O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List:

Food Service, 147 Fighter Wing, Texas Air National Guard, Ellington Field, Houston, Texas.

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

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–437 Filed 1–8–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–815 and A–580–816]

Certain Cold-Rolled and Certain Corrosion-Resistant Carbon Steel Flat Products From Korea: Extension of Time Limit for Final Results of the Antidumping Duty Administrative Reviews

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

ACTION: Notice of extension of time limit for final results of antidumping duty administrative reviews.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the final results for the fourth reviews of certain cold-rolled and certain corrosion-resistant carbon steel flat products from Korea. These reviews cover the period August 1, 1996 through July 31, 1997. The extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: January 11, 1999.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian at (202) 482–0162 or Cindy Sonmez at (202) 482–3362; Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

Postponement of Final Results

On September 9, 1998, the Department published the preliminary results for this review. 63 FR 48173. Section 751(a)(3)(A) of the Act requires the Department to complete an administrative review within 120 days of publication of the preliminary results. However, if it is not practicable to complete the review within the 120-day time limit, section 751(a)(3)(A) of the Act allows the Department to extend the time limit to180 days from the date of publication of the preliminary results. The Department has determined that it is not practicable to issue its final results within the original 120-day time limit (*See* Decision Memorandum from Joseph A. Spetrini to Robert LaRussa dated December 11, 1998). We are therefore extending the deadline for the final results in this review to 180 days from the date on which the notice of preliminary results was published. The fully extended deadline for the final results is March 8, 1999.

Dated: December 28, 1998.

Richard O. Weible,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–434 Filed 1–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–804]

Notice of Postponement of Final Results of Antidumping Duty Administrative Review: Cold-Rolled Carbon Steel Flat Products From the Netherlands

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

EFFECTIVE DATE: January 11, 1999.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0405 or 482–3833, respectively.

Postponement of Final Results of Review

On September 25, 1997, the Department of Commerce (the Department) initiated an antidumping duty administrative review of the antidumping duty order on cold-rolled carbon steel flat products from the Netherlands (62 FR 50292). On April 3, 1998 we extended the time limit of the preliminary results (63 FR 16470), which were published on September 4, 1998 (63 FR 47227). The final results of review are currently due January 4, 1999. It is not practicable to complete this review within the original time limit. Therefore, the Department is postponing the deadline for issuing these final results of review until no later than March 3, 1999.

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675 (a)(3)(A)), and 19 CFR 351.213 (h)(2).

Dated: January 4, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–553 Filed 1–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cookware From Mexico: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner, Columbian Home Products, LLC (formerly General Housewares Corporation), the Department of Commerce is conducting an administrative review of the antidumping duty order on porcelain-on-steel cookware from Mexico. This review covers Cinsa, S.A. de C.V. and Esmaltaciones de Norte America, S.A. de C.V., manufacturers/exporters of the subject merchandise to the United States. The eleventh period of review is December 1, 1996, through November 30, 1997.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: January 11, 1999.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or David J. Goldberger, Office 5, AD/CVD Enforcement Group II, Import

Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4929 or 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (April 1998).

Background

On October 10, 1986, the Department published in the **Federal Register**, 51 FR 36435, the final affirmative antidumping duty determination on certain porcelain-on-steel (POS) cookware from Mexico. We published an antidumping duty order on December 2, 1986, 51 FR 43415.

On December 5, 1997, the Department published in the **Federal Register** a notice advising of the opportunity to request an administrative review of this order for the period December 1, 1996, through November 30, 1997 (the POR), 62 FR 64353. The Department received a request for an administrative review of Cinsa, S.A. de C.V. (Cinsa) and Esmaltaciones de Norte America, S.A. de C.V. (ENASA) from Columbian Home Products, LLC (CHP), formerly General Housewares Corporation (GHC) (hereinafter, the petitioner). We published a notice of initiation of the review on January 26, 1998, 63 FR 3702.

On February 18, 1998, the petitioner requested that the Department determine whether antidumping duties have been absorbed by Cinsa and ENASA. On March 20, 1998, the Department requested proof that unaffiliated purchasers will ultimately pay the antidumping duties to be assessed on entries during the review period.

On April 9, 1998, CHP informed the Department that it is the legal successor-in-interest to GHC pursuant to the March 31, 1998, sale of all of GHC's POS cookware production assets, product lines, inventory, real estate, and brand names to CHP.

On August 6, 1998, the Department extended the time limit for the preliminary results in this case until December 31, 1998. *See Extension of Time Limit for Antidumping Duty Administrative Review,* 63 FR 42001.

