They argue that, because the GOI did not contribute any funds to the SDF, SAIL has not received a financial contribution from the GOI as a result of its SDF loans.

In addition, SAIL notes that the article and related arguments contained in Petitioners case brief constitutes factual information. SAIL points out that this information was submitted after the time limit prescribed in section 351.301(b)(1) of the *CVD Regulations,* should not be made a made a part of the record, and should be ignored by the Department.

Department's Position: We agree with respondents. At verification, we confirmed that the SDF was funded by producer levies and other non-GOI sources. *See,* SAIL Verification Report at 10. Therefore, there is no basis for concluding that the SDF loans received by SAIL confer a financial contribution to SAIL from the GOI. In addition, there is no information on the record indicating that the GOI contributed tax revenues to the SDF either directly or indirectly. There is no information on the record indicating that the GOI controls the SDF. Accordingly, there is no basis on the record of this investigation for determining that SAIL's SDF loans are countervailable.

We agree with SAIL that Petitioners' case brief contains new factual information. We also agree that the information was submitted in violation of section 351.301(b)(1) of the *CVD Regulations.* We returned the brief and article to the Petitioners and requested that they submit a redacted brief, which contains no references or argument regarding the article or any new factual information. *See* Memorandum to file Re: Removal of Untimely Factual Information from the Record, dated December 13, 1999, which is on file in the public file of our Central Records Unit (Room B–0990 of the main Commerce Building). Therefore, all arguments relating to information in the article cannot be addressed.

Comment 11: Treatment of SAIL's Stockyard Sales

Petitioners argue that the figure reported for the total value of SAIL's sales it too large because the figure includes the f.o.b.(stockyard) value of SAIL's stockyard sales rather than the f.o.b.(factory) value of those sales. They argue that, in calculating the ad valorem program rates for SAIL, the Department should use an adjusted figure.

Department's Position: We agree with Petitioners. The original figure reported by SAIL includes the f.o.b. (stockyard) value of SAIL's stockyard sales rather than the f.o.b. (factory) value of those sales. At verification, we requested SAIL to derive the f.o.b. (factory) value of its stockyard sales. See SAIL Verification Report at 5 and 6. We adjusted the figure for SAIL's total value of sales during the POI so that the value of SAIL's stockyard sales is included on an f.o.b. (factory) basis. We used this adjusted sales figure for the final determination.

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials and examining relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the GOI Verification Report and the SAIL Verification Report, which are on file in our Central Records Unit (Room B–099 of the main Commerce building).

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we have calculated an individual countervailable subsidy rate for the company under investigation—SAIL. This rate will also be used for purposes of the ''all others'' rate. We determine that the total estimated net countervailable subsidy rates are as follows:

Producer/exporter	Net subsidy rate
Steel Authority of India (SAIL).	11.25% ad valorem.
All others	11.25% ad valorem.

In accordance with our Preliminary Determination, we instructed the U.S. Customs Service (Customs) to suspend liquidation of all entries of certain cut-to-length carbon-quality steel plate from India which were entered, or withdrawn from warehouse, for consumption on or after July 26, 1999, the date of the publication of our Preliminary Determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after November 23, 1999, but to continue the suspension of liquidation of entries made between July 26, 1999, and November 22, 1999.

If the ITC determines that material injury or threat of material injury does not exist, this investigation will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If the ITC determines that such injury does exist and issues a final affirmative determination, we will issue a countervailing duty order, reinstate suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: December 13, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–33229 Filed 12–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–816]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products from France

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

EFFECTIVE DATE: December 29, 1999.

FOR FURTHER INFORMATION CONTACT: Jim Terpstra or Frank Thomson, Office 4, Group II, Import Administration, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3965 or (202) 482–4793, respectively.

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''). In addition, unless otherwise indicated, all references are made to the Department's regulations at 19 CFR Part 351 (1998).

Final Determination: We determine that certain cut-to-length carbon-quality steel plate products (''CTL plate'') from France are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''*Suspension of Liquidation*'' section of this notice.

Case History

Since the preliminary determination in this investigation (*Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate from France,* (64 FR 41198, July 29, 1999)) (''*Preliminary Determination*''), the following events have occurred:

In September 1999, the Department conducted verification of Usinor S.A. (''Usinor'') and its affiliates (*i.e.,* Sollac S.A. (''Sollac''), GTS Industries S.A. (''GTS''), SLPM, Francosteel Corporation (''Francosteel''), and Berg Steel Pipe Corporation (''Berg'')). A public version of our report of the results of this verification is on file in room B–099 of the main Department of Commerce building, under the appropriate case number.

In November 1999, respondent submitted revised databases at the Department's request, pursuant to minor corrections discovered at verification. The petitioners (*i.e.,* Bethlehem Steel Corporation, Gulf States Steel, Inc., IPSCO Steel Inc., the United Steelworkers of America, and the U.S. Steel Group (a unit of USX Corporation)) and the respondent submitted case briefs on November 12, 1999, and rebuttal briefs on November 23, 1999. At the request of all parties, the scheduled public hearing was canceled.

Scope of Investigation

The products covered by the scope of this investigation are certain hot-rolled carbon-quality steel: (1) Universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (i.e., USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to these investigations is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1998, through December 31, 1998.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Usinor covered by the description in the ''*Scope of Investigation*'' section, above, and sold in France during the POI to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. 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. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent in the following order of importance (which are identified in Appendix V of the questionnaire): painting, quality, grade specification, heat treatment, nominal thickness, nominal width, patterns in relief, and descaling.

Because Usinor had no sales of non-prime merchandise in the United States during the POI, we did not use home market sales of non-prime merchandise

in our product comparisons See *e.g., Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Sweden* (63 FR 40449, 40450, July 29, 1998) (''*SSWR*'').

Changes From the Department's Preliminary Determination

As a result of verification findings and/or clerical errors outlined in the comments below, we have made the following changes from our *Preliminary Determination*: 1) we have added the additional coating, girthweld and unloading and stockpiling charges to Berg's gross price, in addition to its freight revenue, in deriving Berg's total sales price. *See* Interested Party Comment 1; 2) for those sales to the United States that involve Usinor's affiliated freight forwarders, we have used the average of the international freight expenses that do not involve Usinor's affiliated freight forwarders. We have used Usinor's reported domestic brokerage and handling expenses for all sales. *See* Interested Party Comment 3; 3) we have disregarded SLPM's reported indirect selling expenses in our analysis. *See* Interested Party Comment 6; 4) we have denied Usinor's claimed home market packing expense adjustment for all SLPM sales. *See* Interested Party Comment 8; 5) we have matched certain U.S. products to identical home market products. *See* Interested Party Comment 10; 6) we have determined appropriate home market sales for purposes of comparison to three U.S. products whose specifications were corrected at verification; 7) we have recalculated Usinor's home market inventory carrying costs based on the revised cost of manufacturing discussed in Interested Party Comment 16; 8) we have increased Sollac's and GTS's cost of manufacturing to account for increased pig iron cost from an affiliated supplier, thus increasing Usinor's COP and CV. *See* Interested Party Comment 16; 9) we have disallowed Usinor's claimed foreign exchange gains offset to its consolidated financial expense ratio, thus increasing Usinor's financial expense ratio. *See* Interested Party Comment 15; 10) we have used the financial expense information contained in Europipe's financial statements to calculate the further manufacturing financial expense ratio. *See* Interested Party Comment 14; 11) we adjusted Berg's further manufacturing, per-unit movement costs to reflect a per metric-ton value. *See* Interested Party Comment 18; 12) we have deducted home market imputed credit in calculating constructed value; and 13) we have excluded home market inventory carrying cost in calculating constructed value.

Use of Facts Available

In accordance with section 776 of the Act, we have determined that the use of facts available is appropriate for certain portions of our analysis of Usinor's data. For a discussion of our application of facts available, *see* Comments 3, 6, 8, and 10.

