may be resubmitted with or without name and address within 7 days.

Permits: Permits required for implementation include the following:

1. U.S. Army Corps of Engineers

—Approval of discharge of dredged or fill material into the waters of the United States under Section 404 of the Clean Water Act;
—Approval of the construction of structure or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899;

2. Environmental Protection Agency

—National Pollutant Discharge Elimination System (402) Permit;
—Review Spill Prevention Control and Countermeasure Plan;

3. State of Alaska, Department of Natural Resources

—Tideland Permit and Lease or Easement;

4. State of Alaska, Department of Environmental Conservation

—Solid Waste Disposal Permit;
—Certification of Compliance with Alaska Water Quality Standards (401 Certification)

Responsible Official: Carol J. Jorgensen, Assistant Forest Supervisor, Stikine Area, Tongass National Forest, P.O. Box 309, Petersburg, Alaska 99833, is the responsible official. The responsible official will consider the comments, response, disclosure of environmental consequences, and applicable laws, regulations, and policies in making the decision and stating the rationale in the Record of Decision.

Dated: July 15, 1998.

Carol J. Jorgensen,

Assistant Forest Supervisor.

[FR Doc. 98–20185 Filed 7–28–98; 8:45 am]

BILLING CODE 3410–11–M

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: August 6, 1998.

PLACE: ARRB 600 E Street, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Closed Meeting.
2. Review of Assassination Records.
3. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

Laura Denk,

Executive Director.

[FR Doc. 98–20373 Filed 7–27–98; 1:02 pm]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–122–047]

Elemental Sulphur From Canada: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limit for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the review of elemental sulphur from Canada. This review covers the period December 1, 1996 through November 30, 1997.

EFFECTIVE DATE: July 29, 1998.

FOR FURTHER INFORMATION CONTACT: Rick Johnson at (202) 482–3818; Office of AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

The Applicable Statute

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).

Postponement of Preliminary Results

The Department has determined that it is not practicable to issue its preliminary results of the administrative review within the original time limit of September 2, 1998. (*See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration,* July 9, 1998). The Department is extending the time limit for completion of the preliminary results until November 1, 1998 in accordance with Section 751(a)(3)(A) of the Act.

The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

Dated: July 14, 1998.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Enforcement Group III.

[FR Doc. 98–20267 Filed 7–28–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–807]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Spain

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

EFFECTIVE DATE: July 29, 1998.

FOR FURTHER INFORMATION CONTACT: Howard Smith or Irene Darzenta, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5193 or (202) 482–6320, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

Final Determination

We determine that stainless steel wire rod (SSWR) from Spain is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

The preliminary determination in this investigation was issued on February 25, 1998. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Wire Rod from Spain,* 63 FR 10849 (March 5, 1998) *(Notice of Preliminary Determination).* Since the preliminary determination, the following events have occurred:

On March 6, 1998 the respondent in this investigation, Roldan, S.A. (Roldan), alleged that the Department of Commerce (the Department) made a ministerial error in calculating the margin for the preliminary determination. While we agreed with Roldan's allegation, in accordance with sections 351.224(e) and 351.224(g) of the Department's regulations, we did not amend our preliminary determination because the ministerial error was not significant. However, we have corrected this error in the final determination. For further discussion of the ministerial error, see the Memorandum from Howard Smith to Holly Kuga dated March 6, 1998.

In March 1998, we issued supplemental questionnaires to Roldan and received responses to those questionnaires. Roldan submitted corrected sales and cost databases in April 1998.

We verified Roldan's questionnaire responses in April and May 1998. At verification, Roldan identified various errors in its sales and cost databases, including incorrect payment dates for a significant number of U.S. sales and incorrect production quantities for all models listed in the cost databases. We requested that Roldan correct the erroneous U.S. payment dates and production quantities, and submit revised U.S. sales and cost databases. In response to our request, Roldan submitted revised cost data on May 8, 1998, and revised U.S. sales data on June 12, 1998. The revised U.S. sales database included updated U.S. credit expenses based on the corrected payment dates.

The petitioners (*i.e.*, AL Tech Specialty Steel Corp., Carpenter Technology Corp., Republic Engineered Steels, Talley Metals Technology, Inc., and the United Steel Workers of America, AFL–CIO/CLC) and Roldan submitted case briefs on June 11, 1998, and rebuttal briefs on June 18, 1998. At the request of all parties, the public hearing scheduled for June 19, 1998, was canceled.

Scope of Investigation

For purposes of this investigation, SSWR comprises products that are hot-rolled or hot-rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot-rolling or hot-rolling, annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar.

The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire-drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches diameter. Two stainless steel grades, SF20T and K–M35FL, are excluded from the scope of the investigation. The chemical makeup for the excluded grades is as follows:

SF20T

Carbon	0.05 max	Chromium	19.00/21.00
Manganese	2.00 max	Molybdenum	1.50/2.50
Phosphorous	0.05 max	Lead added	(0.10/0.30)
Sulfur	0.15 max	Tellurium	added (0.03 min)
Silicon	1.00 max		

K–M35FL

Carbon	0.015 max	Nickel	0.30 max
Silicon	0.70/1.00	Chromium	12.50/14.00
Manganese	0.40 max	Lead	0.10/0.30
Phosphorous	0.04 max	Aluminum	0.20/0.35
Sulfur	0.03 max		

The products under investigation are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 1996, through June 30, 1997.

Fair Value Comparisons

To determine whether sales of SSWR from Spain to the United States were made at less than fair value, we compared the Constructed Export Price (CEP) to the Normal Value (NV) as defined in sections 772(b) and 773(a) of the Act, respectively. We calculated CEP and NV following the general methodologies described in the preliminary determination. However, as noted in the ''Constructed Export Price'' and ''Normal Value'' sections below, we adjusted certain reported data based on our findings at verification and our positions discussed in the ''Interested Party Comments'' section of this notice. For further discussion, see the Calculation Memorandum from Howard Smith to Irene Darzenta dated July 20, 1998 (Calculation Memorandum).

Product Comparisons

We performed product comparisons based on the same characteristics and in the same general manner as that outlined in the preliminary determination. See *Comment 3* in the ''Interested Party Comments'' section of this notice.

As in the preliminary determination, in instances where Roldan has reported a non-AISI grade (or an internal grade code) for a product that falls within an AISI category, we have used the actual AISI grade in our analysis rather than the non-AISI grade reported by Roldan. In instances where the chemical content ranges of a reported non-AISI grade (or an internal grade code) are outside the parameters of an AISI grade, we have used the non-AISI (or internal) grade code reported by Roldan in our analysis. However, in instances in which an internal grade matches all the specified

chemical content tolerance ranges of an AISI grade, but the internal grade also contains amounts of chemicals that are not otherwise specified as being included in the standard AISI designation, we have used the corresponding AISI grade rather than the internal grade.

Use of Constructed Value

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States*, 133 F.3d 897 (Fed Cir.) (*Cemex*). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the ''ordinary course of trade.'' This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the ''ordinary course of trade'' to include sales below cost. *See* Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with the *Cemex* decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the ''ordinary course of trade.'' Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market, as described in the ''Scope of Investigation'' section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire. We have implemented the Court's decision in this case, to the extent that the data on the record permitted.

Level of Trade

In the preliminary determination we found that Roldan's home market sales were at a different and more advanced level of trade than its U.S. sales; however, the information on the record did not permit us to quantify a level of trade (LOT) adjustment based on a pattern of consistent price differences and, thus, we were unable to grant a LOT adjustment. Because we reclassified Roldan's U.S. sales as CEP transactions we granted Roldan a CEP offset in accordance with section 773(a)(7)(B) of the Act. Our findings at verification continue to support our preliminary level of trade analysis. Moreover, we have continued to treat Roldan's U.S. sales as CEP transactions (see *Comment 1* in the ''Interested Party Comments'' section of this notice). Therefore, in the final determination, we have also granted Roldan a CEP offset.

Facts Available

At verification, we found that Roldan failed to report certain U.S. sales that were made by its affiliated U.S. sales agent during the POI. In accordance with section 776 (b) of the Act, we have used adverse facts available with regard to these sales in reaching our final determination. For further discussion, see *Comment 2* in the ''Interested Party Comments'' section of this notice.

Constructed Export Price

In the preliminary determination, we treated Roldan U.S. sales as CEP transactions even though Roldan reported all of its U.S. sales as export price (EP) transactions. In this final determination, we have continued to treat Roldan's U.S. sales as CEP transactions and, thus, we followed the methodology described in the preliminary determination to adjust CEP in accordance with section 772(b) of the Act. However, we revised the following U.S. sales data based on our verification findings: (1) the gross unit price for six observations; (2) the quantity for one observation; (3) the shipment date and credit expense for one observation; (4) the discount for one observation; (5) the U.S. inland freight for one observation; and (6) the indirect selling expenses incurred in both the home and U.S. markets for all U.S. observations (*see* the Sales Verification Report from Howard Smith to Holly Kuga, dated June 4, 1998, at pages 2, 3, 18, 24, 29 and 36 (Sales Verification Report)).