The Department is conducting this review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered by this review are porcelain-on-steel cookware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 7323.94.00. Kitchenware currently classifiable under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Allegation of Reimbursement

For the reasons discussed below, the Department has preliminarily determined that the producer/exporters, Cinsa and ENASA, reimbursed their affiliated importer Cinsa International Corporation (CIC) for antidumping duties assessed during this POR in connection with the liquidation of entries made during the 5th and 7th review periods of the antidumping duty order of POS cookware from Mexico. This determination is based on the April 1997 cash transfer from Cinsa and ENASA's corporate parent, Grupo Industrial Saltillo, S.A. de C.V. (GIS) through its subsidiary GISSA Holding USA (GISSA Holding) to CIC.

The Department's reimbursement regulation, 19 C.F.R. section 351.402 (1998) provides for the Department to deduct from the export price or constructed export price the amount of any antidumping duty which the ''exporter or producer'' reimbursed to the importer. Cinsa and ENASA have acknowledged that the April 1997 transfer was intended, *inter alia,* to cover antidumping duties on 5th and 7th review entries liquidated during the 11th review period.

In a June 2, 1997, submission in an earlier review which has been added to the record of this review, respondents state: ''[t]o ensure that CIC would have enough funds to cover anticipated antidumping duty deposits and assessment liability subsequent to the liquidation of fifth and seventh administrative review entries during the POR, on April 28, 1997, GISSA Holding, USA, the corporate owner of CIC, increased its capital contribution to CIC.''

In the two prior reviews of this order, the Department declined to find that this transaction involved reimbursement within the terms of its regulation because it deemed that the transfer had not been made by Cinsa or ENASA, *i.e.,* it had not been made by an ''exporter or producer.'' However, upon reconsideration, the Department finds that, in making this transfer of funds dedicated to the payment of antidumping duties, GIS acted on behalf of Cinsa and ENASA, such that the transfer may be attributed to those two firms.

At the Department's February 3, 1998, verification in the tenth review with respect to the reimbursement issue (the public version of the report has been placed on the record of this review), company officials explained that GIS handles all corporate treasury functions. In essence, GIS ''sweeps'' all funds from all its subsidiary companies on a daily basis into GIS' cash accounts. The primary purposes of this cash management system include investing the funds available from the various subsidiaries at preferential rates of return and providing funds to subsidiaries at lower rates than they could obtain outside the corporation. For example, GIS also pays out dividends to shareholders, makes principal and interest loan repayments to banks, and pays taxes.

As necessary, GIS deposits funds into the individual bank accounts of its subsidiaries so that they can pay suppliers. Charges are also made between subsidiaries via the GIS corporate treasury department. For example, when Cifunsa (foundry for engine blocks, automotive parts) purchases scrap from Cinsa, GIS debits its Cifunsa inter-company account and credits its Cinsa inter-company account. (There was no record of a debit to the Cinsa inter-company account corresponding to the April 1997 transfer by GIS.) GIS's cash from its subsidiaries is comingled. Therefore, GIS does not monitor what portion of any specific investment or disbursement was funded by what specific subsidiaries, except as indicated above.

In short, GIS manages funds on behalf of its subsidiaries, including Cinsa and ENASA. In making the transfer in question, GIS acted for the direct benefit of Cinsa and ENASA and their U.S. importation arm, CIC. CIC markets only products manufactured by Cinsa and ENASA; it does not market products for any other member of the corporate family. Thus, Cinsa and ENASA have a direct interest in assisting CIC in paying antidumping duties on the POS cookware products.

Given these facts, we find that GIS (through GISSA Holding) acted on

behalf of Cinsa and ENASA in providing funds to CIC during the POR to pay antidumping duties on prior entries. Therefore, those funds constitute reimbursement within the meaning of the regulation.

In *Certain Cold-Rolled Carbon Steel Flat Products From the Netherlands: Final Results of Antidumping Duty Administrative Review*, 63 FR 13204, 13214 (March 18, 1998), the Department concluded that, where a respondent was previously found to have engaged in reimbursement activities, the Department had the authority to establish a rebuttable presumption that the importer must continue to rely on reimbursements in order to meet its obligations to pay antidumping duties. Thus, based on our finding that Cinsa and ENASA, through GIS, reimbursed CIC for antidumping duties assessed on 5th and 7th review entries, the Department has preliminarily determined that the reimbursement regulation applies to entries made during the current POR.

