends that the petitioner has failed to contradict the fact that the Department always requested Tsubakimoto to include its sales of chain made by other producers in its questionnaire response; that the Department has always published one margin rate for all of Tsubakimoto's U.S. sales; and that the Department, knowing that its analysis leading up to the revocation included sales of chain made by another producer, never stated in any notice that it intended to, or was in fact, distinguishing between Tsubakimoto's sales of chain it produced from sales of chain produced by other manufacturers. Tsubakimoto also stresses that it is very important to note that the petitioner has

failed to identify even one instance in any of the numerous proceedings leading up to the revocation, as well as the revocation proceeding itself, where it requested the Department treat Tsubakimoto's sales differently based on the manufacturer of the chain. Tsubakimoto hypothesizes that the reason for this is that the petitioner never objected to such treatment during the relevant proceedings.

Tsubakimoto maintains that the facts alleged by the petitioner that transaction-specific margins were applied to individual Tsubakimoto exports, even if true and if there were facts on the record to support the allegation, is meaningless to the issue at hand. Tsubakimoto notes that sale-specific assessment rates are not relevant to whether the Department will revoke a finding or an order. Tsubakimoto continues that, individual assessments on each export, if true, is not significant because this is true of Tsubakimoto-made chain as well, thus, if the petitioner's argument is true, the margin calculated for other sales of Tsubakimoto-made chain did not affect the margin calculated for another sale of Tsubakimoto-made chain.

Tsubakimoto discounts the petitioner's statement that there is no evidence that the margins calculated on sales of chain made by another producer ''had a material impact on Tsubakimoto's weighted average dumping margin.'' Tsubakimoto contends that there are no facts on this record to support this claim. Tsubakimoto also discounts the petitioner's argument that it is significant that one of Tsubakimoto's suppliers was listed separately in the 1986–1987 notice of initiation. Tsubakimoto notes that the petitioner failed to mention that not all of the suppliers were so listed. Nevertheless, Tsubakimoto maintains that the Department's initiation of the supplier in question was proper since there was more than one channel of trade for that supplier which had to be analyzed separately. Tsubakimoto argues that this initiation notice did not in any way controvert the fact that the Department eventually issued one single margin rate for Tsubakimoto.

Tsubakimoto argues that the petitioner's assertion that had it known the revocation notice was intended to reach sales of an affiliated producer-manufactured roller chain it would have raised the issue in the 1986–1987 proceeding is nothing more than post hoc rationalization and irrelevant.

Tsubakimoto concludes that the Department's preliminary decision is fully supported by fact and law and is consistent with how the Department has treated Tsubakimoto in every proceeding leading to the revocation.

Department Position: We disagree with petitioner that the Department's revocation of Tsubakimoto applies only to merchandise that has been both produced and exported by Tsubakimoto. Petitioner's briefs did not provide any new arguments that we did not consider in making our preliminary results finding. Therefore, as we stated in the *RC 96–97 Preliminary Results,* the evidence on the record demonstrates that the Department revoked Tsubakimoto with respect to both the manufacturer/exporter and reseller/exporter operations the company conducts. Although, as petitioner argues, regarding the principles of construction, the phrase ''manufactured and exported'' used by the Department in the 1989 *Revocation Notice* could be read to limit Tsubakimoto's revocation to roller chain manufactured by Tsubakimoto, we continue to find that other factors demonstrate the revocation also covers Tsubakimoto as a reseller. Specifically, the *de minimis* margin calculated in the 1986–1987 administrative review, which is the foundation of the revocation under the Department's regulations at that time (*see* 19 CFR 353.54 (1987)) included sales made by Tsubakimoto of roller chain it purchased from two other Japanese manufacturers. Therefore, the Department's revocation was based upon Tsubakimoto's pricing practices as both a manufacturer/exporter and reseller/exporter (*see RC 96–97 Preliminary Results*). We disagree with the petitioner's contention that the margins calculated for the roller chain purchased from affiliated suppliers are not relevant to the overall Tsubakimoto dumping margin. All sales used to calculate the dumping margin which resulted in the eventual revocation are equally important to the overall calculation regardless of whether they raise or lower the margin.