Normal Value

As noted in the preliminary determination, we determined that Roldan's sales in the home market serve as a viable basis for calculating NV. In performing the price-to-price comparisons described in the ''Fair Value Comparisons'' section of this notice, we followed the methodology described in the preliminary determination in adjusting NV in accordance with sections 773(a)(6) and 773(a)(7) of the Act. However, we revised the following home market sales data based on our verification findings: (1) the gross unit price for one observation; (2) the further processing code for one observation; and (3) the indirect selling expenses incurred in the home market for all home market observations (*see* the Sales Verification Report at pages 13, 14, and 21).

In addition, consistent with our finding in the preliminary determination, we have excluded from our analysis Roldan's home market sales to an affiliated consumer of SSWR because we determined that those sales were not made at arm's-length prices and, thus, were outside the ordinary course of trade. Furthermore, we found that for certain models of SSWR, more than 20 percent of Roldan's home market sales made within an extended period of time were sold at prices that were less than the cost of production (COP), and that these prices did not provide for the recovery of costs within a reasonable period of time. Thus, in accordance with section 773 (b)(1) of the Act, we disregarded the below-cost sales and used the remaining above cost sales as the basis for determining NV. For further discussion of the arm's-length and sales-below-cost test used in our analysis, see *Notice of Preliminary Determination*, at pages 13–16.

Calculation of COP

We calculated the weighted-average COP, which was used in our sales-below-cost test, in accordance with section 773(b)(3) of the Act. Specifically, we calculated the weighted-average COP for each model by adding together Roldan's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses and packing costs. We have relied on Roldan's reported COP except in the following specific instances where the reported amount was not appropriately quantified or valued:

(1) We disallowed Roldan's claimed startup adjustment (see *Comment 6* in the ''Interested Party Comments'' section of this notice and the Concurrence Memorandum from Peter Scholl and Howard Smith to Holly Kuga, dated July 20, 1998 (Concurrence Memorandum)).

(2) We increased reported COP by the amount of the inventory write-down that Roldan excluded from COP (see

Comment 7 in the ''Interested Party Comments'' section of this notice).

(3) We increased reported COP by the amount of the productive assets that were written off during the POI (see *Comment 8* in the ''Interested Party Comments'' section of this notice).

For further discussion of the above adjustments, see the Calculation Memorandum.

Currency Conversion

As in the preliminary determination, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank in accordance with Section 773A of the Act.

Interested Party Comments

Comment 1: Classifying U.S. Sales as EP or CEP Sales

In the preliminary determination, the Department reclassified all of Roldan's U.S. sales as CEP sales because it found that Roldan's affiliated U.S. sales entity, Acerinox, U.S.A., performed a variety of significant selling functions in connection with Roldan's U.S. sales, including negotiating sales terms with U.S. customers, reporting to Roldan concerning market conditions, and identifying U.S. customers. Roldan argues its U.S. sales should be classified as EP sales in the final determination because the Department verified that Acerinox, U.S.A. did not perform the selling functions attributed to it in the preliminary determination but merely communicated Roldan's sales terms to U.S. customers, provided Roldan with information about market events, such as potential antidumping complaints, and coordinated with U.S. freight forwarders to move SSWR through U.S. customs and to transport it to the U.S. customer. Roldan maintains these services are ancillary to its U.S. sales and demonstrate that Acerinox, U.S.A. is simply a ''processor of sales-related documentation'' and a ''communication link'' with the U.S. customer. Furthermore, Roldan claims Acerinox, U.S.A. did not provide some of the services which the Department considers to be indicative of a U.S. affiliate's substantial involvement in the sales process. Specifically, Roldan notes that Acerinox, U.S.A. did not evaluate U.S. customers' credit, negotiate sales terms without Roldan's approval and, except for two unusual sales, take title to the merchandise and invoice the U.S. customer. Roldan, citing *Certain Cut-to-Length Carbon Steel Plate From Germany: Final Results of Antidumping Duty Administrative Review,* 62 FR 18,390 (April 15, 1997), and *Extruded Rubber Thread From Malaysia: Final Results of Antidumping Duty Administrative Review,* 63 FR 12,752, 12,759 (March 16, 1998), notes that the Department has classified U.S. sales as CEP transactions where the U.S. affiliate performed the aforementioned sales activities. Moreover, Roldan claims that in other antidumping cases the Department found U.S. affiliates that performed more services than Acerinox, U.S.A. performed to be ''processors of sales-related documentation'' and ''communication links.'' In support of this claim, Roldan cites *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews,* 62 FR 18,404 (April 15, 1997), where, according to Roldan, the U.S. affiliate paid antidumping and countervailing duty cash deposits, extended credit to U.S. customers, processed warranty claims, and developed projects. Finally, Roldan notes that in the *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Spain,* 59 FR 66,931, 66,932 (December 28, 1994) (*Stainless Steel Bar*), the Department determined that Roldan's U.S. sales were properly classified as purchase price sales (now called EP sales) because ''the subject merchandise was sold to unrelated purchasers in the United States before importation and exporter sales price methodology (currently CEP methodology) was not otherwise indicated.'' According to Roldan, EP treatment, which should be determined using the same criteria as that applicable to the former purchase price treatment, is appropriate in the instant investigation because its U.S. sales process has not changed.

Furthermore, Roldan objects to the methodology the Department currently employs to determine whether an affiliated U.S. sales entity's activities are limited to that of a ''processor of sales-related documentation'' and a ''communication link.'' According to Roldan, the Department has unlawfully changed its long-standing analysis of this issue and now finds that unless the record demonstrates that the U.S. affiliate's involvement in making the sale is incidental or ancillary, the U.S. affiliate is more than a ''processor of sales-related documentation'' and a ''communication link'' and, thus, CEP treatment is appropriate. In support of this assertion, Roldan cites *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews,* 63 FR 13170 (March 18, 1998) (*Steel From Korea*), in which, Roldan argues, the Department found the U.S. affiliates' role to be more than ancillary to the sales process and reclassified respondents' U.S. sales as CEP sales. Roldan argues that the Department's current analysis of this issue will make it impossible for a foreign manufacturer with a U.S. affiliate to classify its U.S. sales as EP sales because today's business practices often do not provide evidence of the extent of an affiliate's involvement in making a sale (*e.g.*, communication between foreign manufacturers and their U.S. affiliates is often over the telephone). Nevertheless, using the ''new'' analysis that the Department applied in *Steel From Korea*, Roldan maintains its U.S. sales remain EP sales. According to Roldan, the record in the instant investigation shows that Acerinox, U.S.A. performed fewer and less significant functions than those performed by the U.S. affiliates of the respondents whose sales were reclassified as CEP sales in *Steel From Korea*. Roldan also maintains its U.S. sales should be classified as EP sales under the Department's ''new'' analysis because Acerinox, U.S.A. incurred less indirect selling expenses than Roldan incurred in selling the subject merchandise.

Petitioners claim that the record in this investigation shows that Acerinox, U.S.A. is involved in every aspect of the sales process for Roldan's sales of SSWR in the United States and, thus, the Department correctly reclassified Roldan's U.S. sales as CEP sales for the preliminary determination and should continue to do so in the final determination. According to petitioners, the Department verified that Acerinox, U.S.A. (1) is contacted by U.S. customers inquiring about purchasing Roldan's SSWR; (2) contacted U.S. customers that it has not dealt with for some time; (3) accepted orders of less than 60 metric tons from U.S. customers without obtaining Roldan's approval of the sales terms; (4) handled returns of U.S. sales of Roldan's SSWR; and (5) inventoried Roldan's SSWR in the United States. Petitioners also note that Roldan identified Acerinox, U.S.A. as the selling agent for all of its U.S. sales of SSWR in its response to the Department's antidumping questionnaire. Regarding Acerinox, U.S.A.'s role in those sales, petitioners maintain that Roldan reported that Acerinox, U.S.A. contacts U.S. customers, accepts the customers' orders, collects the customers' payments, pays U.S. import duties on Roldan's SSWR and arranges for the

transportation of SSWR from the port of entry to the U.S. customer. Furthermore, petitioners assert there is no evidence on the record supporting Roldan's claim that it approved the terms of its U.S. sales of SSWR or indicating that Roldan had any direct dealings with unaffiliated U.S. purchasers of its SSWR. Petitioners claim that the sales in question are CEP sales because Acerinox, U.S.A. handled all of the dealings with U.S. customers and in doing so, it acted as more than a ''processor of sales related documentation'' or a ''communications link'' (*see Steel From Korea* at page 13183).