We will give Cinsa and ENASA an opportunity to submit factual information to rebut the presumption. To rebut the presumption and avoid a finding of reimbursement as to the entries being reviewed in this review, or a subsequent review, respondents normally must demonstrate that, during the POR (in this case the 11th POR), antidumping duties were assessed against the affiliated importer and the affiliated importer did in fact pay all antidumping duties assessed during that POR, without reimbursement, directly or indirectly, by the exporter/producer. In the alternative, failing such a demonstration, or if circumstances indicate that this approach does not provide a reasonable rebuttal (e.g., the volume or value of entries assessed was insufficient; the impact of a financial windfall during the period), respondents must demonstrate by clear and convincing evidence that there are changed circumstances (e.g., completed corporate restructuring) sufficient to obviate the need for reimbursement of antidumping duties to be assessed on the entries under review. Information seeking to rebut this presumption must be submitted no later than February 1, 1999. Factual information in response to respondents' submissions must be submitted by February 16, 1999.

Duty Absorption

On February 18, 1998, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. In this case, both Cinsa and ENASA sold to the United States through an importer that is affiliated within the meaning of section 751(a)(4) of the Act.

Section 351.213(j)(2) of the Department's regulations provides that for transition orders (*i.e.*, orders in effect on January 1, 1995), the Department will conduct duty absorption reviews, if requested, for administrative reviews initiated in 1996 or 1998. Because the order underlying this review was issued prior to January 1, 1995, and this review was initiated in 1998, we will make a duty absorption determination in this segment of the proceeding.

On March 20, 1998, the Department requested proof that unaffiliated purchasers will ultimately pay the antidumping duties to be assessed on entries during the review period. Neither Cinsa nor ENASA responded to the Department's request for information. Accordingly, based on the record, we cannot conclude that the unaffiliated purchaser in the United States will pay the ultimately assessed duty. Therefore, we find that antidumping duties have been absorbed by the producer or exporter during the POR.

Fair Value Comparisons

To determine whether sales of POS cookware by Cinsa and ENASA to the United States were made at less than normal value (NV), we compared export price (EP) or constructed export price (CEP) to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2), we compared the EPs or CEPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade at prices above the cost of production (COP), as discussed in the ''Cost of Production Analysis'' section, below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Cinsa and ENASA (as well as products produced by Acero Porcelanizado S.A. de C.V. (APSA) and sold by Cinsa—see discussion under ''Claim for Startup Cost Adjustment'' section, below) covered by the description in the ''Scope of the Review'' section, above, 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 within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. 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 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 respondents in the following order: quality, gauge, cookware category, model, shape, wall shape, diameter, width, capacity, weight, interior coating, exterior coating, grade of frit (a material component of enamel), color, decoration, and cover, if any.

Use of Constructed Value

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

were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire, as described in the ''Product Comparisons'' section of this notice.

Export Price and Constructed Export Price

For certain sales made by Cinsa and ENASA, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and because CEP methodology was not otherwise indicated. We based EP on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for billing adjustments, rebates, U.S. and foreign inland freight, U.S. and Mexican brokerage and handling expenses, and U.S. duty. We also deducted the amount of antidumping duties reimbursed to CIC by Cinsa and ENASA, consistent with our reimbursement finding discussed above. (*See*, December 31, 1998, Calculation Memorandum) (Calculation Memo).

For the remaining sales made by Cinsa and ENASA during the POR, we calculated CEP in accordance with section 772(b) of the Act, because the subject merchandise was first sold by CIC after having been imported into the United States. We based CEP on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for billing adjustments, rebates, U.S. and foreign inland freight, U.S. and Mexican brokerage and handling expenses, and U.S. duty. We also deducted the amount of antidumping duties reimbursed to CIC by Cinsa and ENASA, consistent with our reimbursement finding discussed above. (*See* Calculation Memo).

We made further deductions, where appropriate, for credit, commissions, and indirect selling expenses that were associated with economic activities occurring in the United States. We recalculated CIC's indirect selling expenses to include bad debt expenses, financial expenses, marketing and research expenses, and depreciation expenses. Because CIC is a sales subsidiary and does not perform any further manufacturing, all CIC's expenses were deemed to be sales-related. For purposes of calculating the indirect selling expense ratio, we also reallocated CIC's total expenses over the total sales value excluding the value of EP sales. (*See* Calculation Memo). We performed this reallocation because CIC performs limited sales-related functions with respect to EP sales and equal allocation of all CIC expenses across all U.S. sales in which CIC is involved would disproportionately shift these costs from CEP to EP sales. Finally, we made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, we based NV on either (1) the price (exclusive of value-added tax) at which the foreign like product was first sold for consumption in the home market, in accordance with section 773(a)(1)(B)(i) of the Act, or (2) constructed value (CV), in accordance with section 773(a)(4) of the Act, as noted in the ''Price-to-Price Comparisons'' and ''Price-to-CV Comparisons'' sections of this notice, respectively.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (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 selling, general and administrative (SG&A) expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to an unaffiliated U.S. customer. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer, after the deductions required under section 772(d) of the Act. To determine whether NV sales are at a different LOT than EP or CEP, 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 an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997). In this review, Cinsa and ENASA reported three channels of distribution in the home market: (1) direct sales to customers from the Saltillo plant, (2) sales shipped from their Mexico City warehouse, and (3) sales shipped from their Guadalajara warehouse. In analyzing the data in the home market sales listing by distribution channel and sales function, we found that the three home market channels did not differ significantly with respect to selling activities. Similar services, such as freight and delivery services and inventory maintenance, were offered to all or some portion of customers in each channel. Based on this analysis, we find that the three home market channels of distribution comprise a single level of trade.

