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.

[FR Doc. 98–20020 Filed 7–28–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–806]

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

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

EFFECTIVE DATE: July 29, 1998.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4194 or (202) 482–1766, 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 Sweden 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

Since the preliminary determination (*i.e., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire from Sweden,* 63 FR 10841 (March 5, 1998)), the following events have occurred:

In February 1998, we requested additional information from Fagersta Stainless AB (''Fagersta'') concerning grade specifications and corresponding matching control numbers. In March 1998, we received responses to these questionnaires, as well as supplemental responses to Sections D and E of the Department's antidumping questionnaire. Also, Fagersta submitted revised sales and cost databases.

From March to May 1998, we conducted verification of Fagersta's responses to the antidumping questionnaire. In May 1998, we issued our verification reports for Fagersta, Fagersta's home market affiliates AB Sandvik Steel (''Sandvik'') and Avesta Welding, and Fagersta's U.S. affiliates Sandvik Steel Company (''SSUS''), Avesta Sheffield Inc. (''ASI''), Amstek Metal (''Amstek'') and the Kanthal Corporation.

Also in May 1998, AL Tech Specialty Steel Corp., Carpenter Technology Corp., Republic Engineered Steels, Talley Metals Technology, Inc., and United Steelworkers of America (''the petitioners'') withdrew their request for a hearing. The petitioners and Fagersta submitted case briefs on June 2, 1998, and rebuttal briefs on June 9, 1998. On June 12 and 15, 1998, we held separate meetings with Fagersta and the petitioners, respectively, concerning the level of trade issue raised in their case briefs and rebuttal briefs.

On June 23, 1998, Fagersta requested that certain alloy metal wire rod and wire for electric resistance heating material and heating elements be excluded from the scope of the investigation. On July 6, 1998, the petitioners stated that they agreed that the scope of this investigation should exclude the products in question. On July 8, 10 and 14, Fagersta provided detailed scope descriptions and clarifications for the products it requested be excluded from the scope of this investigation (*see* ''Scope of Investigation'' section of this notice for further details).

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 in diameter. Certain stainless steel grades are excluded from the scope of the investigation. SF20T and K-M35FL are excluded. The following proprietary grades of Kanthal AB are also excluded: Kanthal A–1, Kanthal AF, Kanthal A, Kanthal D, Kanthal DT, Alkrothal 14, Alkrothal 720, and Nikrothal 40. 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.

KANTHAL A–1

Carbon	0.08 max.
Silicon	0.70 max.
Manganese	0.40 max.
Chromium	20.50 min, 23.50 max.
Aluminum	5.30 min, 6.30 max.
Iron	Balance.

KANTHAL AF

Carbon	0.08 max.
Silicon	0.70 max.

KANTHAL AF—Continued

Manganese	0.40 max.
Chromium	20.50 min, 23.50 max.
Aluminum	4.80 min, 5.80 max.
Iron	Balance.

KANTHAL A

Carbon	0.08 max.
Silicon	0.70 max.
Manganese	0.50 max.
Chromium	20.50 min, 23.50 max.
Aluminum	4.80 min, 5.80 max.
Iron	Balance.

KANTHAL D

Carbon	0.08 max.
Silicon	0.70 max.
Manganese	0.50 max.
Chromium	20.50 min, 23.50 max.
Aluminum	4.30 min, 5.30 max.
Iron	Balance.

KANTHAL DT

Carbon	0.08 max.
Silicon	0.70 max.
Manganese	0.50 max.
Chromium	20.50 min, 23.50 max.
Aluminum	4.60 min, 5.60 max.
Iron	Balance.

ALKROTHAL 14

Carbon	0.08 max.
Silicon	0.70 max.
Manganese	0.50 max.
Chromium	14.00 min, 16.00 max.
Aluminum	3.80 min, 4.80 max.
Iron	Balance.

ALKROTHAL 720

Carbon	0.08 max.
Silicon	0.70 max.
Manganese	0.70 max.
Chromium	12.00 min, 14.00 max.
Aluminum	3.50 min, 4.50 max.
Iron	Balance.

NIKROTHAL 40

Carbon	0.10 max.
Silicon	1.60 min, 2.50 max.
Manganese	1.00 max.
Chromium	18.00 min, 21.00 max.
Nickel	34.00 min, 37.00 max.
Iron	Balance.

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 (''POI'')

The POI is July 1, 1996, through June 30, 1997.

Fair Value Comparisons

To determine whether sales of SSWR from Sweden to the United States were made at less than fair value, we compared the export price (''EP'') or constructed export price (''CEP'') to the Normal Value (''NV''), as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs for comparison to weighted-average NVs.

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. 1998). 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 this court 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, and information submitted in Fagersta's response to the Department's February 26, 1998, supplemental questionnaire. We have implemented the Court's decision in this case, to the extent that the data on the record permitted.

In instances where Fagersta has reported a non-AISI grade (or an internal grade code) for a product that falls within a single AISI category, we have used the actual AISI grade rather than the non-AISI grade reported by Fagersta for purposes of our analysis. However, in instances where the chemical content ranges of reported non-AISI (or an internal grade code) grades are outside the parameters of an AISI grade, we used the grade code reported by the respondents for analysis purposes (*see* Comment 6). We made changes to our concordance program from the preliminary determination which incorporated corrections submitted to the Department in Fagersta's March 16, 1998, submission with respect to Fagersta's three most similar grade comparisons (*see Calculation Memorandum for the Final Determination for Fagersta Stainless AB* dated July 20, 1998 (''Final Calculation Memorandum'')).

With respect to home market sales of non-prime merchandise made by Fagersta during the POI, we have continued to exclude these sales from our final analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POI, in accordance with our past practice (*see Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat*

Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Korea, 58 FR 37176, 37180 (July 9, 1993)).

Level of Trade

As discussed in the preliminary determination, Fagersta claimed a level of trade (''LOT'') adjustment on the basis that it offers significantly different services to its affiliated customers in the home market, in comparison to its services to unaffiliated customers in the United States, and charges its affiliated customers higher prices as a result. In our preliminary determination, we determined Fagersta's U.S. sales and home market sales to be at the same LOT and no LOT adjustment under section 773(a)(7)(A) of the Act was consequently warranted.

For the final determination, we have collapsed Fagersta and Sandvik. Therefore, we have not used Fagersta's home market sales to Sandvik in our analysis (*see* Comment 1 for further discussion). With regard to Fagersta's home market sales to Sandvik's wholly-owned affiliate Gusab Stainless AB (''Gusab'') and Fagersta's home market sales to its affiliate Avesta Welding, we have continued to treat these Fagersta home market sales as being at the same LOT as its U.S. sales (*see* Comment 3).

Export Price and Constructed Export Price

As discussed in the preliminary determination of this proceeding, Fagersta reported as EP transactions its sales of subject merchandise sold to unaffiliated U.S. customers prior to importation through two affiliated companies in the United States—ASI and SSUS. Fagersta reported as CEP transactions its sales of subject merchandise sold to SSUS for its own account and sales made by Amstek, the product of which was sourced from SSUS. SSUS and Amstek either resold the subject merchandise to unaffiliated customers or SSUS further manufactured the wire rod into wire products which are outside the scope of this investigation.