Additionally, petitioners argue that if the Department continues to treat Roldan's U.S. sales as CEP sales, it must reduce U.S. price by the amount of the sales commission Roldan paid Acerinox, U.S.A. because (1) this amount exceeds the selling expenses incurred by Acerinox, U.S.A.; and (2) as Roldan has admitted on the record of this investigation, the commission payments are at arm's-length. Petitioners note that the Department's practice of not making any adjustment for commission expense if it is unable to determine that the commission was paid at arm's-length does not apply to the instant investigation.

DOC Position: We agree with petitioners, in part, and have continued to treat Roldan's U.S. sales as CEP sales in the final determination.

Section 772(b) of the Act defines CEP as ''the price at which the subject merchandise is first sold (or agreed to be sold) *in the United States* before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted'' (emphasis added). Section 772(a) of the Act defines EP as ''the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States, as adjusted.'' When sales are made prior to importation through an affiliated or unaffiliated U.S. sales agent to an unaffiliated customer in the United States, our practice is to examine several criteria in order to determine whether the sales are EP sales. Those criteria are: (1) whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether this was the customary commercial channel between the parties involved; and (3) whether the function of the U.S. selling agent was limited to that of a ''processor of sales-related documentation'' and a ''communications link'' with the unaffiliated U.S. buyer. Where all three criteria are met, indicating that the activities of the U.S. selling agent are ancillary to the sale, the Department has regarded the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the United States where the sales agent performs them, and has determined the sales to be EP sales. Where one or more of these conditions is not met, indicating that the U.S. sales agent is substantially involved in the U.S. sales process, the Department has classified the sales in question as CEP sales. *See, e.g., Steel From Korea,* and *Viscose Rayon Staple Fiber from Finland: Final Results of Antidumping Duty Administrative Review,* 63 FR 32820 (June 16, 1998).

In the instant investigation, the sales in question were made prior to importation through Roldan's affiliated U.S. sales agent, Acerinox, U.S.A., to unaffiliated customers in the United States. The fact that the subject merchandise was shipped directly from Roldan to the unaffiliated U.S. customers and that this was the customary commercial channel between these parties is not disputed. The issue is whether Acerinox, U.S.A.'s role in the sales process was incidental or ancillary to the sale (*i.e.*, limited to that of a ''processor of sales-related documentation'' and a ''communications link'').

We have determined that the extent and nature of Acerinox, U.S.A.'s involvement in selling Roldan's SSWR indicates that the subject merchandise sales occurred in the United States and, thus, are CEP transactions. The record shows that during the POI, the sales process for Roldan's U.S. sales of SSWR typically included the following events:[1]

(1) On occasion, Acerinox, U.S.A. will contact U.S. customers that it has not dealt with for some time. Otherwise, U.S. customers contact Acerinox, U.S.A. to inquire about purchasing Roldan's SSWR. Acerinox, U.S.A. does not actively market Roldan's SSWR in the United States because Roldan's product is well-known among the relatively small number of customers in the marketplace.

(2) Acerinox, U.S.A. may accept the customer's order, if it is a small order, without contacting Acerinox, S.A.[2] in Spain to determine if Roldan will accept the sales terms. Acerinox, U.S.A. accepts small orders based on its past dealings with Roldan, its knowledge of Roldan's requirements, and the parameters Roldan sets regarding sales terms. For inquiries regarding significant purchases (generally more than three containers or 60 metric tons), Acerinox, U.S.A. will contact Acerinox, S.A. to determine the sales terms that Roldan will accept. Roldan will then specify an acceptable price, and any acceptable deviations from this price depending on the quantity the customer requires, the price the customer desires, and/or the historical relationship with the customer making the inquiry. In setting the price, Acerinox, U.S.A. may provide its opinion as to whether Roldan can obtain a more favorable price from the customer.

(3) After an order is accepted, Acerinox, U.S.A. transmits the order through Acerinox, S.A. to Roldan.

(4) After Roldan has produced the order, Acerinox, S.A. arranges transportation of the subject merchandise to the United States.

(5) Acerinox, U.S.A. coordinates with U.S. freight forwarders to move the subject merchandise through U.S. Customs and to transport it to U.S. customers.

(6) Acerinox, S.A. invoices U.S. customers in Roldan's name.

(7) U.S. customers remit payment to Acerinox, U.S.A., which subsequently transfers the payment to Roldan by wire.

Thus, the record shows that Acerinox, U.S.A. was involved in every aspect of the sales process except for arranging for shipment of SSWR to the United States and invoicing U.S. customers. Moreover, Acerinox, U.S.A.'s involvement in the sales process was extensive when compared to that of Roldan or Acerinox, S.A. Accordingly, the preponderance of selling functions incurred to sell Roldan's SSWR to U.S. customers occurred in the United States.

Furthermore, Acerinox, U.S.A.'s role in negotiating the terms of certain U.S. sales is not indicative of the ancillary role normally played by a ''processor of sales-related documentation'' and a ''communications link.'' Specifically, Acerinox, U.S.A.'s authority to negotiate and accept sales terms for small orders of SSWR without Roldan's specific

[1] *See* the Sales Verification Report at page 33.

[2] Acerinox, S.A., the parent company of Roldan and Acerinox, U.S.A., provides a number of services in connection with Roldan's U.S. sales of SSWR including serving as a communication link between Roldan and Acerinox, U.S.A. (*e.g.*, directs customers' technical questions to the appropriate Roldan personnel). Roldan pays Acerinox, S.A. a fee for these services.

approval of the orders, as well as its authority to initiate contact with U.S. customers that it has not dealt with for some time, contradicts Roldan's claim that Acerinox, U.S.A. was simply a ''processor of sales-related documentation'' and a ''communications link.'' In addition, there is no documentary evidence supporting Roldan's claim that it approved the sales terms for all large orders (*e.g.*, evidence of price acceptance or rejection by Roldan); nor is there any evidence of direct contacts or agreements between Roldan and the ultimate U.S. purchasers of the subject merchandise. The absence of such evidence and Acerinox, U.S.A.'s admitted role in negotiating the terms of small orders, calls into question Roldan's claim that Acerinox, U.S.A. was simply a ''communication link'' in the sales negotiation process. Moreover, Acerinox, U.S.A.'s extensive involvement in the U.S. sales process, its authority to negotiate and accept sales terms in certain situations and the fact that it initiated contact with U.S. customers on occasion, distinguishes the instant case from the cases Roldan cited to support EP treatment of its sales. Therefore, we have determined that Roldan's U.S. sales were made in the United States and, in accordance Section 772(b) of the Act, we have classified these sales as CEP sales for the final determination.

However, we disagree with petitioners' argument that the Department must reduce Roldan's CEP sales by the amount of the sales commission Roldan paid Acerinox, U.S.A. in connection with its U.S. sales of SSWR. Section 772(d) of the Act provides that CEP shall be reduced by selling expenses ''incurred by or for the account of the producer or exporter, or the affiliated seller in the United States, in selling the subject merchandise.'' Section 351.402(e) of the Departments regulations states that ''where a person affiliated with the exporter or producer incurs any of the expenses deducted from constructed export price under section 772(d) of the Act and is reimbursed for such expenses by the exporter, producer or other affiliate, the Secretary normally will make an adjustment based on the actual cost to the affiliated person.'' In the instant investigation, Acerinox, U.S.A. incurred selling expenses that are deducted from CEP under section 772 (d) of the Act, and Roldan reimbursed Acerinox, U.S.A. for these expenses through the commission. Therefore, in accordance with section 351.402(e) of the Department's regulations, for the final determination we adjusted Roldan's CEP sales by Acerinox, U.S.A.'s actual selling expenses, revised based on verification findings.

Comment 2: Unreported U.S. Sales

At verification, the Department found that Roldan's U.S. affiliate, Acerinox, U.S.A., purchased shipments of Roldan's SSWR that were rejected by U.S. customers, held the rejected SSWR in inventory, and then resold the rejected SSWR to other unaffiliated customers in the United States. However, Roldan failed to report Acerinox, U.S.A.'s sales of SSWR during the POI. At verification, Roldan stated that it did not report these sales because they were not made in the ordinary course of trade. Petitioners maintain Roldan should have reported these sales because the antidumping provisions allow sales outside the ordinary course of trade to be excluded from reported home market or third country sales, but not from U.S. sales. Petitioners also note that although the original sales of SSWR were canceled, the subsequent resales of SSWR by Acerinox, U.S.A. should have been reported because they were not canceled. In addition, petitioners contend that the information on the unreported sales that Roldan provided at verification constitutes factual information that must be submitted no later than seven days before verification. Thus, petitioners argue, this information was untimely and should not be used by the Department in the final determination. Petitioners, cite the *Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods From France* 58 FR 68,865, 68,869 (December 29, 1993) (*Wire Rods From France*), in support of their view that the Department should assign a margin to the unreported sales equal to the greater of the average margins alleged in the petition, or the highest non-aberrant margin calculated from Roldan's data.