The petitioner argues that the margins calculated for roller chain from affiliated suppliers did not directly affect the antidumping duties owed on Tsubakimoto-produced chain or vice versa since the margins were calculated on a sale-by-sale basis. Although petitioner's statements are technically correct, we find that they shed no light on whether the Department revoked Tsubakimoto as a reseller of another company's product. The Department calculates transaction-specific dumping margins in all reviews. These margins are then weight-averaged for purposes of calculating a single cash deposit rate. In addition, during the early and middle 1980's, the Department, in some cases, was still issuing ''master list'' assessment instructions. Where the Department had started to move toward issuing assessment rates, rather than ''master list'' (i.e., transaction-specific) assessment instructions, the assessment rates issued were importer-specific rates. Therefore, the fact that the Department calculated transaction-specific margins for the subject roller chain reviews does not support the petitioner's argument regarding the Department's treatment of Tsubakimoto as a reseller of another manufacturer's product.

We agree with the petitioner's contention that the affiliated producer in question was listed separately in the 1986–1987 notice of initiation and that the Department would have had an obligation to calculate margins for roller chain manufactured by this company even if it had not initiated a review of Tsubakimoto-produced chain. Our determination in no way excludes the affiliated supplier from the order with respect to the roller chain it manufactures and exports to the United States.

Therefore, we have continued to apply the revocation to Tsubakimoto as a manufacturer/exporter and reseller/exporter.

Comment 3: Tsubakimoto's Allegation of New Information. In its July 13, 1998, rebuttal brief, Tsubakimoto argues that the petitioner included two items of new information in its July 2, 1998, case brief. Specifically, Tsubakimoto states that the following two statements, made by the petitioner, are untimely submissions of new factual information and should be stricken from the record: (1) that ''individual assessment rates were calculated for shipments of purchased chain, and these rates were calculated as if the chain had been purchased from an unrelated party,'' and (2) that ''it is the ACA's further understanding that for these pre-revocation administrative transactions, the antidumping duties assessed on roller chain purchased from related manufacturers varied from those assessed on individual shipments of Tsubaki-manufactured chain.'' *See* petitioner's July 2, 1998 case brief at 7 and 16.

The petitioner responded to Tsubakimoto's allegation of new information on July 21, 1998, when it indicated where in the record of this segment of the proceeding the information can be found on which it based its two statements concerning assessment instructions. According to the petitioner, the passages in question ''flow directly'' from the standard

assessment language used by the Department in two previously published **Federal Register** notices. *See* petitioner's July 21, 1998 letter at 2.

With regard to the first statement in question, the petitioner states that this argument was presented in nearly identical terms in its July 30, 1997 submission. In that submission, the petitioner stated:

''* * * it should be emphasized that separate margins were calculated for the various shipments of roller chain which Tsubakimoto exported to the United States. Thus the margins calculated for roller chain purchased from related suppliers did not directly affect the antidumping duties owed on Tsubakimoto-produced chain or vice versa.''

See Roller Chain, Other Than Bicycle, From Japan; Final Results of Antidumping Duty Administrative Review and Intent to Revoke In Part, 54 FR 3100 (Jan. 14, 1989) (''The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above.'').

See petitioner's July 21, 1998 letter at 4. Since the arguments presented in its July 30, 1997 and the July 21, 1998 submissions are nearly identical, the petitioner concludes that there is no basis for Tsubakimoto's claim that the passage in question represents new information to the record of this proceeding.