During verification, we reviewed the selling activities of Fagersta's U.S. affiliates. In particular, we paid close attention to ASI's and SSUS' inventory records and freight and U.S. customs documentation, as well as correspondence documentation between Fagersta and its U.S. affiliates. Based on our verification findings, we find that EP is appropriate for all of Fagersta's sales to the United States through ASI and for specific Fagersta sales through SSUS reported as EP sales transactions (*see* pages 15 and 17 of the May 11, 1998, Sales Verification Report of Fagersta Stainless AB, page 12 of the May 20, 1998, SSUS Verification Report, and pages 8 and 9 of the May 22, 1998, ASI Verification Report). With respect to the EP sales mentioned above, we find that the customary commercial channel between Fagersta and its unaffiliated customers is for Fagersta to ship the merchandise directly to the unaffiliated U.S. customers without having the merchandise enter into the physical inventory of the U.S. affiliates. We also find that the U.S. affiliates' activities are limited to that of a ''processor of sales-related documentation'' and a ''communication link'' with the unaffiliated U.S. buyers. Accordingly, for purposes of the final determination, we treated certain SSUS sales and all of ASI's U.S. sales as EP transactions (*see* Comment 4 for a further discussion of SSUS' EP sales).

We calculated EP and CEP, as appropriate, in accordance with sections 772 (a), (b), (c), and (d) of the Act. For those CEP sales that were further manufactured from subject merchandise, we deducted the costs of further manufacturing to determine CEP for such merchandise, in accordance with section 772(d)(2) of the Act. We calculated EP and CEP based on the same methodology used in the preliminary determination, with the following exceptions: (1) we used the March 16, 1998, U.S. and home market sales listings; (2) we adjusted the U.S. inventory carrying costs and indirect selling expenses based on our verification findings in Sweden; and (3) we corrected a ministerial error in our margin program where we had overwritten the sales quantity for the first record of each sale type and control number combination (*see* Comment 10).

In addition, we made the following company-specific adjustments to Fagersta's U.S. affiliates' reported data:

A. Amstek

Based on verification findings, we adjusted the direct selling expenses and warranty expenses pertaining to Amstek's sales data, and we deleted an invoice from Amstek's sales listing (*see* Comments 5 and 8 for further discussion).

B. SSUS

We corrected the reported amounts for discounts, freight, U.S. duty, U.S. brokerage and handling, credit expenses, inventory carrying costs and warranty expenses based on our verification findings (*see* Comment 8 for further discussion). We calculated international freight for SSUS' EP sales transactions based on transaction-specific expense data examined at verification (*see* Comment 9 for further discussion). We corrected for invoice-specific errors with respect to alloy surcharges, sale dates, invoice dates, discounts, duty and brokerage fees, and inland freight warehouse transfer expenses (*see* Final Calculation Memorandum for further discussion).

C. ASI

We corrected ASI's reported direct selling expenses based on our verification findings. We also corrected invoice-specific information in ASI's sales listing with respect to quantities, U.S. brokerage fees, international freight expenses, and inland freight expenses (*see* Final Calculation Memorandum).

Normal Value

After testing (1) home market viability; (2) whether sales to affiliates were at arm's-length prices; and (3) whether home market sales were at below-cost prices, we calculated NV as noted in the ''Price to Price Comparisons'' and ''Price to CV Comparisons'' sections of this notice (*see* ''Affiliated-Party Transactions and Arm's Length Test'' section below and Comment 2 for further discussion).

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent.

2. Affiliated-Party Transactions and Arm's-Length Test

We have not used Fagersta's home market sales to Sandvik in our analysis, because we find that Fagersta and Sandvik meet the criteria for collapsing affiliated companies (*see* Comment 1 for further discussion). With respect to Fagersta's home market sales to Avesta Sheffield's (''Avesta'') affiliate and Gusab (a wholly-owned affiliate of Sandvik), we do not find that Fagersta and Avesta or Gusab meet the criteria

for collapsing affiliated companies. Therefore, we have applied the arm's-length test to these sales by comparing them to sales of identical merchandise from Fagersta to its unaffiliated home market customers. If these affiliated party sales satisfied the arm's-length test, we used them in our analysis (*see* Comments 1 and 2 for further discussion).

3. Cost of Production Analysis

As discussed in the preliminary determination, we conducted an investigation to determine whether Fagersta made sales of the foreign like product in the home market during the POI at prices below their cost of production (''COP'') within the meaning of section 773(b)(1) of the Act. We calculated COP based on the same methodology used in the preliminary determination on a model-specific basis, except where we modified the margin calculation program to correct for certain adjustments and updated cost data based on verification findings (*see* Final Calculation Memorandum).

For COP, we used Fagersta's revised SSWR COP data (utilizing the cost file based on billet COP incurred by its affiliated suppliers, Sandvik Steel and Avesta Sheffield, rather than the cost file based on billet transfer price) and SSUS's revised further manufacturing COP data, as submitted to the Department on March 16, and April 29, 1998, respectively. Based on our verification findings, we made the following adjustments to Fagersta's COP (*see* Final Calculation Memorandum):

1. We recalculated Sandvik Steel's selling, general, and administrative (''SG&A'') expense rate using company-wide expenses and cost of sales (''COS'') figures reported in Sandvik Steel's 1996 financial statements (*see* Comment 13 for a detailed discussion of adjustments).

2. We adjusted the G&A expense rate for Avesta Sheffield based on the company-wide expenses and COS figures reported in Avesta Sheffield's audited 1996 financial statements.

3. We adjusted Fagersta's G&A expense rate to correct an error in the company's computation.

4. We adjusted Fagersta's submitted actual variable overhead and fixed overhead to reflect the difference between the packing materials costs deducted in Fagersta's computation of its fabrication cost variance rate, and the packing materials costs submitted by the company during the Department's sales verification.

5. We adjusted SSUS's further manufacturing materials cost to reflect the unreconciled difference between the submitted materials cost and the materials cost reported in SSUS's normal accounting records.

6. We adjusted Fagersta's reported materials costs for SSWR such that the value of billets purchased from one of the company's affiliated suppliers, Avesta Sheffield, reflected the transfer price of the major input.

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of the respondent's sales of a given product were made at prices below the COP, we disregarded the below-cost sales because such sales were found to be made within an extended period of time in ''substantial quantities'' in accordance with sections 773(b)(2)(B) and (C) of the Act, and because the below cost sales of the product were at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Where all contemporaneous sales of a specific product were made at prices below the COP, we calculated NV based on CV, in accordance with section 773(a)(4) and (e) of the Act.

We found that, for certain grades of SSWR, more than 20 percent of Fagersta's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining above-cost sales as the basis for determining NV if such sales existed, in accordance with section 773(b)(1). For those U.S. sales of SSWR for which there were no comparable (above-cost) home market sales in the ordinary course of trade, we compared export prices or constructed export prices to CV in accordance with section 773(a)(4) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of Fagersta's cost of materials, fabrication, SG&A, interest, and U.S. packing costs. Where appropriate, we calculated CV based on the methodology described above in the calculation of COP and added an amount for profit. In accordance with sections 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

Price-to-Price Comparisons

For price-to-price comparisons, we calculated NV based on the same methodology used in the preliminary determination, with the following exceptions: based on verification, we corrected Fagersta's home market warranty expenses, inventory carrying costs, credit expenses and indirect selling expenses (see Final Calculation Memorandum for further discussion).

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. Where we compared CV to EP, we made a circumstance-of-sale adjustment by deducting from CV the weighted-average home market direct selling expenses and adding the weighted-average U.S. product-specific direct selling expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 C.F.R. 351.410. Where we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses.

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.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by the respondent.

Interested Party Comments

Sales Issues

Comment 1: Collapsing Fagersta, Sandvik and Kanthal AB.