Roldan claims it properly excluded Acerinox, U.S.A.'s resales of rejected SSWR from reported sales. Specifically, Roldan argues that it should not have reported the sales in question because the original U.S. customers canceled the sales and the Department's antidumping questionnaire clearly instructs respondents not to report canceled U.S. sales. Even if the Department should ignore the instructions in its antidumping questionnaire, Roldan maintains it properly excluded these sales from reported sales because they were sold in a completely different manner from the rest of its U.S. sales and, thus, were outside the ordinary course of trade. In particular, Roldan states that its U.S. customers typically order SSWR prior to its production and importation and that the SSWR is shipped directly to the customer, whereas Acerinox, U.S.A. resold SSWR to customers after the material had been produced, shipped to the original customer in the United States, and then re-shipped to Acerinox, U.S.A. or Acerinox, U.S.A.'s customer. In addition, Roldan notes that Acerinox, U.S.A. informed its customers that they were purchasing rejected material and the Department has excluded U.S. sales of defective merchandise from its antidumping analysis in past cases such as the *Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper From Finland*, 56 FR 56,363, 56,371 (November 4, 1991).

According to Roldan, the antidumping statute, legislative history, and the Department's past practice support a finding that these sales are outside the ordinary course of trade. Roldan states that in addition to certain sales below the COP and certain sales between affiliated parties, the Statement of Administrative Action (SAA) allows the Department to ''consider other types of sales or transactions to be outside the ordinary course of trade when such sales or transactions have characteristics that are not ordinary as compared to sales or transactions made in the same market.'' While conceding that the ordinary course of trade requirement has historically been applied to home market or third country sales, Roldan, citing *Ipsco Inc.* versus *United States*, 714 F. Supp 1211, 1217 (Ct. Int'l Trade 1989) (*Ipsco*), notes that the Department may disregard certain U.S. sales if ''the inclusion of [such] sales, which are clearly atypical, would undermine the fairness of the comparison of foreign and U.S. sales.'' Roldan also notes that in *Ipsco*, the Court recognized the Department's practice of excluding sales that are not representative of the seller's behavior and sales whose volume is so low that they would have an insignificant effect on the margin. Roldan notes that the resales of rejected SSWR constituted such a small percentage of Acerinox, U.S.A.'s sales that they cannot be considered representative of Acerinox, U.S.A.'s behavior. Thus, for the reasons outlined above, Roldan asserts that Acerinox, U.S.A.''s resales of SSWR are outside the ordinary course of trade and should not have been reported to the Department.

However, if the Department determines that this small quantity of sales should have been reported, Roldan requests that the Department use the actual verified sales data that was provided at verification. Roldan claims

petitioners' argument that the Department should assign a margin to these sales using adverse inferences fails because such inferences are only appropriate when an interested party fails to cooperate by not acting to the best of its ability to reply to a request for information from the administering authority or the Commission. Roldan argues that petitioners misapplied the Department's ruling in *Wire Rods From France* to the instant investigation because, unlike *Wire Rods From France*, wherein the respondents failed to report all sales transactions in a timely manner, Roldan did not report the sales in question because the Department's antidumping questionnaire specifically instructed Roldan to report sales net of returns. Moreover, Roldan claims that it presented information concerning the unreported sales on its own initiative as part of the completeness test conducted at verification and that it has fully cooperated with the Department's requests for additional information regarding these sales. Thus, Roldan maintains there is no basis for the Department to use adverse facts available to determine the margin for these unreported sales.

DOC Position: We agree with petitioners. Section 772(b) of the Act defines CEP as the ''price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by * * * a seller affiliated with the producer or exporter to a purchaser not affiliated with the producer or exporter * * *'' Thus, in the antidumping questionnaire issued in this investigation, the Department instructed Roldan to ''prepare a single response which includes the information for all affiliates. The questionnaire goes on to state that the respondent should ''include information concerning affiliates which sold the products under investigation during the period of investigation (''POI'') in the comparison market or the United States market or both. Combine the sales and cost of these affiliates with your sales and cost in the same computer data file(s) and submit a single combined narrative response.'' *See* the Department's antidumping questionnaire dated September 19, 1997 at page G–6. Roldan failed to comply with the Department's instructions even though its U.S. affiliate, Acerinox, U.S.A., sold subject merchandise to unaffiliated purchasers during the POI. The fact that Acerinox, U.S.A. purchased subject merchandise from Roldan after Roldan's original U.S. customer rejected the shipment and canceled the sale does not change the fact that Acerinox, U.S.A. subsequently resold that merchandise to other unaffiliated U.S. customers during the POI. Those resales were not canceled and should have been reported to the Department.

In addition, the ordinary course of trade provision does not apply to U.S. transactions (*see Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8931 (Comment 22) (February 23, 1998)). As the U.S. Court of International Trade (CIT) noted in *American Permac, Inc., et al.,* versus *The United States,* 783 F. Supp. 1421, 1423 (CIT 1992) (*American Permac*), ''regular exclusion of sales not in the ordinary course of trade only occurs on the home-market side of the price comparison.'' The court went on to state that ''whether sales are in or out of the ordinary course of trade is not the determinative factor on the U.S. sales side of the equation. Fairness, distortion, representativeness are the issues to be examined. The goal is to include the sales but to utilize whatever methodology is needed to ensure a fair comparison.'' 783 F. Supp. 1421, 1424. While the Department may at times exclude certain U.S. sales in order to ensure a fair comparison (as noted in *Ipsco*), in the instant investigation there is no need to exclude the sales at issue because, based on the record evidence (including our examination of sales documentation), we cannot conclude that these sales are in any way unrepresentative or would otherwise improperly distort our calculations. We also note that prior to the submission of its case brief, Roldan never requested exclusion of the sales at issue or exoneration of the reporting requirement with respect to these sales. It was not until after the Department had discovered the unreported sales at verification (*see* the Sales Verification Report at page 12) that Roldan raised the issue of excluding the unreported sales. Therefore, based on the foregoing, we conclude that such sales should have been reported to the Department.

As indicated above, Roldan states that if the Department decides that the sales at issue should have been reported, it should use the actual verified sales data that was provided at verification. However, at verification the only information that the Department requested, and that Roldan provided with regard to Acerinox, U.S.A.'s resales of subject merchandise, was the quantity and gross unit price of each sale. The Department requested this information to determine the magnitude of the unreported sales in comparison to the reported U.S. sales. The Department did not request, and Roldan did not provide, the data required to adjust the gross unit price of the unreported sales in accordance with section 772(c) of the Act (*e.g.,* information on freight and other selling expenses). Moreover, even if Roldan had provided this information at verification, it is unlikely that the Department would have considered the information timely and accepted it (*see* 19 CFR 351.301(b)(1) and 351.302(d)).

Section 776 (a) of the Act provides that when necessary information is not available on the record, the administering authority shall * * * ''use the facts otherwise available in reaching the applicable determination under this title.'' Section 776 (b) of the Act states that ''if the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.''

For this final determination, the Department finds that Roldan failed to act to the best of its ability to comply with the Department's requests for information regarding sales of subject merchandise by Acerinox, U.S.A. In its response to section C of the Department's antidumping questionnaire, Roldan stated that it did not incur inventory carrying costs in the United States because Acerinox, U.S.A. ''does not take possession of, or warehouse, the subject merchandise.'' However, because Acerinox U.S.A.'s 1996 balance sheet reported an inventory balance, in a supplemental questionnaire, the Department specifically asked Roldan whether Acerinox, U.S.A. sold subject merchandise from inventory during the POI. In its January 16, 1998 response to the Department's supplemental questionnaire, Roldan stated that ''Acerinox, U.S.A. does not keep inventory of Roldan SSWR, nor generally speaking, of any of Roldan's products. * * * The inventory balance that appears in the 1996 Acerinox, U.S.A. annual report relates to non-subject merchandise.'' However, at verification, the Department found substantial documentation evidencing Acerinox, U.S.A.'s sales of Roldan's SSWR from inventory during the POI. The fact that this documentation was readily available and company officials

had knowledge of these sales, as evidenced by their responses to questioning at verification, yet Roldan failed to identify and report these sales even when the Department specifically requested that it do so, indicates that Roldan did not act to the best of its ability to comply with the Department's request for information. Consequently, for the final determination we have based the margin for all unreported U.S. sales on adverse facts available. As adverse facts available (AFA), we have selected a sufficiently adverse margin from the fair value comparisons which were performed for Roldan's reported sales. The selected AFA margin is sufficiently adverse so as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner. *See* the SAA at page 870. We also sought a margin that is indicative of Roldan's customary selling practices and is rationally related to the transactions to which the AFA are being applied. To that end, we selected a margin for sales of a product that involved a substantial commercial quantity and fell within the mainstream of Roldan's transactions based on quantity. Finally, we found nothing on the record to indicate that the sales of the product we selected were not transacted in a normal manner. For details regarding the methodology used to calculate the AFA margin, see the Calculation Memorandum, dated July 20, 1998.