Interested Party Comments

Comment 1: Whether the Department Should Include All Additional Berg Charges in Calculating the Firm's Prices

Respondent argues that the Department's preliminary margin calculation erroneously derived the total price for Berg sales by only adding two of the six relevant data fields, the price for base pipe and freight revenue, while omitting the other four additional charges (*i.e.,* ID coating, OD coating, girthweld, and unloading and stockpiling charges). Respondent asserts that its submitted U.S. sales file, like Berg's invoices, lists the base price and all additional charges within separate fields. Therefore, all fields must be summed to reach the total price.

According to respondent, the Memorandum for Holly Kuga from the Team, ''Verification of the Responses of Usinor in the Antidumping Duty Investigation of Certain Cut-To-Length Carbon-Quality Steel Plate From France (Berg Sales)'' (Oct. 22, 1999) (''*Berg Sales Verification Report*'') supports its position. Petitioners did not comment on this issue.

Department's Position: We agree with respondent that it was established at the Berg sales verification that, in determining the total Berg sales price, we should include not only the additional charge for freight revenue, but also the additional coating, girthweld and unloading and stockpiling charges. Based upon our findings at verification, we have included these additional charges in deriving Berg's total sales price for the final determination.

Comment 2: Whether GTS' French-Format and U.S.-Format Financial Statements Reconcile

Respondent notes that, in the normal course of business, GTS prepares both French-and U.S.-format financial statements. Respondent argues that the Memorandum for Holly Kuga from the Team, ''Verification of the Responses of Usinor in the Antidumping Duty Investigation of Certain Cut-To-Length Carbon-Quality Steel Plate From France (GTS, Sollac, and SLPM)'' (Nov. 3, 1999) (''*French Sales Verification Report*'') erroneously states that the GTS U.S.-format does ''not tie to the French-style format in the GTS financial statements.'' According to respondent, the financial statements do reconcile, and further, the financial statements report the same revenue and expenses.

Respondent asserts that the only difference in the two statements is in the presentation of expenses. According to respondent, GTS' French-format financial statements are prepared in accordance with French GAAP, whereby expenses are reported by nature (*e.g.,* salaries, taxes) and are not categorized as cost of sales, commercial expenses or general and administrative expenses. The U.S.-format financial statements, by contrast, are prepared in accordance with U.S. GAAP, which requires the separation of cost of sales, selling expenses, and general and administrative expenses. Petitioners did not comment on this issue.

Department's Position: We agree with respondent. Upon further review of the data on the record, we find that the French and U.S. format financial statements do in fact contain the same information.

Comment 3: Whether Usinor Has Demonstrated That Its Foreign Brokerage and Handling Expenses and Sollac's International Freight Expenses Are at Arm's Length Prices

Respondent asserts that Usinor's affiliated transport companies provided freight forwarding and handling services at arm's length prices. Respondent maintains that, should the Department not agree with this assertion, it should not resort to petitioners' proposal that we use, as facts available, the highest foreign brokerage and handling expense and international freight expense reported by respondent from all U.S. sales. Respondent claims that only a small fraction of the brokerage and handling expense incurred by GTS and international freight expense incurred by Sollac and reported in the relevant fields is related to fees charged by one of these affiliates.

Respondent takes issue with the *French Sales Verification Report* statement that Sollac and GTS failed to provide any evidence, other than the affiliated transport companies' income statements, that the charges for brokerage and handling services and international freight services were at arm's length prices. Respondent maintains this was the only documentary evidence Sollac and GTS could provide, since Usinor did not purchase similar services from unaffiliated companies and the affiliated

transport companies do not keep track of data that would allow the calculation of the costs associated with individual shipments.

According to respondent, under the antidumping statute, where an input is purchased from an affiliated party, the Department is to evaluate the price charged by the affiliated party against a market price for that product or service. If the input is a ''major input,'' then the Department is also to evaluate the price charged by the affiliated party for the input against the cost of the input and use the highest of the price from the affiliate, the market price, or the cost of production. *See* Section 773(f)(3) of the Act and 19 CFR § 351.407(b). Respondent argues that, in this case, the affiliated transport companies did not provide the same kind of services to an unaffiliated company that they provided to Sollac or GTS, and Sollac and GTS did not purchase similar services from an unaffiliated company. Consequently, respondent states, it is impossible to make a market price comparison.

Respondent urges the Department to determine that the transfer price was greater than or equal to the cost of the input by examining the affiliated transport companies' financial statements. Specifically, both companies are involved only with export transactions, and work almost exclusively for companies affiliated with Usinor. Thus, according to respondent, the profits listed on the income statements of these two companies are nearly entirely attributable to export work conducted for Usinor and its affiliates. According to respondent, since one company posted a profit for 1998 and the other showed that its income equaled its expenses, their prices are the same or greater than the cost of providing the services.

Respondent argues that in evaluating the prices for inputs in circumstances where no market price is available, the Department routinely uses the higher of the transfer price or cost. Respondent asserts that it is clear that the companies are not absorbing costs and that their prices equal or surpass their costs of providing the services. Hence, respondent concludes that the Department should use the affiliated transport companies' prices in the final determination.

Respondent notes that in *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from France,* 64 FR 30,820 (June 8, 1999) (''*SSS&S*''), the Department stated that the ''arm's length test compares prices charged by or paid to affiliated parties with prices which would otherwise be obtained in transactions with unaffiliated parties.'' The Department then found that a profit made on services provided by an affiliated freight forwarder did not prove that the prices for the services were at arm's length, and accordingly rejected the transfer price data. According to respondent, the result in SSS&S should not be followed in this case for three reasons.

First, according to respondent, these affiliated transport companies perform basically all of their freight services for Usinor and its affiliates. Their financial statements establish that the prices charged Usinor are equal to or greater than cost. Second, respondent argues that the rule applied in *SSS&S* is more restrictive than the rule routinely applied by the Department regarding affiliated suppliers of major inputs in cost of production investigations, where the Department takes the highest of the price charged by nonaffiliated suppliers, the transfer price, or the cost. *See* 19 CFR § 351.407(b). The Department should not apply a more stringent proof to suppliers of a minor input (*e.g.*, freight forwarding services), than it applies to suppliers of major inputs. Third, respondents assert that the ruling in *SSS&S* is based upon a case involving entirely different facts. *See Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 63 FR 32,833, 32,838 (June 16, 1998) (''*Circular Welded Non-Alloy Steel Pipe*''). In that case, respondent notes, the Department found an affiliated supplier's freight charges were equivalent to the prices charged by unaffiliated suppliers. The Department accordingly rejected evidence that the affiliate did not always charge a markup when it arranged for third-party supply. In other words, respondents claim, the Department said that once it had evidence establishing a market-price benchmark (the best evidence that the transaction occurred at a market price), proof of the affiliate's profitability (the second best evidence) was irrelevant. Respondent argues that the Department's statement that it will not allow evidence of profitability to overcome market price information does not mean, however, that the Department cannot rely on profitability when no market price evidence exists.

Petitioners argue that there is no record evidence to support respondent's claim that its affiliates provided freight-forwarding and handling services at arm's length prices. Petitioners argue that respondent's suggestion that the Department determine that the transfer price was greater than or equal to the cost of the input by examining the affiliates' financial statements is incorrect. According to petitioners, Usinor fails to articulate how the Department could utilize the affiliates' financial statements to determine that the transfer price was greater than or equal to the cost of the input. Further, petitioners contend that the affiliates' financial statements are not a valid source for the arm's length test because one affiliate in a few instances performed some services for unaffiliated companies, indicating that profits may have been derived from transactions with the unaffiliated parties.