Fagersta contends that the Sandvik Group (which includes Kanthal AB (''Kanthal''), Gusab, and AB Sandvik Steel (''Sandvik'')) fulfills the Department's collapsing test based on 19 C.F.R. 351.401(f). Fagersta states that it is affiliated with its billet producer and supplier, Sandvik, because Sandvik owns 50 percent of Fagersta. Fagersta also claims that Sandvik is a producer of similar or identical products and, as

such, would not require substantial retooling in order to restructure manufacturing priorities. Respondent makes this claim based on the fact that Sandvik is a 100 percent owner of Kanthal, a subsidiary which has a tolling arrangement with Sandvik to process billets produced and supplied by Sandvik into the subject merchandise. Fagersta also states that, while Sandvik used the majority of the subject merchandise it purchased from Fagersta during the POI for internal consumption, Sandvik did export a small quantity of the subject merchandise during the POI (as reported to the Department), and has the capacity to continue exporting subject merchandise to the U.S. market in the future without substantial retooling. Fagersta states that Kanthal also sold the subject merchandise in the U.S. market during the POI. Finally, Fagersta states that there are interlocking directors between it and Sandvik which further contribute to the significant potential for the manipulation of price or production.

Fagersta contends that, because it and Sandvik should be collapsed, the major input rule would not apply in this case. Consequently, the Department should disregard the billet transfer prices between Sandvik and Fagersta and compute COP and CV based on Sandvik's billet production costs. In support of its position, Fagersta cites to *Final Results of Antidumping Duty Administrative Review: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea*, 62 FR 18404 (April 15, 1997); *Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails from Taiwan*, 62 FR 51427, 51436 (October 1, 1997) (*Nails from Taiwan*); *Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Fresh Cut Flowers from Colombia*, 63 FR 25447, 25448 (May 8, 1998) (*Flowers from Colombia*); and *Final Results of Antidumping Duty Administrative Review: Polyvinyl Alcohol from Taiwan*, 63 FR 32810 (June 16, 1998) (*PVA from Taiwan*).

The petitioners point to the same determinations in support of their contention that the Department should not collapse Fagersta and Sandvik because Fagersta has not demonstrated that Sandvik (the billet producer) has equipment within its facilities that could transform the billets into the subject merchandise, precisely as Fagersta does in its facilities without substantial retooling to restructure manufacturing priorities. Specifically, the petitioners maintain that Sandvik must enter into a tolling arrangement with an off-site company because it does not have the on-site capability to produce the subject merchandise. Consequently, the petitioners argue that the Department must find that Sandvik's facilities would have to be substantially retooled to restructure manufacturing priorities for subject merchandise. The petitioners further maintain that previous Department collapsing determinations indicate that the Department examines the facilities of the company it is considering collapsing, not the facilities of a separate company involved in a contractual tolling arrangement. In addition, the petitioners contend that there is no evidence on the record of this case which demonstrates that Sandvik and Fagersta are divisions of the same company. Moreover, the petitioners contend that Fagersta has failed to establish that its transactions with Sandvik are part of an integrated system directed solely at Sandvik's discretion. Finally, the petitioners contend that Fagersta has failed to provide evidence which demonstrates the extent to which managerial employees or board members of Sandvik sit on the board of directors of Fagersta or whether their business operations are intertwined, such as through shared sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the two entities. The petitioners also cite to *Final Results of Antidumping Duty Administrative Review: Certain Forged Steel Crankshafts from the United Kingdom*, 61 FR 54613, 54614 (October 21, 1996) (*Crankshafts from the U.K.*) in support of their argument.

DOC Position

We agree with Fagersta that Fagersta, Sandvik and Kanthal should be collapsed.

However, for the reasons explained below, we disagree that Fagersta and Avesta should be collapsed or that Fagersta and Gusab should be collapsed. For the preliminary determination, the Department did not collapse Fagersta, Sandvik, Kanthal, Avesta and Gusab. However, since the preliminary determination, we have reexamined the collapsing issue, taking into account the arguments advanced by the parties, as well as our own analysis and verification findings, with respect to the information on the record that is relevant to this issue. As a result of our reexamination, we now agree with Fagersta that Fagersta and its affiliates Sandvik and Kanthal should be collapsed. However, as we also explain, we disagree that Fagersta and its other affiliates, Avesta and Gusab, should be collapsed, as they do not meet the criteria for collapsing.

Pursuant to 19 C.F.R. 351.401(f), the Department will collapse producers and treat them as a single entity where (1) those producers are affiliated, (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (3) there is a significant potential for manipulation of price or production. In determining whether a significant potential for manipulation exists, the Department will consider (1) the level of common ownership, (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm, and (3) whether the operations of the affiliated firms are intertwined. (*See Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review*, 63 FR 12764, 12774 (March 16, 1998) and *Nails From Taiwan*, 62 FR at 51436.) Based on a totality of the circumstances, the Department will collapse affiliated producers and treat them as a single entity where the criteria of 19 C.F.R. 351.401(f) are met.

We find that Fagersta, Sandvik and Kanthal satisfy the first criterion in that they are affiliated with each other. Under section 771(33)(E) of the Act, persons are deemed to be affiliated where any person directly or indirectly owns, controls, or holds with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization. In this instance, Sandvik and Avesta are 50 percent owners of the joint venture respondent, Fagersta, which makes them both affiliates of Fagersta. In addition, Kanthal is a wholly-owned affiliate of Sandvik. *See also* 19 C.F.R. 351.102. Fagersta and Kanthal are also affiliated based on section 771(33)(F) of the Act, which provides that persons directly or indirectly under common control of any person are affiliates. In this case, Sandvik owns 50 percent of Fagersta and 100 percent of Kanthal so that these two entities would be under the common control of Sandvik.

Second, pursuant to 19 C.F.R. 351.401(h), we find that Sandvik is also a producer of the subject merchandise through its tolling arrangement with its wholly-owned subsidiary, Kanthal. Sandvik produces billets which are processed into SSWR by Kanthal for Sandvik.

Under this tolling arrangement, Sandvik retains title to the billets at all times and simply pays Kanthal a processing fee. Even though Kanthal

may not be located on the same premises as Sandvik, this fact, contrary to the petitioners' contentions, does not make Sandvik any less a producer of the subject merchandise than if the subject merchandise were produced on its premises (*see PVA from Taiwan,* 63 FR 32810, 32813 (June 16, 1998); *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8916 (February 23, 1998)). Thus, Sandvik is in fact a producer of merchandise that is identical or similar to that produced by Fagersta, and no retooling is required. In addition, we find that Kanthal is a producer of the subject merchandise in its own right and has the equipment in its facilities to produce subject merchandise that is identical or similar to that produced by Fagersta. Accordingly, we find the second collapsing criterion to have been met in that Sandvik, Kanthal and Fagersta are affiliated parties, each of which is a producer of identical or similar subject merchandise.

Finally, we also find that the operations of Sandvik, Fagersta and Kanthal are so intertwined that there exists a significant potential for manipulation of price or production if these affiliated producers were not collapsed. *See* 19 C.F.R. 351.401(f)(2). In particular, the level of common ownership is substantial as Sandvik owns 50 percent of Fagersta and 100 percent of Kanthal. Additionally, 50 percent of the management positions on Fagersta's board of directors are occupied by Sandvik officials (*see* Exhibit 4 of the Fagersta Sales Verification Report of Fagersta Stainless AB and Exhibit A–2 of May 19, 1998, Cost Verification Report of AB Sandvik Steel), and Fagersta is required to purchase only from Sandvik the billets that it processes into SSWR for sale to Sandvik. Further, Sandvik, Kanthal, and Fagersta also share information concerning sales, production, and pricing (*see* page 13 of volume 1A of Fagersta's February 2, 1998, supplemental questionnaire response).