Comment 3: Diameter as a Model Match Criterion

Roldan contends that the diameter of SSWR should not be one of the model-match criteria used in the instant investigation because it has no appreciable affect on Roldan's production costs and no affect on the price Roldan charges its U.S. customers. Roldan notes that the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, and section 351.411 of the Department's regulations, require that in making a fair comparison between EP and NV, due allowance shall be made for differences which affect price comparability, including differences in physical characteristics. According to Roldan, this requirement implies that physical characteristics that do not affect price should not be used in matching products for price comparison purposes. Roldan maintains that the Department examined numerous sales invoices at verification and found that Roldan charged the same price for different diameters of SSWR with the same AISI grade that were sold to the same customer under the same invoice. Moreover, Roldan notes that it placed evidence on the record of this proceeding showing that U.S. companies, including one petitioner, sell different diameters of the same AISI grade of SSWR at the same price. Therefore, Roldan contends, that price is based on AISI grade and the seller's historical commercial relationship with the customer, not the diameter of the product. In addition, Roldan maintains there is no cost basis for using diameter as a model match criterion because diameter has no affect on its cost of producing SSWR. Roldan claims it demonstrated at verification that smaller diameter SSWR, which requires more passes through the rolling mill than larger diameter SSWR, can have costs similar to larger diameter SSWR because of the quantities produced and the order of production. Finally, Roldan argues that in the instant investigation, matching products for price comparison purposes using the product's diameter has artificially created a dumping margin because this methodology gives greater significance to a product category with a large U.S. and relatively small home market sales volume. Roldan claims this matching methodology, together with the additional weight given to dumping margins of products with a large U.S. sales volume, has created a dumping margin where none exists. Thus, Roldan contends there is overwhelming evidence on the record of this investigation showing that diameter should not be used as a model-match criterion. According to Roldan, AISI grade is the only appropriate model-match criterion.

While petitioners are not in complete agreement with the model-matching methodology the Department is using in the instant investigation [3], petitioners argue that Roldan's suggestion that the Department use AISI grade as the only model-matching criterion is unjustified, flawed, and untimely. Specifically, petitioners claim Roldan's assertion that it demonstrated at verification that diameter has ''no appreciable effect'' on its cost of producing SSWR misstates the Department's verification findings. Petitioners maintain the Department actually found that Roldan does not distinguish between the cost of different diameters of SSWR in its cost accounting records. Therefore, petitioners contend that Roldan's records prevented the Department from verifying Roldan's claim that the actual costs incurred to produce different diameters of SSWR is the same. Furthermore, petitioners argue that if production costs for different diameters of SSWR were the same, and price is not based on diameter, the use of diameter as a model-matching criterion should not distort the dumping margin as Roldan suggested. Petitioners also maintain that using AISI grade as the sole model-matching criterion increases the potential for manipulation of model matches and impairs the Department's ability to select, where necessary, the most similar model, because the Department would not have additional information on the record describing the product's physical characteristics. Finally, petitioners state that Roldan first asserted that diameter has no ''appreciable'' effect on production costs more than four months after the antidumping questionnaire was issued, which was well after the Department had considered the parties' views on model-matching and decided on its model-matching methodology. Thus, according to petitioners, Roldan's argument is untimely. For the above reasons, petitioners urge the Department to use the product matching criteria identified in the antidumping questionnaire in the final determination.

DOC Position: We agree with petitioners and have continued to use diameter as a model-matching criterion in the final determination. In determining whether a class or kind of foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, the Department compares the price of subject merchandise sold in the United States with the price of the ''foreign like product'' sold in the foreign market. Section 771(16) of the Act defines ''foreign like product'' as: ''merchandise in the first of the following categories in respect of which a determination for the purposes of subtitle B of this title can be satisfactorily made:

(A) 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.

(B) Merchandise—

(i) produced in the same country and by the same person as the merchandise which is the subject of the investigation,

(ii) like that merchandise in component material or materials and in the purposes for which used, and

[3] During the course of the instant investigation, petitioners requested that the Department include actual chemical content of the steel, rather than AISI grade, as one of the model-matching criteria. For further discussion, see the December 18, 1997 Decision Memorandum to Holly Kuga from The Team, Subject: Whether to Reconsider the Department's Model Match Methodology for This Product.

(iii) approximately equal in commercial value to that merchandise.

(C) Merchandise—

(i) produced in the same country and by the same person and of the same general class or kind as the merchandise which is the subject of the investigation,

(ii) like that merchandise in the purposes for which used, and

(iii) which the administering authority determines may reasonably be compared with that merchandise.''

In making fair value comparisons, the Department identifies the ''foreign like product'' by comparing the physical characteristics of subject merchandise with the physical characteristics of merchandise sold in the foreign market. So as not to unreasonably distort comparisons involving similar merchandise, the Department does not compare subject merchandise sold in the United States to merchandise sold in the foreign market where the cost of the merchandise differs from the cost of subject merchandise by more than 20 percent (*see* Policy Bulletin 92.2).

In the instant investigation, after soliciting comments from interested parties, the Department determined that diameter should be one of the characteristics (*i.e.,* one of the matching criteria) used to make product comparisons. Although Roldan argues that diameter is an inappropriate characteristic for purposes of model matching, it has not placed substantial evidence on the record showing that the Department's decision to use diameter as a matching criterion is unreasonable. As noted by the CIT in *Toyo Umpanki Co., Ltd.* v. *United States,* 848 F. Supp. 178, 185 (CIT 1994) (*Toyo*), the Department has ''broad discretion in choosing a methodology to carry out its statutory mandate'' under section 771(16) of the Act which governs model matching. Regarding that methodology, the CIT noted in *Toyo,* that ''even if another alternative is more reasonable, Commerce has acted within its authority if its decision is reasonable.'' Roldan's argument that the Department's matching methodology distorted the dumping margin by comparing a product category with a large U.S. and relatively small home market sales volume, seems to argue indirectly for the need for a price adjustment under section 773(a)(6)(C)(i) of the Act, which respondent has not claimed, rather than a need to alter the Department's matching criteria. Furthermore, Roldan's argument that diameter has no affect on sales price is questionable because at verification, the Department found instances where Roldan sold different diameters of the same AISI grade of SSWR to the same home market customer under the same invoice but at different prices (*see* the Sales Verification Report from at pages 16–17). Although the Department found at verification that Roldan records the same cost for different diameters of a particular grade of SSWR, this fact alone is insufficient to show that the Department acted unreasonably in selecting the model-matching criteria and that its selection distorts the dumping margin. Roldan has not demonstrated that diameter is not a factor in pricing SSWR. Moreover, it is more reasonable to conclude that if the cost and price of different diameters of the same AISI grade of SSWR are the same, as Roldan claims, using diameter as a matching criterion should not distort the dumping margin. Therefore, we have continued to use diameter as a model matching criterion in the final determination.

Comment 4: Identifying the Appropriate Interest Rate for the U.S. Credit Expense Calculation

At verification, the Department found that Roldan calculated its U.S. credit expenses using the weighted-average interest rate on short-term peseta-denominated loans that were obtained to finance U.S. dollar receivables. The Department also found that Roldan did not have any outstanding U.S. dollar-denominated loans during the POI. Petitioners note that the Department's antidumping questionnaire instructs respondents to calculate U.S. credit expenses using a published U.S. commercial bank short-term prime lending rate if they had not borrowed U.S. dollars. Thus, for the final determination, petitioners urge the Department to recalculate Roldan's U.S. credit expenses using the U.S. prime interest rate for the POI. Based on data from the Chicago Federal Reserve Bank, petitioners identify this rate as 8.317 percent.

Contrary to the Department's verification findings, Roldan maintains that the evidence on the record of this investigation shows it calculated U.S. credit expenses using the weighted-average interest rate on short-term U.S. dollar-denominated loans. Specifically, Roldan identifies sales verification exhibit 19a, which contains bank documentation showing the amount of U.S. dollars borrowed and the peseta equivalent to this amount. To support its claim, Roldan notes that it must borrow to pay expenses incurred in U.S. dollars and repay the U.S. dollar-denominated loans using pesetas because it does not have a U.S. dollar bank account. Roldan maintains the Department should accept the reported U.S. credit expenses for the final determination because Roldan used the proper interest rate to calculate those credit expenses.