With respect to the second statement, the petitioner notes that the passage in question is found in footnote 5 of its July 2, 1998 case brief. This footnote states in its entirety:

''It is the ACA's information and belief that, in administrative reviews covering earlier time periods, the Commerce Department also calculated margins on a transaction-specific basis. *See,* e.g., Roller Chain, Other than Bicycle, from Japan, 52 FR 17425 (1987) (April 1, 1981 through September 1, 1983). It is the ACA's further understanding that for these pre-revocation administrative transactions, the antidumping duties assessed on roller chain purchased from related manufacturers varied from those assessed on individual shipments of Tsubaki-manufactured chain. *Contra* Tsubaki Submission at 2, 3 (July 23, 1997).''

See petitioner's July 21, 1998 letter at 5. The petitioner observes that this footnote cites the final determination of the roller chain review for Tsubakimoto for the period April 1, 1981 through September 1, 1983. According to the petitioner, the notice of final results for the 1981–1983 reviews expressly stated that:

''* * * the Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions on Tsubakimoto directly to the Customs Service.''

See petitioner's July 21, 1998 letter at 6. The petitioner states that its understandings as to the Department's approach to the appraisement of the Tsubakimoto sales follow directly from this passage of the published notice. Although the petitioner acknowledges that the notice of final results for the 1981–1983 reviews is not on the record of this segment of the proceeding, it states that it is absurd to argue, as Tsubakimoto has done, ''that a party to an administrative proceeding may not characterize statements in a published **Federal Register** notice in its case brief.'' *See* petitioner's July 21, 1998 submission at 6. Furthermore, the petitioner contends that if Tsubakimoto's argument was accepted, parties to antidumping proceedings could not cite to any agency notices or court decisions in their briefs unless copies of those determinations had previously been submitted to the agency within the 180-day window set out in 19 CFR 351.31(a)(1)(ii).

Department Position: We agree with the petitioner that the two statements identified by Tsubakimoto do not contain new factual information. After analyzing the arguments presented by Tsubakimoto and the petitioner, we find that both of the petitioner's statements are assertions based upon information already contained in the record of this proceeding. *See* Memorandum To the File from Mark Manning, *Tsubakimoto Chain Co.'s Allegation of New Information Contained in the American Chain Association's Case and Rebuttal Briefs in the Administrative Review of Roller China, Other Than Bicycle, From Japan,* dated August 5, 1998. Briefs are intended to provide parties the opportunity to argue facts already on the record. The petitioner's case brief was timely submitted, and did not contain factual information not already on the record. Therefore, we determine that it is appropriate to leave the statements contained in the petitioner's case brief on the record of this proceeding.

Izumi

Comment 1: Adverse Facts Available. The petitioner argues that the Department assigned Izumi a relatively favorable FA rate of 17.57 percent because of Izumi's ''substantial efforts to cooperate'' during the review, even though the Department found that Izumi had ''not demonstrated * * * that it acted to the best of its ability'' to provide the requested information on Izumi's direct sales to the United States. The petitioner argues that Izumi's minimal efforts to comply with the Department's repeated requests for information over the course of this proceeding cannot be viewed as ''cooperation.'' Therefore, the petitioner maintains that Izumi's substantial failures in this proceeding should subject it to the higher FA rate of 42.48 percent, the rate calculated for Kaga in the preliminary results of review.

The petitioner notes that under the ''best information available'' standard that preceded the current ''facts available'' rule, the Department utilized a two-tier approach for selecting the appropriate rate, pegged to the company's level of cooperation. The petitioner acknowledges that best information available is no longer the law, but states that the two-tier approach developed under this standard is relevant to understanding the Department's decisions on FA.

The petitioner theorizes that the purported ''substantial efforts to cooperate'' appear primarily to have consisted of (1) the submission of inadequate responses to the Department's questionnaire, and (2) participation in a failed verification. The petitioner maintains that Izumi substantially failed to cooperate in this review, citing the *RC 96–97 Preliminary Results,* which states that Izumi failed to comply with the Department's repeated requests for third country sales and appropriate cost information. Further, citing the same notice, the petitioner states that ''Izumi had not demonstrated on the record that it acted to the best of its ability in providing the necessary information'' and had ''elected not to follow the Department's clear instructions, which were enunciated in several questionnaires, that Izumi must report all appropriate third country sales and an appropriate cost methodology.'' The petitioner claims that Izumi clearly chose not to provide critical data requested by the agency and, thereby, made it impossible for the Department to calculate antidumping margins for the company's U.S. sales.