Petitioners state the fact that the affiliates may have been profitable overall is irrelevant to whether they charged arm's length prices for foreign brokerage and handling services to a specific entity because they may have been charging preferential rates to GTS and Sollac while earning greater profits on sales to other customers or on sales of non-subject merchandise. Moreover, according to petitioners, even if the affiliate earned a profit for services provided to GTS and Sollac with respect to the subject merchandise, this does not mean it charged arm's length prices for these sales. What is relevant, petitioners state, is whether the profit earned is as large as the profit earned on sales to other customers or for other products. Thus, petitioners conclude, Usinor has failed to demonstrate that it paid arm's length prices for this service. Petitioners suggest applying the highest brokerage and handling expense reported by Usinor in the foreign brokerage and handling field to all U.S. sales.

Petitioners further state that Usinor also failed to demonstrate that international freight expenses incurred for Sollac's U.S. sales were at arm's length. Petitioners argue that because Usinor failed to demonstrate that it reported arm's length prices for Sollac international freight expenses, the Department should apply, as facts available for all U.S. sales, the highest international freight expenses reported by Usinor.

Department's Position: We agree with petitioners in part. As in *SSS&S*, it is clear from the record evidence that Usinor was unable to demonstrate that its affiliated freight forwarder rates (brokerage and handling) were at arm's length prices. We disagree with respondent's argument that a profit made on the services the affiliated freight forwarders provided to GTS and Sollac proves that these services were at arm's length. The arm's length test for services between affiliated parties compares prices charged by or paid to

affiliated parties with prices which would otherwise be obtained in transactions with unaffiliated parties. *See Circular Welded Non-Alloy Steel Pipe.* The level of profit on these services is not a relevant consideration.

However, we disagree with petitioners' contention that adverse facts available should be utilized. In accordance with Section 776(b) of the Act, Usinor acted to the best of its ability to prove that these transactions were at arm's length. Specifically, the affiliated transport companies did not provide the same kind of services to an unaffiliated company that they provided to Sollac or GTS, and Sollac and GTS did not purchase similar services from an unaffiliated company. Thus, at verification Usinor provided us with the only information available with respect to the issue of brokerage and handling cost.

Usinor's attempt, therefore, to prove the arm's length nature of these transactions by supplying the affiliates' income statements, in light of the lack of any other information, constitutes a reasonable attempt to cooperate with the Department's requests. Because Usinor cooperated fully, but was unable to provide the requested information in the exact manner requested, adverse facts available is an inappropriate basis on which to calculate this adjustment. Because we find that Usinor has acted to the best of its ability with respect to this adjustment, and because there are no unaffiliated transactions that we can utilize as facts available, we have used Usinor's domestic brokerage and handling expense as reported. Finally, we note that for international freight expenses, the record does contain expenses from unaffiliated parties. Because Usinor's international freight expenses from affiliated parties were less than such expenses from unaffiliated parties, as non-adverse facts available for affiliated transactions we have used the average of the unaffiliated international freight expenses.

Comment 4: Whether Usinor Has Adequately Demonstrated Differences in Levels of Trade (''LOT'')

Petitioners note that in the preliminary determination, the Department identified two LOTs in France, one comprised of sales by GTS and Sollac, and a second comprised of sales by SLPM. The Department found that the LOT of the U.S. sales differed from both of these because Usinor claimed that it performed fewer selling activities for U.S. sales than for home market sales at either level. Petitioners state that at verification, the Department found that it could not verify Usinor's LOT representations, and accordingly should reject Usinor's claim for a CEP offset based on different LOTs.

Petitioners quote from the *French Sales Verification Report* in regard to GTS: ''Company officials explained the information included in the [LOT] chart submitted to the Department and provided no supporting documentation.'' Petitioners quote from the French Sales Verification Report in regard to Sollac: ''Included in the list of corrections * * * are minor revisions to the [LOT] chart most recently submitted to the Department. Company officials explained the information included in the [LOT] chart and provided no supporting documentation.'' Petitioners argue that, as the Department was unable to verify Usinor's information submitted with regard to GTS and Sollac, there is no basis upon which to presume that home market LOT one is distinct from the U.S. LOT. Petitioners next state that the Department also has no basis upon which to conclude that Usinor's second home market LOT, which involves sales by SLPM, is distinct from the U.S. LOT, because the Department could not verify SLPM's warehousing expenses and its indirect selling expenses and selling activities (two of the activities which led to the preliminary LOT determination.)

Respondent states that, as requested by the Department, Usinor provided comprehensive charts detailing the various activities performed by the various companies in each market, including the degree to which each function was performed. Respondent argues that these LOT charts reveal that Sollac and GTS conduct more selling activities, and to a greater degree, in France than they do in the United States because the U.S. companies are fully engaged in the selling effort and perform themselves the selling functions that the French companies undertake at home. Respondent reiterates Usinor's statements from its initial questionnaire response that: ''Sales in the respective markets are at different [LOTs]—to end users and service centers in France, and to a super-distributor, Francosteel, and an affiliated pipe producer, Berg, in the United States. As such, all sales made by Sollac and GTS in France are at a different [LOT], representing a more advanced stage of distribution [than that for U.S. sales]. In the United States, Francosteel and Berg effectively relieve Sollac and GTS, as applicable, of virtually all of the selling functions that they bear in connection with their home market sales.''

Respondent argues that the mode of analysis undertaken by the Department in evaluating LOTs, as reflected in its July 19, 1999, *LOT/CEP Memorandum* and the *Preliminary Determination,* was proper and in accordance with the requirements of the law. Respondent argues that nothing in the *French Sales Verification Report* raises any question about the Department's preliminary determination that a CEP offset was appropriate. Respondent argues that the *French Sales Verification Report* does not state that the LOT charts failed to verify, rather, it stated that respondent did not provide any additional new documentary evidence at verification on LOT. In fact, respondent contends, the record contains myriad evidence, verified by the Department, demonstrating from every possible angle the differences in selling activities conducted in selling to France versus those for selling to the United States.

Respondent contends that Sollac Vente France's (SVF)'s and SLPM's activities, which are conducted solely for sales in France, demonstrate that a CEP offset is warranted. Respondent asserts that it has submitted copious data supporting SVF's activities, including French sales traces demonstrating SVF involvement, a list of SVF's eleven sales offices, and a certified response elaborating its role in the sales process. Respondent states that a comparison of the home market and U.S. sales traces exhibits that SVF does not conduct any activities regarding sales to or in the United States. For SLPM sales, both SVF and SLPM provide services, drawing into even starker relief the differences in the selling activities for France vis-a-vis CEP sales to Francosteel and Berg for the U.S. market.

According to respondent, further confirmation of the significant differences in selling activities for respondent's sales in France compared with its sales to the United States is provided by the verified selling expenses provided in respondent'' computer files. Respondent states that the average level of expenses for sales in the home market is anywhere from 50 to 1200 percent higher than for sales to the United States.

Respondent argues that the Department was able to orally verify the LOT charts with the company officials who, by virtue of their daily involvement in CTL plate sales, are intimately aware of the degree of selling activities conducted in each country. According to respondent, the charts were put together by the companies after lengthy consultations with personnel who have direct, day-to-day involvement in the sale of CTL plate in the United States and France, and many of these same people were present and

available for questioning by the Department at verification.

Respondent further asserts that a CEP offset to reflect the demonstrated differences in selling activities is warranted in this case. Respondent states that it provided complete and accurate data regarding the level of selling activities conducted in each country, including: information regarding the extensive selling activities of Sollac, GTS, SVF, and SLPM in France and the substantially less or non-existent selling activities of those companies for sales to the United States, including sales traces revealing these differences, addresses of SVF's commercial offices in France and the lack of such offices in the United States, addresses and maps of SLPM's commercial offices and warehouses in France and the lack of such offices in the United States, verified information regarding warehousing expenses, warranty expenses, indirect selling expenses, commission expense and inventory carrying cost incurred for sales in France and for the United States, and complete access to personnel at all companies who could confirm the differences in selling activities.

Department's Position: We disagree with petitioners that Usinor's CEP offset should be denied. In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A and profit. For CEP sales, the Department makes its analysis at the level of the constructed export sale from the exporter to the affiliated importer.