DOC Position: We agree with Roldan and have accepted the interest rate Roldan used to calculate the reported U.S. credit expenses for the final determination. During the POI, Roldan financed U.S. dollar receivables by obtaining short-term bank loans. Because Roldan did not have a U.S. dollar bank account, the bank converted the amount of the U.S. dollar loans into pesetas and deposited the pesetas into Roldan's bank account. Because Roldan actually received pesetas and not U.S. dollars, the Department identified the loans as peseta-denominated loans in its verification report and questioned whether it was appropriate to calculate U.S. credit expenses using the weighted-average interest rate on these loans. However, upon further examination of the verification exhibits related to these loans, we have determined that the loans are dollar-denominated.[4] We reached this determination because the bank documentation examined at verification shows that (1) the amount borrowed and the related interest charges were originally stated in U.S. dollars; and (2) Roldan repaid the loans using U.S. dollar receipts that were wired directly from the United States to Roldan's bank in Spain, which loaned Roldan the monies in question, and then applied to the outstanding loan balances at the same bank. The fact that the amount borrowed and the related interest charges were converted into pesetas in order for Roldan to deposit the funds into, and repay the interest expense from, its bank account, does not change the fact that Roldan originally borrowed dollars, repaid the loans in dollars, and paid dollar-based interest charges on the loans. Thus, we have accepted the short-term interest rate Roldan used to calculate U.S. credit expenses for the final determination.

Comment 5: Using Estimates to Determine Home Market Indirect Selling Expenses

Petitioners urge the Department to reject Roldan's adjustment for home market indirect selling expenses because, petitioners aver, at verification, Roldan failed to provide information to support the estimated allocation percentages used in calculating the adjustment.

Roldan contends the Department should accept the estimated allocation percentages used to calculate the home

[4] *See* the Sales Verification Report at verification exhibit 19a.

market indirect selling expense adjustment because they are reasonable, and the company does not keep records in the normal course of business that would allow it to determine the actual percentages that it estimated. Roldan holds that its estimates are based on its significant commercial experience and knowledge of its selling expenses and, thus, are reasonable. In addition, Roldan asserts that its home market indirect selling expenses were ''substantially verified'' and that the results of the sales and cost verifications demonstrate that Roldan has provided complete and accurate information to the Department throughout the investigation. Therefore, Roldan maintains the Department has no reason to believe the estimates are unreasonable. Furthermore, Roldan states that the Department cannot require a respondent to support information in its responses with documentation which it does not maintain. Roldan cites *Olympic Adhesives, Inc.* v. *United States,* 899 F. 2d 1565, 1573 (Fed. Cir. 1990), arguing that in this case, the Court ruled that failure to provide information that does not exist does not warrant the use of best information available. Roldan also notes that its accounting system was not designed to supply information that may be required by the Department in antidumping duty investigations. Therefore, Roldan urges the Department to accept its claimed home market indirect selling expenses.

DOC Position: We agree with Roldan and have accepted its use of estimates in calculating the adjustment for home market indirect selling expenses in the final determination. At verification, we were able to reconcile selected expense and cost of sales figures from Roldan's calculation of the home market indirect selling expense adjustment to its financial records (*see* the Sales Verification Report at page 21). However, we noted that in calculating the home market indirect selling expense adjustment, Roldan classified a portion of employee costs and general expenses as indirect selling expenses based on estimated allocation percentages. We found no evidence at verification that Roldan maintained records in the normal course of business that would allow it to classify a portion of these expenses as indirect selling expenses based on actual figures rather than estimates. Moreover, the overall results of verification and the insignificant amount of the reported home market indirect selling expense adjustment suggest that Roldan did not overstate the adjustment. Therefore, it is reasonable to presume that Roldan made these estimates in good faith and that they may be relied upon.

Comment 6: Adjusting Costs for Startup Operations

In the instant investigation, Roldan claimed an adjustment to production costs for expenses incurred in ''starting up'' its refurbished rolling mill and pickling facility. Based on its startup claims, Roldan submitted two COP and CV databases. In the first database, submitted as part of Roldan's initial questionnaire response, the Company reported COP and CV that was adjusted for startup costs based on the methodology Roldan used in its normal books and records to account for startup costs. In response to our supplemental questionnaire, Roldan submitted a second COP and CV data file with a revised adjustment for start-up costs based on the methodology described in section 773(f)(1)(C) of the Act. Petitioners urge the Department to reject both of Roldan's claimed startup adjustments because Roldan (1) incorrectly identified the startup period; (2) failed to amortize startup costs; and (3) failed to separately report the actual POI costs and the startup adjustment. First, petitioners note that Roldan's accounting and production records do not support the claimed startup period. Specifically, petitioners note that in its normal accounting records, Roldan adjusted costs to account for what it considered to be the excess startup costs of the rolling mill by replacing the unit production costs incurred from September through December 1996, with the unit costs incurred during the previous eight months of that year (Roldan reported the excess amount of September through December production costs over the costs for the previous eight months as non-operating expenses in its 1996 financial statement). Thus, petitioners maintain that Roldan's books and records show the startup period ended on December 31, 1996. However, petitioners point out that Roldan did not use this startup period to calculate the adjustment, despite the statutory requirement in section 773(f)(1)(A) of the Act that production costs be calculated based on the records of the exporter or producer of the merchandise. Moreover, petitioners claim that the startup period used in Roldan's accounting records is supported by the startup provisions in section 773 of the Act. Petitioners note that section 773(f)(1)(C) of the Act defines the end of the startup period as ''the point at which the level of commercial production that is characteristic of the merchandise, producer, or industry concerned is achieved.'' According to petitioners, this means that Roldan's startup period ended when it achieved the average level of production that it normally experienced before refurbishing its facilities. Petitioners maintain that the rolling mill production data that Roldan placed on the record in this investigation shows that this average level was achieved at a point which confirms the startup period used in Roldan's books and records. Therefore, petitioners maintain that the record supports a startup period other than the one used to calculate the reported startup adjustment. Second, petitioners state that Roldan failed to amortize excess startup costs over a period subsequent to the startup period in accordance with the SAA's interpretation of section 773(f)(1)(C)(iii) of the Act. Finally, petitioners note that in calculating the startup adjustment that was based on the methodology in section 773(f)(1)(C) of the Act, Roldan accounted for the startup adjustment by replacing actual POI unit costs incurred during the startup period with actual unit costs incurred immediately after the startup period ended. According to petitioners, Roldan should have reported actual unit costs incurred during the POI, in accordance with the instructions in section D of the Department's questionnaire, and separately reported the startup adjustment. Because of the above deficiencies, petitioners ask the Department to reject Roldan's claimed startup adjustment.

Roldan believes the Department erred in disallowing its startup adjustment in the preliminary determination because, according to Roldan, it satisfied the statutory conditions under which the Department must make an adjustment for startup costs. Roldan claims it satisfied the first statutory condition, which requires a producer to be using a new production facility or producing a new product that requires substantial additional investment, because during the POI it replaced nearly all of the equipment in its rolling mill and modified much of the remaining old equipment so it would work in the new mill. Roldan notes that under section 351.407(d)(1)(i) of the Department's regulations, a producer is considered to be using new production facilities when it has replaced nearly all of the production machinery in its facility. Roldan also notes that it placed substantial evidence on the record, which the Department verified, showing that it extensively refurbished its mill. Roldan also claims it placed substantial evidence on the record showing that it

satisfied the second statutory condition for a startup adjustment, which requires that production levels be limited by technical factors associated with the initial phase of commercial production. Accordingly, Roldan concludes that a startup adjustment is required in the instant investigation. Furthermore, Roldan notes that it placed evidence on the record, including the installation contract with the company that refurbished the rolling mill, which shows that it used the proper startup period in calculating the startup adjustment. Roldan adds that its rolling mill has not yet reached optimum capacity.

Roldan disagrees with petitioners' rationale for rejecting the reported startup adjustment. Specifically, Roldan holds that the startup period used to calculate the adjustment does not have to be the same as that used in a company's accounting records in order for the Department to accept the claimed startup adjustment. Roldan notes that section 773(f)(1)(A) of the Act states that ''costs shall normally be calculated based on the records of the exporter or producer of the merchandise * * *'' According to Roldan, the startup provisions were included in the Act to allow an exception to the requirement that reported costs reflect the producer's normal records. Roldan states that this exception recognizes the fact that producers may incur unusually high costs when starting a new production facility. Furthermore, Roldan disputes petitioners' claim that the startup period ended when Roldan achieved the average level of production that it normally experienced before refurbishing its facilities. Roldan notes that under section 773(f)(1)(C)(iii) of the Act, ''the startup period ends at the point at which the level of commercial production that is characteristic of the merchandise, producer, or industry concerned is achieved.'' Because the mill refurbishment increased production capabilities, Roldan argues that pre-refurbishment production levels cannot be compared to post-refurbishment production levels in order to determine the point at which Roldan achieved commercial production levels indicative of the end of startup. Roldan asserts that one must compare its post-refurbishment production levels with production levels characteristic of the SSWR industry using the same type of rolling mill as Roldan in order to determine when Roldan's startup period ended. Roldan contends that the best indicator of this ''industry standard'' for commercial production is the arm's-length, pre-petition installation contract for the new mill which identified the quantity of SSWR to be rolled in a specified number of consecutive runs in order to reach commercial production levels. Thus, Roldan claims it appropriately determined that its startup period ended when it reached the commercial production levels specified in the installation contract. Consequently, Roldan urges the Department to accept its claimed adjustment for startup costs.