The petitioner further argues that Izumi is an experienced player in the proceedings, and that it has demonstrated in the past, that when it desires, it can provide more comprehensive data. Moreover, the petitioner argues that Izumi's failure to provide the Department with the requested information hindered the Department's ability to calculate

accurate dumping margins and had the same practical effect as the decision by the Pulton Chain Company to withdraw from the proceeding.

Given Izumi's failure to cooperate, the petitioner contends that the Department's application of a relatively-favorable facts available margin is at odds with prior precedent. The petitioner cites the CIT's decision to uphold the Department's determination to apply a calculated margin, which was higher than that provided in the petition, as FA for a ''large sophisticated company with demonstrated ability to participate in the antidumping investigation'' which failed to provide adequate cost of production and constructed value information. *See Empressa Nacional.* The petitioner states that the Court was not receptive to the company's argument that the Department should have taken into consideration its ''previous extensive cooperation,'' including the fact that it responded in a timely fashion to the Department's other questionnaires. The petitioner argues that Izumi's faulty responses to the Department's questionnaires should carry no more weight here.

The petitioner also cites *Extruded Rubber Thread from Malaysia; Final Results of Antidumping Administrative Review,* 63 FR 12752 (March 16, 1998) as a recent case in which the Department applied ''the highest rate calculated for any respondent in any segment of the proceeding'' to a company which submitted responses to all questionnaires, passed its sales verification, and verified parts of its cost response. In applying a high adverse FA margin for this company, the petitioner states that the Department explained that it was unable to reconcile a number of the company's costs, and that even if some of the accounting staff was inexperienced at the time of verification, the company was experienced in the antidumping proceedings, and that the company had control over the documents necessary to prepare its response and conduct verification. The petitioner notes that the above-referenced company received the same adverse FA margin as a company that did not cooperate at all in the same review. The petitioner further cites *Pipes and Tubes from Thailand* as another example of where the Department applied an adverse inference to a company who had failed to provide complete responses at verification due to its lack of preparation. The petitioner argues that Izumi's timely submission of some of the requested information should not protect it from a more adverse FA margin.

The petitioner also argues that the facts surrounding Izumi's responses to the Department's requests are distinguishable from the cases cited by the Department in the *RC 96–97 Preliminary Results,* where a respondent may not have acted to the best of its ability to comply, but was deemed sufficiently cooperative to warrant a less adverse fact available rate. For example, the petitioner states that in *Fresh Cut Flowers—Columbia 1997,* the Department noted that the respondent in question ''faced difficult circumstances during the review period.'' The petitioner asserts that it knows of no such circumstances facing Izumi in the instant review. Moreover, the petitioner claims that with the exception of the rate applied to companies that did not respond to the Department's questionnaires, or responded after the deadline, the margin selected for the company in the *Fresh Cut Flowers—Columbia 1997* case was the highest imposed in the proceeding. The petitioner also states Izumi's situation is distinguishable from that in *AFBs 1997.* In *AFBs 1997,* the petitioner notes that although the Department may not have selected the highest potential margin, the rate chosen was more than twice as high as that received by any other respondent. Moreover, the petitioner continues, the Department had determined that ''use of the flawed response would have yielded a more favorable margin'' for the respondent. The petitioner contends that, unlike *AFBs 1997,* there is no assurance that the rate chosen in the preliminary results for Izumi will encourage cooperation in the future because it was not possible for the Department to compare the chosen rate to Izumi's calculated rate due to the flawed response. The petitioner argues that, presumably, Izumi would have ''acted to the best of its ability'' to provide missing data if it believed that the data would have produced a favorable margin. In fact, the petitioner contends, the 17.57 percent rate, which has been imposed in prior review proceedings, has not prompted any measurable change in Izumi's level of cooperation. *See Final Results of Antidumping Duty Administrative Review and Partial Termination: Roller Chain, Other than Bicycle, from Japan,* 57 FR 6806 (February 28,1992).