Because of the statutory mandate to take LOT differences into consideration, the Department is required to conduct a LOT analysis in every case, regardless of whether or not a respondent has requested a LOT adjustment or a CEP offset for a given group of sales. To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the LOTs between the NV and the CEP sales affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR at 61731.

In the *Preliminary Determination,* the Department made a CEP offset adjustment to the normal values that were compared to CEP sales in the United States, because the Department preliminarily found that all of Usinor's home market sales were made at LOTs different from and more advanced than the LOT of Usinor's CEP sales in the United States, and there was no basis for determining whether the differences in the LOTs between the NV and the CEP sales affects price comparability. *See LOT/CEP Memorandum,* dated July 19, 1999. In particular, the Department found that Usinor performed fewer and different selling functions in connection with its CEP sales than in connection with home market sales to its unaffiliated customers. Further, the Department found that it was not possible to quantify a LOT adjustment based on the available data. The fact that Usinor identified a slightly different LOT pattern at verification than it had in its questionnaire response is not determinative. As explained above, the Department conducts its own LOT analysis, rather than merely accepting the assertions of the parties. The Department is satisfied that it has sufficient reliable information to reach a decision as to the LOTs at which Usinor and its affiliates sell subject merchandise. Furthermore, the Department verified the data used in making this analysis. *See* the *French Sales Verification Report,* which notes that we reviewed the LOT charts with company officials, and substantiated the claimed LOT differences through documentation such as that collected in the sample sales traces and verification exhibits related to the relevant expenses. Although we disagree with respondent's assertion that SVF's and SLPM's lack of commercial offices in the United States is relevant, after further examination of the relevant information on the record, the Department has continued to make a CEP offset because the facts on the record indicate that Usinor's CEP LOT is different from and less advanced than Usinor's home market LOTs, and that the data of record do not permit it to, instead, make a LOT adjustment based on the effect of the LOT difference on price comparability.

Comment 5: Whether Usinor Has Failed To Provide Accurate Inventory Carrying Cost Information for Sollac Home Market Sales

Petitioners argue that the inventory carrying cost information Usinor has reported for Sollac sales does not reflect the inventory experience of Sollac for the entire period of investigation, but rather ignores seventeen percent of the period. Petitioners quote from the *French Sales Verification Report:* ''Sollac utilized the daily inventory balance during the period March 9 through Dec. 31, 1998, because, according to company officials, Sollac no longer had the information for the first two months of the year in their system to cover the entire POI.'' Petitioners state that the Department should not deem this information accurate or representative, and, accordingly, should not include Sollac's reported inventory carrying costs as part of that adjustment.

Respondent contends that the Department verified the accuracy of the information used to calculate Sollac's average number of days between production and shipment for the March 9, 1998 through December 31, 1998 period. Respondent states that the earliest date for which Sollac's database had detailed inventory movement data was March 9, 1998, and that its method of calculating average inventory days is more precise than the general method.

Respondent contends that the general method used by accountants to calculate annual average inventory days or turnover is by dividing the average of beginning and ending inventory balances by average daily shipments or costs of goods sold during the year. So, according to respondent, the general method is based upon only two observations.

On the other hand, for each shipment of plate to a customer in France during the period from March 9, 1998 through December 31, 1998, Sollac calculated the actual number of days between the date when the plate entered finished or semi-finished goods inventory and the date when the plate was shipped to the customer. Thus, according to respondent, Sollac's calculation was based on 291 observations rather than the two observations that is the norm for this calculation. Further, respondent argues, Sollac calculated its average inventory days specific to the subject merchandise, not on a larger product group as is typically the case. Respondent asserts that Sollac's calculation is more representative than the data typically prepared by companies, and accordingly, the

Department should reject petitioners' request that the Department not include Sollac's inventory carrying costs.

Department's Position: We agree with respondent. We verified the accuracy of the information used to calculate Sollac's average number of days between production and shipment for the March 9, 1998 through December 31, 1998 period, and find this period to be an accurate representation of the POI for purposes of tracking inventory movement. We found that respondent's explanation for the absence of inventory information for the first two months of the POI was reasonable, and noted no discrepancies in tracing the relevant information through Sollac's books and records. *See* the *French Sales Verification Report.*

Comment 6: Whether Usinor Accurately Reported Indirect Selling Expenses for SLPM's Home Market Sales

Petitioners argue that Usinor's reported indirect selling expenses for SLPM's home market sales are deficient, and thus the Department should not include this information in the adjustment to normal value. Petitioners cite to the SLPM Indirect Selling Expense section of the *French Sales Verification Report* in support of their above contention.

Respondent argues that the Department verified the accuracy of SLPM's indirect selling expenses. Respondent first states that the discrepancy cited by petitioners that its receivables insurance was inadvertently included in the calculation of indirect selling expenses is clearly immaterial and was well known to the Department. Respondent next disagrees with petitioners' arguments regarding SLPM's allocation of costs by function. Respondent asserts that SLPM maintains its costs by nature, which is in accordance with French GAAP (*note,* an example of maintenance of cost ''by nature'' as distinguishable from costs ''by function'' would be tracking total electricity costs rather than electricity usage by process or factory.) Further, respondent asserts, SLPM's submitted cost worksheet allocated its costs by nature into the form requested by the Department and accounts for all costs.

According to respondent, the Department verified that the costs reported tied to SLPM's 1998 income statement and general ledger, then requested that SLPM demonstrate the basis for its allocations of these costs among functions. Respondent states that SLPM provided detailed worksheets for electricity and the other allocations specifically reviewed by the Department, and SLPM's controller and financial director explained how he used his knowledge of the company to make the allocation judgements. Respondent argues that petitioners do not question whether all of SLPM's costs and expenses were properly reported to the Department, but rather whether they were properly allocated. According to respondent, petitioners point to no contrary record evidence to buttress their claim that the allocation is incorrect and to warrant the Department rejecting SLPM's indirect selling expenses.

Department's Position: We agree with petitioners. As noted in the *French Sales Verification Report,* SLPM provided no documentation to support its estimated allocations used to determine the costs included in its reported indirect selling expenses. We disagree with respondent's contention that SLPM provided detailed worksheets for electricity and the other allocations specifically reviewed by the verifiers. The worksheets provided by respondent at verification merely listed the estimates used to derive SLPM's allocations, and did not offer any supporting documentation on how those estimates were derived.

In conducting verification the burden is on respondents to demonstrate that the information in their questionnaire response is complete and accurate. While the verifier asks different questions and employs different methods to evaluate the reported expenses, it is respondents who have the most complete knowledge of available information sources, who must devise a way of demonstrating the accuracy and completeness of their reported data. For indirect selling expenses, which by their very nature are general expenses that must be allocated over relevant sales, it is sometimes difficult to allocate expenses in a precise manner. Nevertheless, some reasonable and consistent method has to be developed which can be tested and evaluated at verification. In the instant case, respondent did not provide a reasonable or consistent basis for the reported expense, but merely estimated the relevant amount. We are unable to accept respondent's estimates without some basis for critically evaluating whether they are reasonable at verification. Accordingly, we have disregarded SLPM's reported home market indirect selling expenses.

Comment 7: Whether Usinor Accurately Provided Warehousing Expense Information for Sollac's Home Market Sales to SLPM

Petitioners argue that Usinor did not provide verifiable warehouse expense information for Sollac's home market sales. Petitioners cite to the *French Sales Verification Report:* ''to support its per metric ton warehouse expense amount, SLPM provided a computer screen print which, according to company officials, cannot be linked to SLPM's accounting system . . . SLPM informed us that warehousing information is entered when received and does not connect to any other information or accounting system.'' Petitioners claim that, as this expense could not be tied to SLPM's accounting system, the Department has no way of ensuring the accuracy of the reported expenses, and thus should not include Sollac's warehousing expense in the adjustment to normal value for all SLPM sales.