DOC Position: We have disallowed Roldan's claimed adjustment for startup costs because the company did not demonstrate its eligibility for such an adjustment. Specifically, Roldan failed to show that the renovation of the company's rolling and pickling mills was, indeed, the equivalent of a ''new production facility'' within the meaning of section 773(f)(1)(C) of the Act.

Section 773(f)(1)(C) of the Act directs the Department to provide for an adjustment to the actual costs incurred during the period of investigation or review where such costs are affected by the startup operations of the producer. The statute provides, however, that the adjustment is required only for those startup operations where (1) a producer is using new production facilities or producing a new product that requires substantial additional investment, and (2) production levels are limited by technical factors associated with the initial phase of commercial production. At the most basic level, the statutory condition surrounding ''new production facilities'' is certainly meant to include those startup operations that involve entirely new production facilities. *See*, for example, *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8930 (February 23, 1998) (where the Department granted a startup adjustment for the subject merchandise manufactured using a brand new semiconductor fabrication line installed by the respondent during the POI). Yet, as made clear by the SAA at page 836, the term ''new production facilities'' may also include startup operations involving ''the substantially complete retooling of an existing plant.'' Here, the phrase ''substantially complete retooling'' is said to involve ''the replacement of nearly all production machinery or the equivalent rebuilding of existing machinery.''

There are any number of instances in which producers may choose to retool, refurbish, or expand their existing operations. These may range from changing a worn machine part to the replacement of all existing plant assets. Moreover, in most of these instances, normal production levels are disrupted as a consequence of the operations. Yet, in establishing a high threshold for operations involving the ''substantially complete retooling'' of a facility, the SAA, in effect, limits the situations in which retooling satisfies the conditions for a startup adjustment by equating such operations to those involving an entirely new facility. That is, in order for an existing facility to be considered a new production facility within the meaning of section 773(f)(1)(C) of the Act, the SAA provides that it must be retooled to the extent that it becomes a brand new facility in virtually all respects. Indeed, the ''replacement of nearly all production machinery or the equivalent rebuilding of existing machinery'' would result in nothing less than an essentially new facility. Thus, the SAA makes clear that, in analyzing these situations, an adjustment for startup costs is warranted only in those circumstances wherein the renovations result in a near new facility.

In the instant case, Roldan claimed that the investment it made in refurbishing the company's rolling and pickling mills met the statutory definition of ''new production facilities.'' In its questionnaire responses and at verification, Roldan demonstrated that it had, in fact, committed a significant amount of investment capital as part of the renovation project. In addition, at the verification, Roldan officials provided documentation supporting the purchase and installation of new production machinery. Roldan officials maintained that the new equipment replaced virtually all of the equipment from the old rolling and pickling mills. Indeed, Roldan provided a plant diagram as evidence of this claim. In verifying Roldan's claim for a startup adjustment, however, we found data from the company's normal accounting records that contradicted Roldan's claim that it had replaced or rebuilt nearly all of the previously existing production machinery as part of the renovation project. Portions of this information are proprietary in nature and are therefore discussed in detail in a separate memorandum. See the Concurrence Memorandum. In general, however, while Roldan claims to have replaced or rebuilt the production machinery from its old rolling and pickling mills, the company's accounting records do not support the contention that the company disposed of these assets or otherwise removed them from service. In the absence of a showing by Roldan that the old production equipment was,

in fact, scrapped or otherwise disposed of, we have no basis from which to conclude that the renovation project resulted in the replacement of nearly all of the previously existing equipment or the equivalent rebuilding of such equipment.

The SAA at page 838 provides that the burden of demonstrating entitlement to a startup adjustment rests with the party making the claim. Here, Roldan failed to demonstrate that the renovated rolling and pickling mills constituted ''new production facilities'' within the meaning of section 773(f)(1)(C) of the Act. Because Roldan has not shown that it meets the first part of the statutory requirement for a startup cost adjustment, consistent with our past practice, we have not addressed issues surrounding whether the company's production levels were limited during the POI by technical factors associated with the initial phases of commercial production. *See Notice of Final Results of Sales at Less Than Fair Value: Collated Roofing Nails from Korea,* 62 FR 51,420, 51, 426 (October 1, 1997) (where the Department did not address technical factors associated with respondents' claimed startup operations because the operations did not constitute a new production facility within the meaning of the statute). Similarly, we have not addressed the startup period claimed by Roldan as part of its request for a startup adjustment.

Comment 7: Including Inventory Write-Downs in COP and CV

As a result of Roldan's 1996 startup of the refurbished rolling mill and pickling facility, the year-end inventory values, as recorded in Roldan's inventory account, were in excess of market value. Thus, in accordance with Spanish generally accepted accounting principles (GAAP), Roldan wrote the book value of its finished goods inventory down to market value at the end of 1996. Roldan calculated COP and CV by reducing SSWR production costs by the portion of the inventory write-down allocated to SSWR.

Petitioners urge the Department not only to disallow this reduction, but also to add the inventory write-down to COP and CV. According to petitioners, reducing production costs by the inventory write-down (1) understates actual production costs; (2) obviates any finding of sales below cost by reducing actual costs to sales value; and (3) double counts the adjustment for startup costs. Petitioners, citing the SAA at 835 and the instructions in section D of the Department's antidumping questionnaire, note that the Department requires respondents to report the actual costs incurred in producing and selling the product under investigation. Petitioners maintain that the inventory value of SSWR before the write-down reflects the actual costs incurred to produce SSWR and, thus, Roldan should not have reduced reported costs by the write-down. Moreover, petitioners claim that writing down inventory values to market value shows that Roldan's sales prices are below cost. However, petitioners state that the Department would not find sales to be below cost if Roldan were allowed to report production costs that were reduced by the inventory write-down. Furthermore, petitioners note that Roldan already reduced reported costs under the provision for startup operations in section 773(f)(1)(C) of the Act. Thus, petitioners argue, that reducing reported costs by an inventory write-down necessitated by startup operations, double counts the startup adjustment and understates actual production costs. Rather than subtracting the write-down from reported costs, petitioners contend the write-down should be added to COP and CV. Petitioners note that the SAA at 834 states that ''Commerce normally will calculate costs on the basis of records kept by the exporter or producer of the merchandise provided such records are kept in accordance with generally accepted accounting principles of the exporting (or producing) country and reasonably reflect the costs associated with the production and sale of the merchandise.'' According to petitioners, Roldan recognized and recorded the inventory write-down as an expense in its accounting records. Petitioners also note that this write-down was recognized during the POI and recorded in Roldan's financial statements in accordance with Spanish GAAP. Therefore, petitioners request that the Department increase COP and CV by the amount of the inventory write-down.

Roldan holds that its inventory write-down should not be added to COP or CV because the write-down did not reflect actual costs but was merely an accounting entry that resulted from its conservative allocation of startup expenses. Furthermore, Roldan contests petitioners' claim that its inventory write-down constitutes recognition that its sales are below cost because, according to Roldan, the record in this investigation shows that its sales are above cost. Accordingly, Roldan requests that the Department exclude the inventory write-down from COP and CV in the final determination.

DOC Position: We agree with both petitioners and Roldan in part. The finished goods inventory write-down should not be added to production costs in calculating COP or CV because it is not a cost of production. Roldan records the cost of manufacturing finished products in its finished goods inventory account. At the end of 1996, the cost of finished products recorded in Roldan's inventory account exceeded the market value of those products. In accordance with Spanish GAAP, Roldan reduced the value of its finished goods inventory to market value in order to recognize the fact that the future revenue-producing ability of the inventory was no longer as great as its cost. Roldan recorded this reduction in future revenue-producing ability as a loss in its 1996 profit and loss statement. Although Roldan had not realized this loss, the conservative nature of accounting requires the loss to be recognized when the value of inventory exceeds market value, rather than in the period in which the inventory is sold. Thus, Roldan's inventory write-down is an accounting provision, not an actual production cost. In *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews,* 62 FR 2081, 2117 (January 15, 1997) (*AFBs*), the respondents recognized inventory write-downs similar to Roldan's and the Department excluded the respondents' inventory write-downs from COP and CV, noting:

The inventory write-down these respondents reported are not actual costs but are a provisional reduction in inventory value in anticipation of a lower resale value * * * {The write-downs} are not realized expenses but simply a contingent reduction in how much revenue the companies expect to make from the sale of the merchandise. Since these particular inventory write-downs are not a realized expense, and are not reflected in their accounting of costs of goods in inventory, we have not included them in the calculation of COP and CV.