Izumi argues that it acted to the best of its ability and responded to all of the Department's requests for information. Izumi maintains that the problems encountered at verification were the result of Izumi's unsophisticated record keeping and accounting systems. Izumi emphasizes that it is not a large sophisticated company as portrayed by the petitioner; rather, its records are not computerized and it has no formal cost accounting system. Moreover, Izumi contends that it is a family-owned operation that is so small it is not required to file its financial statements with the Japanese Ministry of Trade and Industry.

Izumi states that it was required to submit a great deal of sales data as well as detailed data concerning the physical characteristics of each model sold in the U.S. and home markets-much of which it states was correctly reported. Izumi identifies only one instance in which its data contained errors (*i.e.,* where it omitted certain sales to the Philippines). Izumi further states that it also provided cost information to the best of its ability. Izumi contends that, despite its efforts being hindered by the fact that it has no cost accounting system, it did its best to report its costs based on the methodology used to report its costs in the original investigation.

Given these facts, Izumi argues that there is no basis for assigning Izumi an adverse FA rate under the guidelines set forth by the CIT in *Borden.* Izumi first states that *Borden* makes clear that the standards the Department used to apply ''best information available'' under the pre-URAA amendments to the Act no longer apply. Therefore, Izumi maintains that the petitioner's reliance on the old ''two-tiered'' methodology is unavailing. Izumi next states that *Borden* drew a distinction between ''an unwillingness, rather than simply an inability to cooperate.'' Izumi argues that nothing in the record of the present review indicates an unwillingness on the part of Izumi to cooperate. Lastly, Izumi notes that, like the respondent in *Borden,* Izumi does not have a cost accounting system, which lead to the submission of information that the Department found to have problems.

Izumi asserts that the petitioner's contention that an inadequate response is the equivalent of deliberate non-cooperation is ridiculous. Izumi argues that if the petitioner was correct, the Department would always have to make the most adverse assumptions in assigning FA since an adequate response can never be subject to the application of FA. Moreover, Izumi maintains that the petitioner's argument that Izumi provided more comprehensive data in prior reviews is untrue. Izumi contends that it did not behave any differently in this review than it has in past reviews. Izumi also asserts that it had difficulty in obtaining third county data as the great volume of

data had to be manually reviewed and separated by country, and that it had difficulties in accumulating the cost data given the above-referenced lack of a cost accounting system. Izumi states that it has always done its best to respond fully and completely to the Department's requests for information and that the petitioner's characterizations of Izumi's efforts as non-cooperative are inaccurate.

Furthermore, Izumi maintains that, contrary to the petitioner's assertion that the Department did not make an adverse inference in assigning Izumi a preliminary margin, the Department did, in fact, make an adverse inference with regard to Izumi. Izumi contends that the rate assigned for the preliminary results is higher than any calculated rate for Izumi for the past five reviews. Izumi states that the non-adverse FA rate for Izumi in the immediately preceding review (1995–1996) was only 2.26 percent. Izumi maintains that the resulting 600 percent increase in the deposit rate can hardly be characterized as favorable. Izumi argues, that even if the Department was justified in making an adverse inference in determining Izumi's rate, it was correct not to use the most adverse rate. Izumi asserts that there is nothing in the statute which mandates the use of an adverse inference where a respondent has been cooperative. Thus, Izumi argues, the cases cited by the petitioner do not bind the Department in this case. Izumi states, that unlike *Pipes and Tubes from Thailand,* a case cited by the petitioner, the Department has already found that Izumi did significantly cooperate with the Department. Regarding *Fresh Cut Flowers—Columbia 1997,* Izumi states that its situation is similar in that it has made significant efforts to both respond to the Department's questionnaires and undergo verification.