Respondent disagrees with petitioners' contention that SLPM's warehousing costs should not be included as an adjustment to normal value because SLPM could not link the tons warehoused to its accounting systems. Respondent maintains that accounting systems track revenue and costs rather than tonnage, so it is understandable that the tons warehoused were not mentioned in SLPM's accounting system. Respondent asserts that SLPM appropriately provided the Department with a query of its inventory database that tracked the number of tons shipped from its warehouses. Respondent argues that the Department verified that this database is maintained in the normal course of business, and that SLPM accurately reported its per-unit cost of warehousing.

Department's Position: We agree with respondent. We verified that SLPM's inventory database is maintained in the normal course of business, and traced the relevant information from this database to SLPM's calculated per-unit cost of warehousing as reported to the Department.

Comment 8: Whether Usinor Provided Accurate Home Market Packing Costs for SLPM Sales

Petitioners claim that the *French Sales Verification Report* indicates that the packing expenses reported with respect to SLPM sales do not pertain to the POI. Petitioners quote from the *French Sales Verification Report,* ''SLPM acknowledged that its packing costs were based on May 1998 estimated costs for which it could not provide detailed specifications.'' Petitioners argue that, as these reported amounts were estimated and do not pertain to, and thus cannot be linked to, sales made during the POI, the Department should deny Usinor's claimed home market

packing expense adjustment for all SLPM sales.

Respondent disagrees with petitioners' contention that the Department should deny Usinor's claimed home market packing expense adjustment for all SLPM sales. Respondent states that petitioners' cite from the *French Sales Verification Report* only refers to a small amount of SLPM's sales, those which are not further processed. Respondent states that, when SLPM ships product in the same form as received from the manufacturer, it assigns a Franc per ton charge to the shipment. Respondent argues that this charge represents a reasonable estimate of SLPM's handling costs that it has used for its own internal accounting purposes in the normal course of business. Respondent argues that, for the other SLPM sales, it provided detailed support for its calculated packing costs at verification and met its burden of demonstrating that these expenses were properly reported.

Department's Position: We agree with petitioners. Each pre-selected sales invoice reviewed and discussed in the *French Sales Verification Report* involving SLPM indicated that the subject merchandise was not further processed by SLPM. The packing type for subject merchandise that was not further processed by SLPM is that for which SLPM was unable to substantiate its estimated packing cost. *See French Sales Verification Report* at page 37, where we noted that "SLPM acknowledged that its packing costs were based on May 1998 estimated costs for which it could not provide detailed specifications." With respect to the packing types SLPM utilized when it further processed the subject merchandise, notwithstanding respondent's claim that it "calculated packing costs in detail and provided support for its calculation," the respondent provided no documentation on the record to support its cost breakdown (listed in SLPM verification exhibit 13). We have thus denied Usinor's claimed home market packing expense adjustment for all SLPM sales.

Comment 9: Whether Sales of Certain Merchandise Should Be Reclassified as Non-Prime Sales

Petitioners argue that the Department treated sales of certain merchandise as prime merchandise in the preliminary determination when, in fact, Usinor has stated that such merchandise is non-prime. Petitioners note that Usinor has stated "GTS guarantees neither the grade nor the length of this merchandise; it only guarantees thickness," and that the *French Sales Verification Report* confirmed this assertion. Petitioners assert that this merchandise is non-prime material that is priced differently from other CTL plate sold in the home market, and thus should be treated as non-prime sales in the final determination.

Respondent contends that the Department should not alter its Preliminary Determination with respect to this merchandise. Respondent argues that the only difference between this merchandise and full prime merchandise is the possibility of changes in the mechanical properties of the slab over the six-month waiting period. This merchandise, according to respondent, is superior to non-prime merchandise because it is warranted except for grade, while non-prime is not warranted at all. Respondent argues that it would be distortive to treat this merchandise as non-prime merchandise because it is much closer in characteristics and price to the prime merchandise sold by GTS.

Department's Position: We agree with respondent that it would be distortive to treat this merchandise as non-prime. We have stated, in *Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil* 64 FR 38756 (July 19, 1999) (*"Hot-Rolled Steel from Brazil"*), that "to determine if sales or transactions are outside the ordinary course of trade, the Department evaluates all of the circumstances particular to the sales in question. Examples of sales that we might consider outside the ordinary course of trade are sales involving off-quality merchandise or merchandise produced according to unusual product specifications, merchandise sold at aberrational prices or with abnormally high profits, merchandise sold pursuant to unusual terms of sale, or merchandise sold to an affiliated party at a non-arm's length price. See 19 CFR 351.102."

In this case, the CTL plate described above is not defective in any way, but is merely prime plate that has been in inventory for a period long enough to possibly alter some mechanical properties of the merchandise. *See French Sales Verification Report* at page 3. Although the existence of such differences is speculative, in the interest of full disclosure, respondent identifies this merchandise to customers. However, we found no evidence at verification that customers actually treat this merchandise any differently from full prime merchandise. Thus, unlike that discussed in *Hot-Rolled Steel from Brazil,* these products are not off-quality merchandise, and therefore the sales may be considered within the ordinary course of trade. As such, we have continued to treat this plate as prime merchandise for purposes of the final determination.

Comment 10: Whether Usinor Has Provided Complete Information on Product Specifications

Petitioners argue that the model matching hierarchies provided by Usinor for two of its U.S. CTL plate specifications do not indicate identical home market matches, when in fact Usinor sold merchandise with these exact specifications in its home market. *See Final Calculation Memo,* dated December 13, 1999, for a description of these proprietary specifications. Petitioners assert that the Department should revise its model match program to permit identical matches between these U.S. and home market specifications.

Respondent contends that petitioners' argument in this regard is simply incorrect, and that for these two U.S. CTL plate specifications, the identical home market specification was sold in the home market and has been identified.

Department's Position: We agree with respondent that it provided accurate supplemental model-matching information in its May 25, 1999, submission. Usinor identified the identical home market specification for both of these U.S. specifications in its submission. Therefore, for the final determination, we have matched the relevant U.S. sales to home market sales with identical specifications.

Comment 11: Whether Usinor Failed to Report Inland Freight Expenses That Were Incurred for Numerous U.S. Sales

Petitioners assert that for numerous U.S. sales with reported sales terms that indicate inland freight expenses, Usinor failed to report freight expense. Petitioners argue that, as facts available, the Department should deduct the highest reported freight charge from each of these transactions.

Respondent maintains that these sales were correctly reported as incurring no freight expenses. According to respondent, the Department specifically reviewed a transaction at the Francosteel sales verification where the sales terms were reported as delivered but the freight expense was zero, and verified that the zero freight expense was correct. Respondent further argues that the other fields in the Berg and Francosteel records corroborate that no U.S. freight expense was incurred.

Department's Position: We agree with respondent. Item 5 of Francosteel

verification exhibit 1 (list of corrections) from the ''Verification of the Responses of Usinor in the Antidumping Duty Investigation of Certain Cut-To-Length Carbon-Quality Steel Plate From France (Francosteel Sales)'' (Oct. 22, 1999) (''*Francosteel Sales Verification Report*'') contains the list of invoices in which Francosteel incorrectly labeled the delivery terms ''delivered'' in its previous sales databases. We verified specific invoice items from this list and found that Francosteel incurred no freight expense for these invoices. Further, we noted no discrepancies at the Berg sales verification when verifying Berg's freight adjustment factor for its U.S. inland freight expense.

Comment 12: Whether Usinor Has Failed To Report Warehousing Expenses for Sales by Berg

Petitioners assert that Usinor's supplemental questionnaire responses indicate that Berg incurred warehousing expenses on U.S. sales because Usinor did not address the Department's request that it explain the apparent contradiction between a statement Usinor had made ''which implies warehousing expenses were sometimes incurred in the United States.'' Petitioners argue that the Department should apply facts available to account for possible unreported warehousing expense for all Berg sales. Petitioners suggest that the Department apply as facts available the highest reported warehousing expense reported in the home market.