On the other hand, while we find that Fagersta is affiliated with Avesta and Gusab for the same reasons that it is affiliated with Sandvik, we find that neither Avesta nor Gusab is a producer of the subject merchandise. In particular, no evidence has been placed on the record indicating that either Avesta or Gusab produces the subject merchandise at its own facility or could produce the merchandise without substantially retooling their facilities, or that either may be considered a producer by way of a tolling arrangement like Sandvik. Therefore, despite their affiliation with Fagersta, we have not collapsed either Avesta or Gusab with Fagersta under 19 C.F.R. 351.401(f).

In this instance, based on a totality of the circumstances, Fagersta, Sandvik and Sandvik's wholly-owned subsidiary Kanthal meet the criteria for purposes of being collapsed and treated as a single entity. In this respect, it is not necessary, as the petitioners appear to suggest in referring to *Crankshafts from the United Kingdom,* that Fagersta and Sandvik be divisions of the same company for collapsing purposes. Because we have collapsed Fagersta, Sandvik and Kanthal, we find that the major input rule does not apply in this instance and have used Sandvik's billet costs as the basis for COP. In the case of Avesta, since we have not collapsed Fagersta and Avesta, we find that the major input rule under section 773(f)(2) and (3) of the Act does apply and have therefore used the higher of the transfer price or billet cost (no information on the market value of billets was available) as the basis for calculating COP and CV for the subject merchandise.

Comment 2: Home Market Affiliated Sales Transactions.

Fagersta contends that, in this case, the Department's arms-length test fails to capture the basic distinction between its market-price SSWR sales to unaffiliated parties and affiliated parties because for its affiliated sales, Fagersta negotiates the processing fee with its affiliated parties (*i.e.,* Sandvik Group) for converting Sandvik billet into SSWR for delivery to Sandvik's wire mills. Therefore, Fagersta maintains that this special arrangement within the Sandvik Group in the home market, including Fagersta's role as strictly a processor of billet into SSWR, should compel the Department to treat Fagersta's home market affiliated sales as outside the ordinary course of trade. Fagersta cites to the *Final Results of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker from Mexico,* 63 FR 12764, 12770 (March 16, 1998) and 19 C.F.R. 351.403(c) in support of its argument. Alternatively, Fagersta argues that the Department should adjust the prices of its home market affiliated party sales to reduce the distortion created by Sandvik's presence at both the billet and wire stage by making a level of trade adjustment or exclude these sales from its analysis because the major input rule does not apply in this case.

The petitioners contend that if Fagersta's home market affiliated sales pass the Department's arm's-length test, the Department must use these sales in the final determination because Fagersta has provided no basis for excluding such sales. The petitioners maintain that the Department should find Fagersta's arguments that it is a division of the same company as its suppliers, or that it meets the criteria for being collapsed with its suppliers, are completely unsupported by evidence in the record of this case and should be rejected by the Department.

DOC Position

We agree in part with Fagersta. We have not used Fagersta's home market sales to Sandvik because we find that Fagersta and Sandvik meet the criteria for collapsing affiliated producers (*see* Comment 1 above). Therefore, we find that the arm's-length test does not apply with respect to Fagersta's home market sales of subject merchandise made to Sandvik. Regarding Fagersta's home market sales to Gusab and Avesta Welding, we find that neither Fagersta and Avesta Welding nor Fagersta and Gusab meet the criteria for collapsing affiliated companies (*see* Comment 1 above). Moreover, we do not find that these sales were made outside the ordinary course of trade. We find that Fagersta's sales to its affiliated end users, Avesta Welding and Gusab, were similar in nature to the home market sales made to its unaffiliated customers. However, in attempting to apply the arm's-length test to the sales to Avesta's affiliate, we find no sales of identical merchandise made to Fagersta's unaffiliated home market customers to match. Moreover, we do not find that Fagersta made any U.S. sales of merchandise that was identical to the merchandise sold to Avesta's home market affiliate. Therefore, we have not used these sales in our analysis (*see Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 58 FR 37062 (July 9, 1993)). In applying the arm's-length test to Fagersta's sales to Gusab, we do find sales of identical merchandise to match to sales Fagersta made to unaffiliated customers. Therefore, we have used these sales in our analysis if they passed the arm's-length test.

Comment 3: Level of Trade.

Fagersta claims that it has provided evidence that its sales within the Sandvik Group occur at a different marketing stage, involving substantially different selling functions, than its sales to unaffiliated home market and U.S. customers. In addition, Fagersta claims that it has demonstrated that it provides premium services during the integrated sales and marketing process for affiliated customers which its

unaffiliated home market and U.S. customers either do not receive, or receive to a lesser extent. Therefore, Fagersta contends that because a substantial difference in selling activities and price comparability exists between the home market Sandvik Group transactions and unaffiliated home market or U.S. sales, the Department must recognize that there is a difference in marketing stages and grant it a LOT adjustment. Fagersta cites to *Final Results of Antidumping Duty Administrative Review: Certain Stainless Wire Rods from France*, 61 FR 47874, 47880 (September 11, 1996) (*Wire Rods from France*) in support of its argument.

The petitioners contend that the Department should not grant Fagersta a LOT adjustment or CEP offset because Fagersta has not demonstrated in this case that its home market sales are at a different LOT than its U.S. sales. Specifically, the petitioners state that Fagersta has failed to demonstrate that its sales to unaffiliated and affiliated customers in the home market were not made through the same channel of distribution and to the same category of customer. With regard to the premium services Fagersta claims it provides its affiliated customers, the petitioners maintain that the documentation on the record does not support a finding that substantive differences exist between services provided for sales to affiliated and unaffiliated customers. Moreover, the petitioners argue that Fagersta has not demonstrated that the difference in selling functions and activities between its affiliated home market customers and U.S. customers establishes a difference in marketing stages. Therefore, the petitioners maintain that Fagersta has not demonstrated that there is difference in selling functions as a result of different selling activities associated with home market and U.S. sales. Finally, the petitioners contend that Fagersta has failed to correlate any LOT difference with a pattern of consistent price differences between sales at different LOT in the home market.

DOC Position

We agree with the petitioners. A LOT adjustment can increase or decrease normal value (*see* Statement of Administrative Action (''SAA''), H. Doc. No. 316, Vol. 1, 103d Cong., 2d Sess. 829 (1994)). The SAA directs the Department to ''require evidence from the foreign producers that the functions performed by the sellers at the same level of trade in the U.S. and foreign markets are similar, and that different selling activities are actually performed at the allegedly different levels of trade.'' *Id. See also Final Results of Antidumping Duty Administrative Review: Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands*, 63 FR 13204, 13206 (March 18, 1998). Thus, to properly establish the LOT of the relevant sales, the Department specifically requests LOT information in every antidumping proceeding, regardless of whether a respondent sells solely to one nominal customer category, such as end-users. Moreover, consistent with that approach, we note that of necessity, the burden is on a respondent to demonstrate that its categorizations of LOT are correct. The respondent must do so by demonstrating that selling functions for sales at allegedly the same level are substantially the same, and that selling functions for sales at allegedly different LOTs are substantially different.

As a matter of policy, the Department does not permit a respondent to submit data selectively to support its own conclusions with regard to LOT. Specifically, Fagersta stated in its questionnaire response that its home market sales were made through one channel of distribution to essentially one customer category (*i.e.*, direct sales from the mill to the end user).

Moreover, Fagersta's description in its response of its customer categories and channel of distribution in the U.S. market for its EP sales was almost identical to its description of those factors in the home market (*see* pages A–14 and A–15 of the October 24, 1997, Fagersta Questionnaire Response). Subsequently, Fagersta filed a supplemental questionnaire response where it reversed its claim that there was no basis for a LOT adjustment (*see* page nine of the February 2, 1998, Supplemental Questionnaire Response). In its supplemental response, Fagersta claimed that its home market sales to Gusab occur at a different marketing stage than its home market sales to unaffiliated customers. Specifically, Fagersta stated its sales to Gusab begin with the acquisition of billet from Sandvik and Fagersta's SSWR price to Gusab is pegged to Sandvik's billet price. For its sales to unaffiliated customers, Fagersta stated that the sale begins with the sale of rod by Fagersta without any reference or linkage to the price of the billet and without any involvement by the billet supplier (either Gusab's parent or Avesta Sheffield) in the transaction (*see* verification exhibit 15J of the May 11, 1998, Fagersta Sales Verification Report).