Therefore, in the final determination, consistent with our approach in *AFBs*, we did not add Roldan's inventory write-down to production costs, as suggested by petitioners.

For similar reasons, in the final determination, we also disallowed Roldan's reduction of reported production costs by the inventory write-down. Roldan's inventory write-down is an adjustment to inventory value, and, ultimately, cost of goods sold, not production costs. As noted above,

Roldan's inventory write-down reflects a decline in the future revenue-producing ability of the inventory, not a reduction in production costs. Thus, reducing production costs by the inventory write-down would understate the actual costs incurred to produce SSWR.

Comment 8: Including Write-Offs of Idle Assets in COP and CV

During the POI, Roldan permanently ceased using its melt shop. In its accounting records, Roldan wrote off the melt shop assets and its inventory of spare parts for the shop, but excluded the write-offs from COP and CV because they claimed they were extraordinary costs that did not relate to SSWR production. Petitioners maintain the melt shop assets related to SSWR production and, thus, in accordance with Department policy, the write-offs associated with these assets should be included in COP and CV. To support their position, petitioners argue that the Department, in *Certain Hot-Rolled Lead Bismuth and Carbon Steel Products From the United Kingdom: Final Results of Antidumping Duty Administrative Review,* 63 FR 18,879, 18,882 (April 16, 1998) (*Bismuth*), included the closure costs associated with productive assets in the reported general and administrative (G&A) expenses. Moreover, petitioners argue that recognizing these write-offs for purposes of the antidumping investigation is consistent with Roldan's recognition of the write-offs in its accounting records.

Roldan argues that the write-offs of its melt shop assets and related spare parts should be excluded from reported costs because the write-offs are merely accounting adjustments which expense the value of the assets, but do not record actual production costs. According to Roldan, it could not claim these write-offs as production costs because the assets were no longer used in production. Even if the write-offs were included in SSWR production costs, Roldan claims the effect on costs would be minimal because the assets were only used during a small portion of the POI and they were primarily used to produce merchandise not subject to this investigation. Roldan also maintains that petitioners' reliance on *Bismuth* is misplaced because Roldan did not incur any costs in closing its melt shop. Therefore, Roldan urges the Department to exclude the write-offs from COP and CV in the final determination.

DOC Position: We agree with petitioners and have included Roldan's write-offs of permanently idled assets and related spare parts in COP and CV in accordance with our past practice (*see Notice of Final Results of Antidumping Duty Administrative Review: Extruded Rubber Thread From Malaysia,* 61 FR 54,767, 54,772 (October 22, 1996) (*Extruded Rubber Thread*). In *Extruded Rubber Thread,* the Department stated :

There is nothing unusual about a company's writing off manufacturing plants or equipment. Accordingly, we do not consider write-offs to be a type of extraordinary expense that we exclude from the cost of producing subject merchandise. The Department has in the past included similar equipment write-offs in the calculation of COP and CV.

Consistent with our past practice, we have also included the write-off of spare parts in COP and CV in the final determination. *See Final Determination of Sales at Less Than Fair Value; Color Picture Tubes From Singapore,* 52 FR 44,190, 44,196 (November 18, 1987), wherein the Department included write-offs of obsolete parts in the COP noting that ''obsolete parts are expenses incurred in normal operations which must be absorbed by current production.''

Roldan's inventory of spare parts for the permanently idled assets became obsolete when the assets were written off. Because these parts were related to production and their cost was expensed during the POI in Roldan's audited profit and loss statement, it is appropriate to include the cost of these spare parts in COP and CV.

Comment 9: Reducing General and Administrative Expenses by Foreign Exchange Gains

At verification, the Department found that Roldan's 1996 foreign currency exchange gains related solely to accounts receivable. According to petitioners, in the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy,* 62 FR 30,326, 30,359–60 (June 4, 1996), the Department stated that it does not include foreign currency exchange gains and loses in COP and CV when those gains and losses relate to accounts receivable. Therefore, petitioners contend that in the final determination the Department should exclude such foreign currency exchange gains from Roldan's G&A expenses.

Roldan asserts that petitioners' request is unnecessary because the record shows it did not include foreign currency exchange gains related to accounts receivable in its reported G&A expenses.

DOC Position: We agree with Roldan. The Department found no evidence at verification that Roldan reduced its reported G&A expenses by foreign currency exchange gains related to accounts receivable. Therefore, we have not increased reported G&A expenses by Roldan's foreign currency exchange gains as requested by petitioners.

Comment 10: Including the Parent Company's General Expenses in Reported Costs

Petitioners contend that the reported G&A expenses should have included an amount for the administrative services Roldan's parent company, Acerinox, S.A., performed on behalf of Roldan.

Roldan maintains it paid for all the services that Acerinox, S.A. performed on its behalf and included these payments in its reported general expenses. Thus, Roldan argues it would be inappropriate to increase reported G&A expenses by a portion of Acerinox, S.A.'s G&A expenses.

DOC Position: We agree with Roldan. The Department found evidence at verification that Roldan paid Acerinox, S.A. for the administrative services it performed on Roldan's behalf and included these payments in the reported G&A expenses (*see* the Cost Verification Report from Howard Smith and Peter Scholl to Holly Kuga, dated June 4, 1998, at page 41). Therefore, we did not include in addition, a portion of Acerinox, S.A.'s expenses in the reported G&A expenses.

Comment 11: Corrections Found at Verification

Petitioners state that the Department should revise Roldan's reported data in order to correct the errors which were discovered at verification. Roldan did not comment on this topic.

DOC Position: We agree with petitioners and have corrected the errors found at verification. For a list of these corrections, see the ''Constructed Export Price'' and ''Normal Value'' sections of this notice.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of SSWR from Spain that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Roldan, S.A	4.72
All Others	4.72

ITC Notification

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

This determination is published pursuant to section 777(i) of the Act.

Dated: July 20, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–829)

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Korea

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

EFFECTIVE DATE: July 29, 1998.

FOR FURTHER INFORMATION CONTACT: Cameron Werker or Frank Thomson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3874 or (202) 482–5254, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

Final Determination

We determine that stainless steel wire rod (SSWR) from Korea is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

The preliminary determination in this investigation was issued on February 25, 1998. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Wire Rod from Korea,* 63 FR 10825 (March 5, 1998) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred:

In March 1998, we issued supplemental questionnaires to and received responses from three respondents in this case, Changwon Specialty Steel Co., Ltd. (Changwon), Dongbang Special Steel Co., Ltd. (Dongbang), and Pohang Iron and Steel Co., Ltd. (POSCO).

In April 1998, we verified the sales and cost questionnaire responses of these three companies. In June 1998, Changwon submitted a revised U.S. sales database at the Department's request.

The petitioners (*i.e.*, AL Tech Specialty Steel Corp., Carpenter Technology Corp., Republic Engineered Steels, Talley Metals Technology, Inc., and the United Steel Workers of America, AFL-CIO/CLC) and the respondents submitted case briefs on June 5, 1998, and rebuttal briefs on June 10, 1998. At the request of all parties, the public hearing scheduled for June 11, 1998, was canceled.

Scope of Investigation

For purposes of this investigation, SSWR comprises products that are hot-rolled or hot-rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot-rolling or hot-rolling, annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar.

The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire-drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches diameter. Two stainless steel grades, SF20T and K-M35FL, are excluded from the scope of the investigation. The chemical makeup for the excluded grades is as follows:

SF20T

Carbon	0.05 max.
Manganese	2.00 max.
Phosphorous	0.05 max.
Sulfur	0.15 max.
Silicon	1.00 max.
Chromium	19.00/21.00
Molybdenum	1.50/2.50
Lead	added (0.10/0.30)
Tellurium	added (0.03 min)

K–M35FL

Carbon	0.015 max.
Silicon	0.70/1.00
Manganese	0.40 max.
Phosphorous	0.04 max.
Sulfur	0.03 max.
Nickel	0.30 max.
Chromium	12.50/14.00
Lead	0.10/0.30
Aluminum	0.20/0.35

The products under investigation are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 1996, through June 30, 1997.

Affiliation and Collapsing of Respondents

For the reasons stated in the *Preliminary Determination*, we have continued to collapse POSCO and Changwon as affiliated producers in accordance with section 351.401(f) of our regulations. Furthermore, as stated in the *Preliminary Determination*, we examined more closely at verification