Respondent maintains that petitioners are incorrect in implying that there are possible unreported warehousing expenses for Berg sales. Respondent states that Berg, as it stated in its initial questionnaire response and as the Department verified, never incurred such warehouse expense.

Department's Position: We agree with respondent. We found no evidence of unreported warehousing expenses at the Berg sales verification, and have therefore utilized Berg's reported expenses. *See Berg Sales Verification Report* at sections Accounting Overview and Reconciliations, Sales Process, U.S. Sales Transactions, and the various expenses, where no evidence of unreported expenses are noted.

Comment 13: Whether the Department Should Reject Usinor's Most Recent Dataset

Petitioners argue that a comparison of Usinor's August 23, 1999, data submission and its most recent, November 10, 1999, data submission reveals that Usinor made a number of changes to its datasets which the company fails to acknowledge in its November 10 memorandum. Petitioners cite the following unacknowledged changes: (1) The number of home market sales transactions increased; (2) the mean gross unit price for U.S. sales increased for numerous customers; (3) the mean value for domestic brokerage and handling for U.S. sales decreased for numerous customers; and (4) the mean value for international freight for U.S. sales decreased for numerous customers. Petitioners argue that, because Usinor has made these unexplained and apparently unauthorized changes to its data, the Department should utilize the August 23, 1999 data submission for the final determination.

Respondent argues that petitioners' list of ''unacknowledged and unauthorized'' changes to the U.S. and home market sales files submitted on November 10, 1999 in fact were discussed in respondent's minor corrections filings and presented to the Department on the first day of each verification. Respondent states that in the letter that accompanied the files in the November 10 post-verification submission, it incorporated by reference the minor corrections and verification exhibits that described these corrections in detail.

Department's Position: We agree with respondent that in the letter that accompanied the files in the November 10, post-verification submission, it incorporated by reference the minor corrections and verification exhibits that described these corrections in detail. At verification we accepted these minor corrections, and accordingly, we utilized Usinor's most recently submitted data for the final determination.

Comment 14: Calculation of Further Manufacturer's Financial Expense Ratio

Usinor first argues that the Department should not use Europipe Gmbh's (''Europipe'') (*i.e.,* Berg's parent) financial expense ratio to calculate Berg's further manufacturing financial expense. Instead, Usinor believes that Dillinger Hutte's (''Dillinger'') financial expense ratio should be used because this company is the ultimate parent of both Berg and Europipe. However, if the Department does determine that Europipe's financial expense ratio should be used for the final determination, Usinor requests that the Department make certain corrections to the calculation of the ratio. First, Usinor claims that Europipe's financial expenses should be offset by short-term interest income. According to Usinor, the Department normally allows such offsets, and cites to the *Final Determination of Sales at Less than Fair Value: Stainless Steel and Strip in Coils from the United Kingdom,* 64 FR 30688, 30710 (June 8, 1999) to support its claim. Second, Usinor recommends that the Department include Europipe's product specific research and development (''R&D'') expenses in the calculation of denominator (*i.e.,* cost of goods sold) that the Department uses to determine the financial expense ratio. Although Europipe records this expense as a separate line item on the income statement, Usinor notes that the Department should consider it as a cost of manufacturing because the expense is product-specific. According to Usinor, the Department normally considers product-specific R&D as a component of cost of goods, citing *Final Results of Administrative Review; Static Random Access Memory Semiconductors from the Republic of Korea,* 63 FR 8934, 8939 (February 23, 1998) to support its claim.

In contrast, petitioners do not take issue with the use of Europipe's financial expense ratio to calculate Berg's further manufacturing financial expense. As for the calculation of the financial expense ratio, the petitioners believe that Usinor's suggested changes would misstate the financial expense of Berg. Petitioners also assert that Usinor has not met the burden of proof in supporting its claim for either adjustment. Specifically, petitioners claim that Europipe's financial expense should not be altered because Usinor has not shown that this income was in fact short-term interest income. Likewise, the petitioners state that Usinor has not demonstrated that Europipe's R&D expenses were product-specific. According to petitioners, the Department considers product-specific or process-specific R&D as a cost of manufacturing only if the benefits of the R&D relate to a single product; otherwise, the R&D is considered a G&A expense. *See e.g., Negative Final Determination of Circumvention of Antidumping Duty Order; Portable Electric Typewriters from Japan;* 56 FR 58031, 58040 (November 15, 1991). In addition, the petitioners note that Europipe's income statement did not classify its R&D as a manufacturing expense. For these reasons, the petitioners claim that the Department should not adjust the calculation.

Department's Position: We disagree with respondent that we should not use Europipe's financial expense ratio to calculate Berg's further manufacturing financial expenses. In the instant case, Europipe is the parent company of Berg. Europipe, in turn, is a joint venture owned by Dillinger (a Usinor affiliate)

and another company. Berg calculated its financial expense ratio based on the information contained in the consolidated financial statements of Dillinger. However, we note that Dillinger includes neither Berg's nor Europipe's financial results in its consolidated financial statements. Thus, Europipe's financial statement is the highest level of consolidation available. As such, we have relied on the information contained in Europipe's consolidated statements to calculate the financial expense ratio. This method is consistent with our normal practice. *See Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire From Canada,* 64 FR 17324–17336 (April 9, 1999) (the Department relied on the amounts reported in the consolidated financial statements of the highest level available to calculate the financial expense ratio); *Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from France,* 64 FR 30820, 30842–43 (June 8, 1999) (where the Department agreed with Usinor that it was appropriate to use the highest consolidation level available to calculate the financial expense ratio.)

We also disagree with Usinor's suggestion that we make certain corrections to the calculation of Europipe's financial expense ratio. Specifically, we have not allowed an offset for interest income because Usinor did not provide any evidence to substantiate that the amount it claimed as an offset is short-term interest income. Moreover, Europipe's audited financial statements did not report any breakdown of long- vs. short-term investments or interest income. Consistent with our past practice, we have disallowed Europipe's claimed short-term interest income offset in the financial expense calculation where respondents have not substantiated their claim. *See, e.g., Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part: Silicon Metal From Brazil,* 64 FR 6305, 6313 (February 9, 1999), where the Department disallowed the short-term offset because of lack of supporting evidence.

In addition, we disagree with Usinor that R&D expenses should be included in the denominator (*i.e.,* cost of sales) used in calculating the financial expense ratio. In the instant investigation, we did not include Europipe's R&D expenses in the denominator used to calculate the financial expense ratio because Usinor did not provide evidence to substantiate that its R&D is a cost of manufacturing. We note that the only information on the record that identifies the nature of Europipe's R&D is a footnote in the company's financial statement. However, this footnote only provides a generic description of the expense and it does not identify the R&D as product-specific. In addition, we note that Europipe's income statement classifies this expense as a period cost (similar to general expenses) rather than a component of its cost of goods sold. Thus, we have found that Europipe's R&D expense is not a product-specific cost of manufacturing. This determination is consistent with our determination in the *Final Results of Antidumping Duty Administrative Review: Antifriction Bearings (other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom;* 62 FR 2081, 2112 (January 15, 1997) (the Department treated R&D as a G&A expense because respondent did not provide information indicating that the R&D relates to a specific product). For the final determination, we have not included Europipe's expense as part of the cost of goods sold for purposes of calculating the financial expense.