In addressing Fagersta's argument that the Department should take into account the sale of billets from Sandvik to Fagersta as a distinct marketing stage for purposes of a LOT adjustment for Fagersta's sales of SSWR back to the affiliated Sandvik Group, we note that the statute is only concerned with possible differences in the level of trade between the NV and the EP or CEP of the subject merchandise. *See* section 773(a)(7)(A) of the Act. Billets are raw material inputs used in the production of the SSWR, the subject merchandise. Billets are not included in the scope of subject merchandise and, therefore, are not subject merchandise. Accordingly, the stage of the production process where Sandvik sells billets to Fagersta for further processing into SSWR is not relevant for purposes of determining whether sales of the subject merchandise in the home market and U.S. market are at different LOTs. Moreover, Fagersta has failed to show why the billet price setting practice with Sandvik translates into different selling functions with respect to Gusab and Fagersta's unaffiliated customers.

Notwithstanding Fagersta's LOT claims, it is the Department's responsibility, not Fagersta's, to determine LOTs. If a respondent claims that different LOTs exist, it has the burden of demonstrating that. We make no presumption as to the number of LOTs in a market. Rather, the respondent must provide information which satisfactorily demonstrates what LOTs exist. In this case, Fagersta has failed to meet its burden of proof of demonstrating that there are in fact two separate LOTs.

To make a proper determination as to whether home market sales are at a different LOT than U.S. sales, the Department examines whether the home market sales are at different stages in the marketing process than the U.S. sales. We review and compare the distribution systems in the home market and U.S. export markets, including selling functions, class of customer, and the extent and level of selling expenses for each claimed LOT. An analysis of the chain of distribution and of selling functions substantiates or invalidates claimed LOTs based on customer classifications. Different LOTs necessarily involve differences in selling functions of the subject merchandise, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the LOT. Different LOTs are characterized by purchasers at different places in the chain of distribution and sellers performing qualitatively or

quantitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different LOT, we make a LOT adjustment if the difference in LOT affects price comparability. We determine any effect on price comparability by examining sales at different LOTs in a single market, the home market. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different LOTs. We use the average difference in net prices to adjust the NV when it is based on a LOT different from that of the export sale. If there is a pattern of no price differences, then the difference in LOT does not have a price effect, and no adjustment is necessary.

As stated above, the Department begins its LOT analysis with an examination of the different distribution systems or channels of trade. Normally, transactions at different LOTs occur at different points in the distribution system, which are reflected in the commercial designation of customer categories, such as end-user or distributor, and selling functions that support such commercial designations. In this case, Fagersta sold to end-users in both the U.S. and home markets. It is undisputed that these transactions constitute sales through the same channel of trade. This indicates that distinct LOTs do not exist in this situation.

Further, an analysis of selling functions supports this conclusion. We conducted a comprehensive examination of the available information on selling functions provided by Fagersta in this case. The Department requested information on selling functions in the original questionnaire and supplemental questionnaire and examined the data with respect to selected sales at verification.

With respect to Fagersta's home market sales to its affiliate Sandvik, we find that Fagersta and Sandvik should be collapsed in this case. Therefore, we find Fagersta's argument that a LOT adjustment with respect to home market sales made to Sandvik is moot as we excluded those sales from our analysis. With respect to Fagersta's home market sales to its affiliates Gusab and Avesta Welding, based upon our analysis of the information submitted on the record, we do not find that the selling functions performed by Fagersta with respect to these affiliated customers and its sales to unaffiliated home market customers to be meaningfully different.

Specifically, Fagersta has repeatedly claimed that it provides premium services to its affiliated customers, Gusab and Avesta Welding, but not to its unaffiliated customers. However, we find that the vast majority of the selling functions were identical. Thus, the critical element in establishing different LOTs is the degree to which these selling functions are performed with respect to the different customers. In this instance, we do not find the evidence concerning the alleged differences in the degree to which selling functions are performed with respect to affiliated and unaffiliated customers establishes different LOTs. Fagersta maintains that although it provides technical cooperation and warranty services to both its affiliated and unaffiliated customers, the services Fagersta provides to its affiliated customers are more substantial in that it provides only its affiliated customers with (1) mandatory reservation of production capacity to ensure priority production and delivery; (2) intensive technical cooperation; (3) access to proprietary information; (4) networked data exchange; (5) specialized product applications; (6) just-in-time delivery; and (7) billet rebates. Fagersta has attempted to emphasize these alleged differences noted above by providing documents from meetings Fagersta held with respect to affiliated and unaffiliated customers (*see* verification exhibits 27A through 27D of the Fagersta Sales Verification Report). However, in reviewing these verification exhibits, we do not find that they establish that the services and assistance provided to Fagersta's affiliated customers are significantly different from the services and assistance provided to Fagersta's unaffiliated U.S. customers. Specifically, the following agenda items were discussed in both meetings for affiliated and unaffiliated customers: product quality issues, production issues and problems, production testing analysis, and customer disputes (*see* exhibits 27A through 27D of the Fagersta Sales Verification Report). With respect to the agenda items not mentioned in meetings held on unaffiliated customers but mentioned in meetings held on affiliated customers (*i.e.*, employee exchange programs, joint marketing discussions, coordination of billet production and delivery with rod processing and delivery within the Sandvik Group), these agenda items would necessarily be topics of discussion between affiliated producers of the subject merchandise or between affiliated parties which used the subject merchandise for their own accounts. Thus, we find that the agenda items where Fagersta discussed its affiliated and unaffiliated customers are similar for both customer categories (*see* exhibits 27A through 27D of the Fagersta Sales Verification Report). Although the minutes of meetings held for affiliated customers are more detailed than the minutes of meetings held for unaffiliated customers, we find that the agenda items discussed in meetings for both customer types indicate a central focus on Fagersta ensuring the quality of the merchandise and Fagersta's ability to deliver the product to the customer's specifications. As such, we do not find that there is a significant difference in the degree to which Fagersta performs selling functions between its affiliated home market and unaffiliated U.S. customers. Thus, we disagree with Fagersta that a distinct marketing stage exists for its sales to affiliated home market customers, and further find that there is no substantial difference in selling functions between affiliated and unaffiliated customers in the home and U.S. markets.

Section 773(a)(7)(B) of the Act states that a CEP ''offset'' may be made when two conditions exist: (1) normal value is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP; and (2) the data available do not provide an appropriate basis for a level of trade adjustment. In this case, since we have found no difference in the LOT of the sales in question, for the reasons noted above, we do not find that a CEP offset adjustment is warranted.

Comment 4: SSUS' EP Transactions.

The petitioners argue that the Department must treat SSUS's EP sales as CEP sales because the Department found at verification that the reported EP sales were also warehoused at SSUS, and that the verification report reflects that finding. Moreover, the petitioners contend that because these sales were introduced into SSUS' physical inventory, SSUS would have necessarily incurred inland freight charges for these sales which makes SSUS more than a mere processor of sales documentation. Based on the Department's criteria for classifying sales as EP, the petitioners urge the Department to treat these EP sales as CEP sales.