Finally, Izumi argues that the Department should also reject the petitioner's demand that the Department use the rate assigned to Kaga for the preliminary results. Izumi maintains that Kaga's rate was the result of serious clerical errors, is not reliable, and should not be used as the basis for Izumi's rate. Also, Izumi states that the Department assigned Kaga's rate as the most adverse facts available rate to another respondent in this review which refused to undergo verification.

Department Position: We agree with Izumi, in part. For the reasons explained in the *RC 96–97 Preliminary Results* and the Izumi FA Memorandum, the application of section 782(e) of the Act does not overcome section 776(a)'s direction to use FA for Izumi's submissions. Thus, the use of FA is warranted in this case. Furthermore, because Izumi did not act to the best of its ability to comply with the request for information under section 776(b), an adverse inference is warranted. We note that, unlike in *Borden,* however, as stated in the *RC 96–97 Preliminary Results,* because Izumi made substantial efforts to cooperate throughout the course of this review, including undergoing verification, we are continuing to resort to FA that are less adverse to the interest of Izumi. Therefore, we used for Izumi an adverse FA rate of 12.68 percent (a rate calculated for another respondent in the 1990–1991 review of this proceeding). This rate is a significant increase from the company's current cash deposit rate and thus is sufficiently adverse to induce cooperation by Izumi in future reviews of this proceeding. If, in subsequent reviews, it is determined that the adverse FA rate assigned to Izumi is not prompting Izumi to completely and accurately report all requested information, the selection of the facts available rate may be revisited.

Comment 2: Affiliation. Izumi maintains that Company X, [1] an affiliated Japanese producer of roller chain, is a separate entity from Izumi. Izumi further argues that Company X's ownership interest in Izumi, which was verified by the Department, has not changed significantly during the almost 20 year history in which the Department has had responsibility for the case. Izumi contends that this relationship is well known to the Department and that the Department has always calculated a separate margin for each company. Furthermore, Izumi contends that Company X does not hold a controlling interest in Izumi and that the sole Company X director on Izumi's Board of Directors is affirmatively prohibited from voting in matters which affect Company X. Izumi requests that the Department continue to treat the two companies as separate entities.

Department Position: In our preliminary results, we noted that the majority of Izumi's home market sales were made to Company X, and therefore, we would be reviewing the appropriateness of continuing our analysis of Izumi as a separate entity for the purposes of the final determination. In order to conduct our analysis of whether to collapse Izumi and Company X into one entity under the antidumping law, the Department issued a questionnaire to Izumi on May 27, 1998 and a supplemental questionnaire on July 16, 1998. In order to gain additional information, we also issued a questionnaire to Company X on July 16, 1998. Izumi filed timely responses on June 24, 1998 and August 3, 1998, and Company X filed a timely response to its questionnaire on August 3, 1998. The parties submitted their case and rebuttal briefs on this issue on September 1, 1998 and September 9, 1998, respectively.

Due to the proprietary nature of this issue, we are unable to discuss publicly the information on the record. Therefore, we have summarized the parties' proprietary arguments, and the Department's comments, in a separate decision memorandum that has been placed on the record of this proceeding. *See Decision Memorandum: Roller Chain, Other than Bicycle, from Japan—Izumi Chain Mfg. Co. Ltd., Affiliation Issue, 1996–1997 Administrative Review,* November 4, 1998 (*Izumi Decision Memorandum*).

After analyzing the information provided by Izumi and Company X in their questionnaire responses and the arguments presented in the parties' briefs, we have determined that there is not sufficient evidence on the record of this case to determine that Izumi and Company X should be collapsed under the antidumping law. *See* the *Izumi Decision Memorandum* at 23. However, we will request additional information for this analysis and further examine this issue in the context of the ongoing 1997–1998 administrative review of this order.