Comment 15: Offsetting Financial Expenses with Net Foreign Exchange Gains

Usinor argues that the Department should include its net foreign exchange gains in the calculation of its financial expenses. Usinor admits that it could not identify the various components of this gain because it does not have the necessary information to identify specific foreign currency gains or losses as having arisen from transactions involving accounts receivable, loans receivable, accounts payable, loans payable, other sources, *etc.* This information, according to Usinor, could not be provided because the company is made up of more than thirty companies and does not separately track the foreign currency transactions conducted for each of these companies. Thus, Usinor argues that it should not be punished for failing to provide data that it does not have. Moreover, Usinor claims that section 773(f)(1)(A) of the Act provides that the Department will calculate costs based on the producer's records if such records are kept in accordance with GAAP in the producer's home market and reasonably reflect the costs associated with production and sale of the merchandise. According to Usinor, its financial statements are prepared in accordance with French GAAP and, as such, reasonably reflect costs incurred by the company, including those costs related to foreign exchange gains and losses.

Petitioners counter that the Department should disallow Usinor's net foreign exchange gains from the calculation of financial expenses. According to petitioners, Usinor has not demonstrated that its net exchange gains resulted from short-term investments or that the gain excludes amounts related to accounts receivables. According to petitioners, the Department requires that respondents provide this distinction, citing to *Final Determination of Sales at less than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan,* 64 FR 24329, 24350 (May 6, 1999) ("it is the Department's normal practice to distinguish between foreign exchange gains and losses from other types of transactions"). Petitioners additionally argue that Usinor does have the information necessary to segregate the gains related to specific transactions. Thus, petitioners claim that if Usinor's claimed offset is allowed, the Department would reward Usinor for failing to provide data that was available. According to petitioners, these type of gains and losses normally arise on a transaction-specific basis. Therefore, even if Usinor does not have the information at the consolidated level, the petitioners claim the subsidiaries would have it. The petitioners further note that disallowing this offset does not "punish" Usinor, as Usinor claims, but simply adopts a reasonable adverse inference from Usinor's refusal to provide information the company has the ability to produce.

Department's Position: We agree with the petitioner that we should not include Usinor's net foreign exchange gains in the calculation of its financial expenses. To calculate its reported financial expense, Usinor offset its financial expenses with the total net foreign exchange gains realized on all transactions. However, Usinor was unable to demonstrate the source of these consolidated foreign exchange gains and losses. Thus, contrary to our normal practice, Usinor did not distinguish between exchange gains and losses realized or incurred in connection with sales transactions and those associated with purchase transactions. Specifically, our normal practice is to include a portion of these foreign-exchange gains and losses in the calculation of COP and CV. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Trinidad and Tobago,* 63 FR 9177, 9181 (February 24, 1998) (*Steel Wire Rod from Trinidad and Tobago*). We normally include in the calculation of COP and CV the foreign-exchange gains and losses that result from transactions

related to a company's manufacturing activities. We do not consider exchange gains and losses from sales transactions to be related to the manufacturing activities of the company. *See, e.g., Steel Wire Rod from Trinidad and Tobago and Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon from Chile,* 63 FR 31411, 31430 (June 9,1998).

In addition, we disagree with Usinor's position that this issue involves or questions the respondent's use of generally accepted accounting principles (''GAAP''). The issue at hand involves the fact that Usinor has not shown that the components of this foreign exchange gain are associated with manufacturing activities of the company.

We agree with petitioners that respondent has the burden of proof to demonstrate, substantiate and document this type of adjustment. *See e.g., Timken Company* v. *United States,* 673 F. Supp. 495, 513 (CIT 1987); and *Final Results of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker from Japan;* 60 FR 43761, 43767 (August 23, 1995); *see* also 19 CFR § 351.401(b)(1) of our regulations.

Comment 16: Calculation of Depreciation Expense

Usinor claims that it properly excluded the stepped-up basis of an affiliate supplier's depreciation expense in calculating the cost of producing pig iron obtained from an affiliate. According to Usinor, the affiliate is merely a wholly owned subsidiary that was created to hold the production assets used by the Usinor organization in manufacturing pig iron. Usinor asserts that this subsidiary does not actually manufacture or produce pig iron because it is just an accounting entity that exists for tax purposes. Since the transfer of the ownership of the assets had only a tax effect, Usinor believes it is appropriate to exclude the additional depreciation expense associated with the stepped-up basis. Thus, Usinor claims that the Department should rely on the depreciation expense as recorded in Usinor's consolidated financial statements that exclude the adjustment. Petitioners did not comment on this issue.

Department's Position: We disagree with Usinor that the depreciation expense associated with its affiliate's revaluation of assets (*i.e.*, ''stepped-up basis'') should be excluded from the calculation of COP. Specifically, Usinor obtained pig iron from an affiliate company and reported the affiliate's cost of production. In calculating the affiliate's cost of production, Usinor did not include the depreciation expense reported in the company's normal books and records. Instead, Usinor included a depreciation expense figure based on its historical cost of the assets. Our normal practice, however, is to rely on the depreciation expense recorded in the normal accounting records. *See, e.g., Cinsa S.A. de C.V.* v. *United States,* 966 F. Supp 1230, 1234 (CIT 1997) (upholding the Department's reliance on depreciation expense reported on the financial statements); *Laclede Steel Co.* v. *United States,* 965 Slip OP 94–160, *24 (CIT 1994) (upholding the Departments reliance on depreciation expense reported on the financial statements); *see also Final Results of Administrative Review: Silicon Metal from Brazil,* 64 FR, 6305, 6321 (February 9, 1999).

Contrary to Usinor's argument, we also do not find it appropriate to rely on the depreciation expense of the affiliated supplier as calculated at the consolidated level because it would circumvent the major-input rule. *See,* sections 773(f)(2) and (3)of the Act. Here, the affiliated company in question is a separate legal entity in France that maintains its own books and records. Consistent with prior determinations, we find that the legal form dictates whether we should use that affiliate's production costs as reported in its books and records. *See, e.g., Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy,* 64 FR 6615, 6622 (February 10, 1999) (the Department treated an affiliated supplier as a separate entity for reporting costs because of its legal form). Therefore, we have adjusted the cost of pig iron to reflect the affiliate's cost of production in accordance with section 773(f)(3) of the Act.

Comment 17: Calculation of Reported Costs

Petitioners allege that Usinor uses a standard cost accounting system but refused to provide variances to the Department. According to petitioners, Usinor's failure to provide a variance between its standard and actual costs means that the Department cannot use the reported CONNUM-specific standard costs. Without this variance, the petitioners continue that the Department has no assurance that Usinor has accurately reported product-specific costs. Moreover, petitioners claim that Usinor has consistently refused to provide this information. Therefore, petitioners believe that the Department should reject Usinor's cost data and resort to the use of facts available as it has done in similar situations in the past, citing *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia,* 63 FR 72,268, 72,276 (December 31, 1998).

Petitioners further counter Usinor's explanation that a variance is not necessary in this case because it used actual costs; according to petitioners, Usinor has stated both that it had reported actual product specific costs and that the product specific costs are based on standards. Thus, petitioners claim that Usinor is obliged to provide variances because the statute requires that COP and CV be based on the producer's actual costs. In addition, the petitioners discount the importance of Usinor's claim that its total aggregate extra and aggregate base costs equal aggregate actual costs. According to petitioners, this does not signify that the product-specific costs upon which the reported COP and CV data are based were accurate. In fact, petitioners claim that the Department has rejected such arguments in the past, citing *Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Mexico,* 64 FR 7679 (January 4, 1999). To demonstrate the possible distortions that may occur with the use of a ''base cost'' system which accounts for actual costs on an aggregate level, petitioners refer to proprietary information which cannot be adequately summarized. However, in essence, petitioners argue that because of the possible differences between actual costs and potentially erroneous standards, the Department cannot have confidence that Usinor's base cost system is accurate.

Finally, petitioners contend that the Department's testing performed at verification does not provide assurance that Usinor's standard costs are accurate. For example, petitioners argue that the verification step to reconcile the cost of an extra (*i.e.,* the cost variations associated with a product's unique physical characteristics), with the amounts used in the cost build up means only that Usinor adhered to its base plus extra method. Likewise, the verification step to compare the consistency of the reported extras with those outside the POI only indicates that the inaccuracies contained in Usinor's previous figures also appear in the reported costs.