Fagersta maintains that the verification report is in error in that SSUS' EP sales did not enter its physical inventory, although they did enter its financial accounts since SSUS took title to the merchandise. Moreover, Fagersta maintains that verification exhibits containing bills of lading, freight bills, sales invoices and shipping orders for the sales in question demonstrate that

these sales were shipped directly to the customer and did not enter physical inventory in the United States. Therefore, since these sales did not incur a warehouse expense, Fagersta argues that the Department should continue to treat these sales as EP since they meet the criteria for classifying sales as EP.

DOC Position:

We agree with Fagersta. For the EP sales in question, we find no evidence that these sales entered into the physical inventory, as opposed to the financial inventory, of SSUS, prior to sale. We find that the freight and delivery documentation for selected EP sales examined at verification indicates that the subject merchandise was shipped directly from Sweden to the U.S. customer's requested delivery location. The petitioners' contention that the Department's verification report states that the EP sales transactions in question entered the physical inventory of SSUS is incorrect. Based on the examined freight and delivery documentation at verification, we conclude that the inventory journal records both merchandise that was physically located at SSUS' warehouse as well as merchandise which did not enter SSUS' warehouse but to which SSUS had title. For the sales in question, we also find, based on the information examined at verification, that the sales followed customary commercial channels between the parties involved and that the function of SSUS was limited to that of a ''processor of sales-related documentation'' and a ''communication link'' with the unrelated customer (*see Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China,* 62 FR 9160, 9171 (February 28, 1997)). Therefore, we treated the sales in question as EP sales.

Comment 5: Exclusion or Inclusion of Certain ASI Sales.

The petitioners contend that, based on verification, the Department should remove three sales from the U.S. sales listing (*i.e.,* ASI invoice nos. 119548, 122141, and 124740) because these sales were outside the POI. In addition, the petitioners contend that the Department should include one sale, determined at verification to be included both in the U.S. sales listing as well as the exclusion worksheet, if that sale was inside the POI (*i.e.,* ASI invoice number 115936).

Fagersta contends that for the three sales in question, although the ASI invoice date was outside the POI, the Fagersta invoice date was inside the POI. Therefore, Fagersta maintains that these three sales were correctly included in its U.S. sales listing and that the Department should use these sales in the final determination. For the other sale in question, Fagersta contends that the sale consisted of two shipments from it, one of which originated from a Fagersta invoice with an invoice date prior to the POI. Therefore, Fagersta maintains that it correctly included in the U.S. sales listing the ASI sale in which the Fagersta invoice date was in the POI and correctly excluded the ASI sale in which the Fagersta invoice date was prior to the POI. Therefore, Fagersta argues that based on the verification findings, it is unnecessary for the Department to make revisions to the U.S. sales listing for these sales.

DOC Position

We disagree with the petitioners' argument to exclude the three sales from Fagersta's U.S. sales listing. Fagersta reported its U.S. sales transactions through its U.S. affiliate ASI as EP sales because Fagersta determines the terms of sale (*see* pages 15 and 17 of the Fagersta verification report and pages 8 and 9 of the ASI Verification Report). For its reported EP sales transactions, Fagersta used as the date of sale the date of its sales invoice to the U.S. unaffiliated customer. The Fagersta invoice is also sent to ASI which also issues a sales invoice to the U.S. unaffiliated customer with the same terms of sale specified on the Fagersta sales invoice. However, in a few cases, the ASI sales invoice included merchandise covered by more than one Fagersta sales invoice. For the three sales mentioned by the petitioners, the sales have an ASI invoice date outside the POI as noted in the invoice issued by ASI. However, we determined that they were properly included in the U.S. sales listing because they correspond to Fagersta invoice dates, which are within the POI. (Fagersta, which shipped the merchandise directly to the U.S. customer, reported all of its sales to the Department based on whether its invoice dates, not ASI's invoice dates, were within the POI). We did not note any discrepancies or inconsistencies with Fagersta's sales database as far as its quantity and value reconciliation (*see Fagersta Sales Verification Report* at page 9). Furthermore, verification of the ASI sales listing showed that these three sales observations were manually added to the database in order to be reconciled with Fagersta's reported quantity and value (*see ASI Verification Report* at page 7).

We reviewed documentation concerning the other sale, which was included both in ASI's sales listing and its exclusion worksheet (*see* Exhibit 8 of the *ASI Verification Report*). At verification, we noted that the sale in question was invoiced by ASI as one sale, but that it actually consisted of merchandise covered by two Fagersta invoices. Of these two Fagersta invoices, one has a date prior to the POI, and therefore, was properly excluded by ASI from the U.S. sales listing. The other Fagersta invoice has a date during the POI and, therefore, was properly included by ASI in the U.S. sales listing (*see ASI Verification Report* at page 7).

Comment 6: Model Matching.

The petitioners contend that the Department should not rely on Fagersta's own internal grade designations for products that would otherwise fit within a standard AISI grade simply because Fagersta has added small amounts of chemicals that are not otherwise specified as being included in the standard AISI grade designation. Therefore, the petitioners urge the Department to ensure that all internal product codes designated by Fagersta in its questionnaire responses correspond to a standard AISI grade code for matching purposes. Otherwise, the petitioners allege that the methodology of relying on internal grade designations for products that are only sold in the home market impermissibly allows Fagersta to exclude certain high-priced sales in the home market from the model match process simply by giving these internal grade designations a special model match code that would never allow it to be compared to a U.S. sale with a different code. Finally, the petitioners contend that Fagersta has incorrectly applied the model matching methodology devised by the Department by classifying several grades in two or more very similar AISI grades. For the final determination, the petitioners request that the Department collapse all AISI/AWS grades into their simplest three-digit configuration based on the suggestions contained in their case brief.

Fagersta contends that it has grouped its internal grades into bona fide AISI/AWS norms where possible, and reported proprietary internal grades only where its internal grade did not fall within the chemical specifications of any recognized AISI/AWS standard, in accordance with the Department's instructions. Fagersta further contends that the Department thoroughly tested the accuracy and consistency of its internal grade to AISI/AWS assignment at verification and found no discrepancies. Alternatively, Fagersta states that if the Department were to accept the petitioners' proposed

alternative to collapse all AISI/AWS grades that begin with the same three numbers for purposes of grouping its internal grades, the Department would be departing from its own instructions. Moreover, Fagersta maintains that the petitioners' application of their proposed alternative contained in their case brief is inconsistent as it pertains to grouping Fagersta's internal grades. Finally, Fagersta states that although it does not object to collapsing all AISI/AWS grades into their simplest three-digit configuration, it would object if the Department does not undertake this collapsing across the board to all AISI/AWS grades.

DOC Position

We agree with Fagersta. We examined at verification the method Fagersta used to assign standard AISI/AWS grades to its internal grades based on the chemical specifications of the internal grade. We find that Fagersta consistently applied its grade assignment methodology in accordance with the Department's instructions contained in our questionnaire. Therefore, we do not agree with the petitioners that Fagersta classified several grades in two or more very similar AISI grades. Finally, we do not agree with the petitioners that we should collapse all AISI/AWS grades into their simplest three-digit configuration since this alternative would collapse unique AISI/AWS grades which differ principally because of a slight, though not insignificant, difference in certain chemicals which define the AISI/AWS grade.

Comment 7: SSUS Interest Rate.

Fagersta contends that the Department incorrectly calculated the short-term interest rate derived from verification exhibits and must correct this typographical error if it intends to use the short-term interest rate based on SSUS' POI short-term borrowings for purposes of SSUS' credit expenses and inventory carrying costs.

The petitioners contend that the Department should only use an interest rate which is based on short-term loans and should use the interest rate as discussed in the verification report to calculate credit expenses and inventory carrying costs.