Final Results of Review

As a result of this review, we have determined that the following margins exist for the period April 1, 1996 through March 31, 1997:

Manufacturer/exporter	Weighted-average margin percentage
Daido Kogyo Company Ltd. ...	00.03
Enuma Chain Mfg. Company	00.03
Izumi Chain Mfg. Company Ltd.	12.68
Kaga Kogyo/Kaga Industries ..	12.68
OCM Chain Company	12.68
Pulton Chain Company Inc.	17.57
R.K. Excel Company Ltd.	00.28
Sugiyama Chain Company, Ltd.	12.68

Cash Deposit Requirements

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries.

The following deposit requirements shall be effective upon publication of

[1] Due to the proprietary nature of the affiliation, we have referred to the company in question as 'Company X'.

this notice of final results of administrative review for all shipments of the subject merchandise from Japan that are entered or withdrawn from warehouse, for consumption on or after the publication date, as provided by 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates listed above, except if the rate is less than 0.5 percent and, therefore, de minimis, the cash deposit rate 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 of review in which that manufacturer participated; and (4) if neither the exporter or the manufacturer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 15.92 percent, the ''all others'' rate based on the first review conducted by the Department in which a ''new shipper'' rate was established in the final results of antidumping finding administrative review (48 FR 51801, November 14, 1983). These requirements shall remain in effect until publication of the final results of the next administrative review.

For duty assessment purposes, we have calculated importer-specific assessment rates for roller chain. For CEP sales we calculated an importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the estimated entered value of subject merchandise sold during the POR to that importer. We calculated the estimated entered value by subtracting international movement expenses and expenses incurred in the United States from the gross sales value. For assessment of EP sales, for each importer, we calculated a per unit importer-specific assessment amount by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of subject merchandise sold to that importer during the POR.

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

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

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

Dated: November 4, 1998.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–30414 Filed 11–13–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–040]

Stainless Steel Plate From Sweden: 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 July 8, 1998, the Department of Commerce (The Department) published the preliminary results of review in the antidumping duty administrative review on stainless steel plate from Sweden. (63 FR 36877). The review covers two manufacturers/exporters (Avesta Sheffield AB (Avesta) and Uddeholm Tooling AB, Bohler-Uddeholm Corporation and Uddeholm Limited (collectively Uddeholm)) of the subject merchandise to the United States and the period June 1, 1996 through May 31, 1997.

EFFECTIVE DATE: November 16, 1998.

FOR FURTHER INFORMATION CONTACT: John Totaro or Nithya Nagarajan, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

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 references to the provisions codified at 19 CFR part 351 (1998).

Background

The Department of the Treasury published an antidumping finding on stainless steel plate from Sweden on June 8, 1973 (38 FR 15079). On July 8, 1998, the Department published in the **Federal Register** the preliminary results of antidumping duty administrative review of this antidumping finding (63 FR 36877) for the period June 1, 1996 through May 31, 1997. The Department has now completed this review in accordance with section 751(a) of the Act.

Scope of the Review

Imports covered by this review are shipments of stainless steel plate which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting and pitting. Stainless steel plate is classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7219.11.00.00, 7219.12.00.05, 7209.12.00.15, 7219.12.00.45, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.21.00.05, 7219.21.00.50, 7219.22.00.05, 7219.22.00.10, 7219.22.00.30, 7219.22.00.60, 7219.31.00.10, 7219.31.00.50, 7220.11.00.00, 7222.30.00.00, and 7228.40.00.00. Although the subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

On November 21, 1997, Avesta and Avesta Sheffield NAD, Inc. requested clarification to determine whether stainless steel slabs that are manufactured in Great Britain and rolled into hot bands in Sweden are within the scope of the antidumping finding. On December 22, 1997, the Department determined that British slabs rolled into hot bands in Sweden are within the scope of the finding.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results of