Usinor argues that petitioners are incorrect in alleging that it did not report any cost variances and therefore the Department should reject all product-specific costs. Usinor states that its base-plus-extra costing system reflects the actual production costs of

the company. To calculate the reported costs, respondent states that it calculated the unit cost of the base product, the average extra costs associated with the base product, and any extras associated with a product's specifications. It then subtracted the average cost of extras from the average base product cost and added the extra costs associated with each unique product which resulted in the actual production costs for each product. Respondent argues that a similar methodology was verified and accepted by the Department in two recent cases. *See Final Results of Antidumping Duty Administrative Review: Certain Cold-Rolled Carbon Steel Flat Products from Germany,* 60 FR 65264, 65267 (1995) (*''Certain Cold-Rolled Carbon Steel Flat Products from Germany''*); see also Final Results of Antidumping Duty Administrative Review: Certain Cold-Rolled Carbon Steel Plate from Finland, 63 FR 2952, 2957 (January 20, 1998) (*''Certain Cut-to-Length Carbon Steel Plate from Finland''*).

Furthermore, Usinor argues that there is no support for petitioners' contention that the Department's cost verification confirms that Usinor's reported costs are based on standard costs and not actual costs. Rather, Usinor states that the Department recognized that the base-plus-extra cost system is founded on actual production costs and not standard costs adjusted to actual. Based upon this argument, Usinor urges the Department to accept the reported methodology just as it did in *Certain Cut-to-Length Carbon Steel Plate from Finland.* Finally, respondent states that the antidumping law allows costs to be computed based on the producer's normal accounting records, provided that it is kept in accordance with GAAP. In the instant case, respondent argues that the reported costs are kept in accordance with GAAP and are therefore an accurate basis for the calculation of COP and CV.

Department's Position: We disagree with petitioners' contention that we must reject Usinor's submitted COP and CV data for this investigation. In its normal accounting records, Usinor determines its product-specific costs by using a ''base plus extras'' method. For submission purposes, the company relied on this methodology. Contrary to petitioners' assertions, Usinor does not use a standard cost accounting system nor does it calculate variances. Instead, the system begins and ends with actual production costs. Specifically, Usinor's cost accounting system accumulates the actual costs incurred and actual tonnages produced by product group. The company then takes these total costs and deducts the total cost of extras to derive its base product costs. To calculate the product specific costs, Usinor simply adds the unique ''extras'' of a model to the base. Usinor used engineering studies to determine the cost of product-specific extras. Contrary to petitioners' allegation, we found nothing inherently unreliable or theoretically unsound about Usinor's underlying cost allocation methodology. In fact, we note that this method of using base-plus-extra is quite common for the industry. *See, e.g., Certain Cold-Rolled Carbon Steel Flat Products from Germany and Certain Cut-to-Length Carbon Steel Plate from Finland.* In both of these proceedings, the Department accepted COP and CV values calculated from the respondent's ''base-plus-extra'' cost accounting systems used in the normal course of business. Moreover, the record in the instant case contains the following factual information that justifies using Usinor's normal accounting system to calculate the unique cost of a CONNUM.

First, Usinor supported its product-specific costs with source documentation that was verifiable. For example, in its June 30, 1999, supplemental section D questionnaire response, Usinor provided documentation of the detailed calculations used to derive its quality extras. As noted earlier, Usinor based these calculations on engineering standards and its production experience. After reviewing and testing this information, we have no reason to believe that Usinor's extra cost calculations, which were based on data used by the company in its normal accounting records, do not reasonably represent the cost differences incurred to produce individual products. Furthermore, we note that section 773(f)(1)(A) of the Act specifically requires that costs be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the GAAP of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise. We have found that following the GAAP provides the respondent and the Department with a reasonable, objective and predictable basis by which to compute costs for the merchandise under investigation. In accordance with the statutory directive, the Department will accept the company's ''normal'' costs if the cost data can be reasonably allocated to subject merchandise. In this instant case, we find the Usinor's costs do reasonably reflect the costs of the merchandise under investigation.

Second, the record contains several overall cost reconciliations that identify no misstatement or mis-allocations. For example, we reconciled Usinor's reported product-specific costs to its audited financial statements and noted no significant discrepancies. *See* ''Verification Report on the Cost of Production and Constructed Value Data Submitted by USINOR'' (October 27, 1999) at page 9 through 12, (*''Cost Verification Report''*). Thus, we confirmed that Usinor accounted for all of the manufacturing costs it incurred during the POI. In addition, we compared per-unit inventory values to reported per-unit CONNUM values and noted no significant discrepancies. Furthermore, we confirmed that Usinor's reported costs reasonably reflected the values as recorded in the ordinary course of business.

Finally, Usinor's product-specific costs are supported by detailed tests performed by the Department during verification. For example, we tested Usinor's calculations of weighted-average costs, base costs, and extra costs. See Cost Verification Report at pages 12 through 18. In addition, we documented that the costs for extras used by Usinor in the normal accounting system were in fact based on actual production and cost data, engineering standards, and company experience. For these reasons, we have relied on Usinor's base-plus extra costs for the final determination.

Comment 18: Calculation of Freight Expenses Included in Further Manufacturing Expenses

Petitioners claim that the Department should correct Berg's reported movement expenses. According to petitioners, Usinor calculated and reported the per-unit amount on a short-ton basis and not the metric-ton basis used for all other costs. Usinor did not comment on this issue.

Department's Position: We agree with petitioners that we should correct for this clerical error. As noted by petitioners, Berg reported its per unit movement expense (*i.e.,* inbound freight from port to production facility) for plate in short-tons. Usinor reported all other further manufacturing costs on a metric ton basis. Therefore, we adjusted the reported per-unit movement costs to reflect a per metric-ton value for the final determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing

the Customs Service to continue to suspend liquidation of all entries of subject merchandise from France that were entered, or withdrawn from warehouse, for consumption on or after July 29, 1999 (the date of publication of the Department's preliminary determination). 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
Usinor	10.43
All others	10.43

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. Because our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threatening 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, or withdrawn from warehouse, 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: December 13, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–33230 Filed 12–28–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–806]

Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia

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

EFFECTIVE DATE: December 29, 1999.

FOR FURTHER INFORMATION CONTACT: Eva Temkin or Richard Herring, Office of CVD/AD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

FINAL DETERMINATION: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain cut-to-length carbon-quality steel plate from Indonesia. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Gulf States Steel, Inc., IPSCO Steel, Inc., Tuscaloosa Steel Corporation, and the United Steel Workers of America (the petitioners).

Case History

Since the publication of our preliminary determination in this investigation on July 26, 1999 (*Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From Indonesia,* 64 FR 40457 (*Preliminary Determination*)), the following events have occurred:

On July 15, we reissued the Department's June 22, 1999 supplemental questionnaire to the Government of Indonesia (GOI). We received a response on July 22, 1999. We conducted verification of the countervailing duty questionnaire responses from July 28 through August 3, 1999. Because the final determination of this countervailing duty investigation was aligned with the final antidumping duty determination (*see* 64 FR at 40458), and the final antidumping duty determination was postponed (*see* 64 FR 46341), the Department on August 25, 1999, extended the final determination of this countervailing duty investigation until no later than December 13, 1999 (*see* 64 FR 46341). On August 26, 1999, the Department released its verification reports to all interested parties. Petitioners filed comments on September 10, 1999. Respondents made no arguments. No rebuttal briefs were filed.

On November 23, 1999, we discontinued the suspension of liquidation of all entries of the subject merchandise entered or withdrawn from warehouse for consumption on or after that date, pursuant to section 703(d) of the Act. *See* the ''Suspension of Liquidation'' section of this notice.

Scope of Investigation

The products covered by this scope are certain hot-rolled carbon-quality steel: (1) universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils).

Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the