DOC Position

We agree with Fagersta. Whenever possible the Department uses short-term interest rates based on actual loan agreements (*see Policy Bulletin 98–2: Imputed Credit Expenses and Interest Rates* (February 23. 1998)). SSUS's short-term loan agreements included in verification exhibit 26 reflect the only short-term loans entered into during the POI. Therefore, the Department calculated the short-term interest rate based on actual SSUS POI short-term loan agreements contained in verification exhibit 26 for purposes of determining SSUS credit expenses and inventory carrying costs. Specifically, we used the interest rate noted in Fagersta's post-verification May 28, 1998, submission and not the interest rate noted in our verification report which was in error (*see* Final Calculation Memorandum for further details).

Comment 8: Corrections to Certain SSUS and Amstek Expenses and Corrections to Dates of Sale for Certain SSUS Sales.

The petitioners contend that the Department should revise SSUS' early payment discounts, duty and brokerage and handling expenses and inland freight warehouse transfers for all sales and the dates of sale for certain sales transactions based on the verification findings. In addition, the petitioners contend that the Department should revise Amstek warranty expenses based on the verification findings.

Fagersta states that the Department should correct for the clerical errors identified by Fagersta or otherwise found by the Department based on the verification findings.

DOC Position

For the reasons stated above, we agree with both parties and have revised the above mentioned company-specific discounts and expenses based on our verification findings for purposes of the final determination.

Comment 9: SSUS' International Freight Expense.

The petitioners contend that Fagersta should have reported the actual international freight expense incurred for certain transactions rather than an average international freight expense. The petitioners maintain that this error is so egregious that the Department should use facts available to calculate this expense for those transactions affected by the error. For facts available, the petitioners urge the Department to use the highest calculated international freight expense for all sales rather than their revised calculations.

Fagersta contends that the Department's verification demonstrated that for the sales in question, it had incorrectly reported an average freight expense when it should have reported the transaction-specific expense for these sales based on its claim that these sales should be treated as EP transactions instead of as CEP transactions. Fagersta also contends that it provided the Department the transaction-specific freight expenses for these sales at verification which were examined by Department officials. Therefore, Fagersta maintains that the error in question is minor in nature and that the Department should use the transaction-specific expenses and not resort to adverse facts available for its claimed EP sales transactions for purposes of the final determination.

DOC Position

We agree with Fagersta. We examined the correct expense data for the sales in question at verification. Since we have treated these sales as EP transactions, we find that Fagersta erred in reporting an average POI international freight expense for its EP sales transactions when it should have reported the average expense for its CEP sales transactions only. Therefore, we used the actual freight expenses for the EP sales transactions, based on our verification findings.

Comment 10: Quantity Variable Used in Margin Program.

Fagersta claims that in its preliminary margin calculation program, the Department overstated the total U.S. quantity and value figures by using the same quantity variable to derive weighted-average U.S. prices, selling expenses, packing expenses, commissions and exchange rates as it did to determine the total U.S. sales quantity and U.S. sales value for purposes of calculating the dumping margin. To correct this error, Fagersta urges the Department to use the appropriate variable to derive the U.S. sales quantity and value.

The petitioners did not comment on this issue.

DOC Position

We agree with Fagersta and made the appropriate change in the final calculation margin program (*see* Final Calculation Memorandum).

Cost Issues

Comment 11: Calculation of CV Profit.

Fagersta claims that in the margin program for the preliminary determination, the Department erred in its calculation of CV profit by using an improper denominator. According to Fagersta, the Department calculated the amount of CV profit by: (1) Calculating a profit rate by dividing the total profit earned on home market sales by the company's production costs inclusive of only manufacturing costs, G&A and interest expenses, and (2) applying this profit rate to the sum of manufacturing costs, selling, G&A and interest expenses to derive the amount of profit. Thus, Fagersta contends that the profit

rate was not calculated and applied on a consistent basis, resulting in an overstatement of the profit included in CV.

The petitioners argue that the methodology used by the Department to calculate CV profit was proper and in accordance with its established practice.

DOC Position

We disagree with Fagersta that we incorrectly calculated CV profit. In our preliminary margin program, we calculated CV profit in the following manner: (1) We calculated the total profit earned on home market sales and divided the profit by total production costs, inclusive of only manufacturing costs, G&A and interest expenses to derive a profit rate; (2) we then multiplied the calculated profit rate by the sum of manufacturing costs, G&A and interest expenses. Contrary to the Fagersta's claim, we did not include selling expenses in our calculation of CV profit. Thus, we calculated and applied the profit rate on a consistent basis. Accordingly, we did not make any changes in the final margin program with respect to calculation of CV profit.

Comment 12: Sandvik's Reported General Expenses.

The petitioners contend that in calculating the cost of the billets that Fagersta purchased from its affiliated supplier, Sandvik Steel, the Department should make the adjustments to Sandvik's submitted general expenses that it identified in its verification report. That is, according to petitioners, Sandvik's general expenses should be derived on a company-wide basis using the company's 1996 audited financial statement. Moreover, petitioners note that the Department should adjust the component of the general expenses representing Sandvik Holding Company's general and administrative (''G&A'') expense to reflect costs that the Department found to be inappropriately excluded from billet production costs.

Fagersta argues that the Department should accept the general expenses reported in Sandvik's normal internal accounting system at the product line level, rather than computing a company-wide rate. Alternatively, Fagersta contends that if the Department uses a company-wide rate, it must exclude research and development expenses and selling expenses incurred by product lines that are unrelated to the subject merchandise.

In addition, Fagersta disputes the petitioners' assertion that the Department determined Sandvik Holding Company's G&A rate to be incorrect. According to Fagersta, the Department simply noted that insurance expenses paid to a subsidiary and a write-down of internal receivables were both excluded from the G&A computation. Fagersta argues that these items were properly excluded from Sandvik Holding's G&A rate because both are inter-company expenses that are eliminated in the consolidated financial statements of Sandvik AB.

DOC Position

We disagree with Fagersta's contention that the Department should accept Sandvik's reported general expense rate computation. Our normal methodology for allocating general expenses to individual products is to calculate a rate by dividing the company's general expenses by its total COS, as reported in the respondent's audited financial statements (*see* the Department's standard Section D questionnaire at page D–17). This method recognizes that general expenses are costs that relate to the company's overall operations, rather than to the operations of a division within the company or to a single product line (*see Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Corrosion-Resistant Carbon Steel Flat Products From Japan*, 58 FR 37154, 37166 (July 9, 1993). The approach is intended to recognize the general nature of these expenses and the fact that many of these expenses are incurred in supporting a range of the overall company's various operations. This approach is consistent with Generally Accepted Accounting Principles (''GAAP'') treatment of such costs as period expenses.

In its submission, Sandvik deviated from the Department's normal methodology and calculated its general expenses using an internal accounting methodology, under which the company charged some general expenses directly to specific product lines, while allocating other such expenses across product lines. When a respondent abandons a normal Department methodology in favor of an alternative one, it is incumbent upon the respondent to satisfy a higher threshold for proving the reasonableness and accuracy of its chosen approach. In this case, however, Sandvik did not provide any documentation or support for the methodology underlying the allocation of its general expenses among different divisions and product lines within the company. In addition, Sandvik did not clearly differentiate between general expenses incurred directly at a product-line level and those amounts incurred at the higher, divisional and parent company levels. Although during verification Sandvik Steel presented data showing that, for managerial reporting purposes, the company followed the multi-tiered allocation of general expenses reported for COP and CV, the company did not demonstrate whether this system more accurately captured general expenses of the subject merchandise than under the Department's normal, company-wide calculation method. Specifically, Sandvik failed to demonstrate that expenses it allocated to both subject and non-subject merchandise were, indeed, the expenses incurred for those particular products. Further, Sandvik presented no evidence as to the reasonableness of its internal accounting system. In effect, at verification, Sandvik documented how its general expenses were spread throughout the company, but provided no documentation to support the resulting accuracy or validity of such reporting. Because Sandvik failed to adequately demonstrate that only those general expenses (including R&D and selling expenses) that were completely unrelated to subject merchandise were excluded from its submitted general expense rate calculation, the Department recomputed Sandvik's general expense rate on a company-wide basis, in accordance with its normal methodology.

We further disagree with Fagersta's assertion that the insurance expenses that Sandvik Holding Company paid to a subsidiary and the write-down of internal receivables should be excluded from the calculation of the Sandvik Holding Company component of Sandvik's general expense rate. Fagersta's justification that both are internal items that are eliminated in Sandvik AB's consolidation is irrelevant. The Department does not compute general expenses at the consolidated level. The fact that these expenses are related to transactions with affiliated parties does not negate the fact that they are expenses incurred by Sandvik Holding Company. Therefore, we computed the Sandvik Holding Company component of Sandvik's general expense rate, inclusive of the insurance expenses and the write-down of internal receivables.

Comment 13: Adjustments to Avesta Cost Data.

The petitioners contend that because the Department did not conduct a full-scale verification of Avesta's COP data, it must make the same adjustments to Avesta's SSWR billet COP data as it intends to make to Sandvik's SSWR

billet COP data based on verification at Sandvik.

Fagersta argues that the Department should not make any adjustments to Avesta's general expenses or manufacturing costs to correspond to adjustments to Sandvik's reported SSWR billet production costs simply because the Department did not conduct a complete cost verification of Avesta. Fagersta maintains that Avesta reported its costs in accordance with its books and records and that the Department did not note any significant errors in Avesta's cost submission during verification.

DOC Position

We disagree with the petitioners' assertion that we must make the same numerical adjustments to Avesta's SSWR billet COP data as we make to Sandvik's SSWR billet COP data. We note, however, that we intend to apply consistent methodologies to both companies. In this regard, the only adjustment to Sandvik's SSWR billet COP made by the Department relates to Sandvik's general expense rate. The Department tested Avesta's submitted general expense rate during verification and adjusted the rate to reflect Avesta's company-wide general expenses in a manner consistent with our treatment of Sandvik's general expenses.

Comment 14: Standard Material Cost Discrepancy.

The petitioners state that Sandvik's reported billet costs incorrectly reflect the company's 1995, rather than 1996, standard costs. The petitioners contend that the Department should adjust Sandvik's submitted SSWR billet COP to account for the difference between 1995 and 1996 standard costs.

Fagersta claims that the Department did not identify any errors in Sandvik's standard costs or actual manufacturing costs for producing billets. Further, Fagersta claims the 1995 versus 1996 standard cost discrepancy necessitates no adjustment to Fagersta's reported costs because Fagersta reported its actual manufacturing costs in accordance with its normal books and records. Fagersta asserts that such a standard cost discrepancy adjustment would overstate costs by using standards that are not reflected in the audited financial statements and would ignore a corresponding offset for the increase in the favorable material cost variance.

DOC Position

We disagree with the petitioners' assertion that the Department should adjust Sandvik's submitted SSWR billet COP to account for the difference between the 1995 and 1996 standard costs. At the Department's request, Fagersta submitted its SSWR production costs under two different scenarios, one based on the transfer price of billets purchased from affiliated suppliers and the other based on the cost of producing these billets. The issue addressed above by the petitioners and the respondent, as raised in the Department's cost verification report, regards the accuracy of the Fagersta SSWR product specific material (billet) cost, based on billet transfer price. Because it involves Fagersta's standard costs used in its normal accounting system to record purchases of billets, it does not have an impact on any margin calculations that are based on the billet suppliers' cost of production. Rather, it only has an impact on Fagersta's SSWR production costs based on the billet transfer price. Additionally, because Fagersta's error was in failing to revise its 1995 standard costs to reflect its computed 1996 standard costs for billets purchased from Sandvik, it should only have an impact on Fagersta material costs for SSWR made with billets purchased from Sandvik. Because the Department is collapsing Fagersta and Sandvik, the major input rule should not be used to value the billets purchased from Sandvik. Rather, Fagersta's usage of Sandvik sourced billets should be based on Sandvik's billet COP. Therefore, there is no need to adjust Fagersta's submitted costs based on billet transfer prices to reflect the difference between the 1995 and 1996 standard cost of the billets purchased from Sandvik.

Comment 15: Revisions to SSUS' G&A and Interest Expenses.

The petitioners contend that the Department should increase both SSUS' reported G&A expense rate and financial expense rate applied in determining further manufacturing costs, based on the errors presented by SSUS officials at verification.

Fagersta contends that verification findings reflect a difference in rounding methodology used by SSUS and by the Department. Therefore, Fagersta maintains that the errors the petitioners propose be made have so small an effect on the final margin that the Department need not make any changes in this regard in its final determination.

DOC Position

We disagree with the petitioners' claim that we should increase both SSUS's reported G&A expense rate and financial expense rate. However, as we indicated at page 44 of our May 19, 1998, verification report, Fagersta corrected the SSUS G&A rate in the revised further manufacturing cost file submitted on April 29, 1998, and there is no need to adjust the financial expense. The Department determined that the Sandvik financial expense factor, rather than the SSUS factor, should be applied to SSUS further manufacturing costs. The financial expense requires no adjustment to reflect Sandvik's factor because it would have no impact on the reported costs.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) and 735(c)(4)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from Sweden, that is entered, or withdrawn from warehouse, for consumption on or after March 5, 1998 (the date of publication of the preliminary determination 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
Fagersta Stainless AB	5.71
All Others	5.71

Pursuant to section 735(c)(5)(A) of the Act, the Department has excluded all zero and *de minimis* weighted-average dumping margins from the calculation of the ''All Others'' rate.

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 issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: July 20, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–20021 Filed 7–28–98; 8:45 am]

BILLING CODE 3510–DS–D

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–583–828]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Taiwan

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

EFFECTIVE DATE: July 29, 1998.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Alexander Amdur, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4740 or (202) 482–5346, 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 Taiwan 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 Taiwan,* 63 FR 10836 (March 5, 1998) (*Notice of Preliminary Determination*). Since the preliminary determination, the following events have occurred:

On March 12, 1998, we received a submission from Yieh Hsing Enterprise Corporation, Ltd. (Yieh Hsing) alleging that the Department made ministerial errors in the preliminary determination. In response to Yieh Hsing's ministerial error allegations, we issued an amended preliminary determination on March 30, 1998. See *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Taiwan,* 63 FR 16972 (April 7, 1998).

In March 1998, we issued supplemental questionnaires to and received responses from the respondents in this case, Walsin Cartech Specialty Steel Corporation (Walsin) and Yieh Hsing (hereinafter ''respondents'').

In March, April, and May 1998, we verified the sales and cost questionnaire responses of these two respondents. In June 1998, Yieh Hsing submitted revised sales databases 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 8 and 10, 1998, and rebuttal briefs on June 16 and 17, 1998. We held a public hearing on June 18, 1998.

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.
Nickel	0.30 max.
Silicon	0.70/1.00.
Manganese	0.40 max.
Phosphorous	0.04 max.
Sulfur	0.03 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.

Fair Value Comparisons

To determine whether sales of SSWR from Taiwan to the United States were made at less than fair value, we compared the Export Price (EP) and/or Constructed Export Price (CEP) to the Normal Value (NV). Our calculations followed the methodologies described in the preliminary determination, except as noted below and in company-specific analysis memoranda dated July 20, 1998.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States,* 1998 WL 3626 (Fed Cir.). 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