Cinsa and ENASA reported both EP and CEP sales in the U.S. market. The EP sales were made by the exporter to the unaffiliated customer, who received the merchandise at the border between Mexico and the United States (FOB Laredo, Texas). We noted that EP sales involved basically the same selling functions associated with the home market level of trade described above. Therefore, based upon this information, we have determined that the level of trade for all EP sales is the same as that in the home market.

The CEP sales were based on sales made by the exporter to CIC, the U.S. affiliated reseller, who then sold the merchandise directly to unaffiliated purchasers in the United States from its San Antonio warehouse. Based on our analysis, after making the appropriate deductions under section 772(d) of the Act, there are two selling activities associated with Cinsa's and ENASA's sales to CIC reflected in the CEP: (1) freight and other movement expenses from the plant to the affiliated reseller's San Antonio warehouse, and (2) freight and delivery services (excluding actual freight charges), and inventory maintenance, and other support services (such as sales personnel, order processing personnel, and billing

personnel), which are the same functions found in the home market. Therefore, we determine that Cinsa's and ENASA's CEP sales and their home market sales are made at the same level of trade. Accordingly, because we find the U.S. sales and home market sales to be at the same level of trade, no level of trade adjustments under section 773(a)(7)(A) of the Act are warranted.

CEP Offset

Section 773(a)(7)(B) of the Act provides for an adjustment to NV when NV is based on a level of trade different from that of the CEP, if the NV level is more remote from the factory than the CEP and if we are unable to determine whether the difference in levels of trade between CEP and NV affects the comparability of their prices. This latter situation can occur where there is no home market level of trade equivalent to the U.S. sales level or where there is a different home market level of trade but the data are insufficient to support a conclusion on price effect. This adjustment, the CEP offset, is identified in section 773(a)(7)(B) of the Act and is the lesser of the following:

- The indirect selling expenses on the home market sale, or
- The indirect selling expenses deducted from the starting price in calculating CEP.

The CEP offset is not automatic each time we use CEP.

In their questionnaire responses, Cinsa and ENASA claimed that the sales support activities (such as freight and delivery services, excluding actual freight charges, and inventory maintenance), and other support services (such as sales personnel, order processing personnel, and billing personnel) provided to home market and to U.S. customers are generally the same. The respondents nevertheless requested an adjustment to NV when NV is compared to U.S. CEP sales because they claim that home market sales are made at a more advanced level of trade than CEP sales because the NV sales price includes indirect selling expenses attributable to sales support activities and other support services noted above, while the CEP sales price is exclusive of all indirect selling expenses and the selling functions attributable thereto.

However, as discussed above, we find that the selling functions performed at the CEP level are essentially the same as those performed in the home market. Accordingly, we consider the home market and CEP levels of trade comparable. We disagree with respondents' assertion that differences in indirect selling expenses reflect a difference in level of trade. Because we find the CEP and home market levels of trade are the same, an adjustment to NV is not warranted.

Cost of Production Analysis

The Department disregarded certain sales made by Cinsa and ENASA for the period December 1, 1995, through November 30, 1996 (the most recently completed review of Cinsa and ENASA), pursuant to a finding in that review that sales were made below cost. Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that respondents Cinsa and ENASA made sales in the home market at prices below the cost of producing the merchandise in the current review period. As a result, the Department initiated investigations to determine whether the respondents made home market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

A. Calculation of COP

We calculated the COP on a product-specific basis, based on the sum of Cinsa's and ENASA's cost of materials and fabrication costs for the foreign like product, plus amounts for home market SG&A and packing costs in accordance with section 773(b)(3) of the Act. Because Cinsa and ENASA reported monthly costs, we created an annual average COP on a product-specific basis.

We relied on COP information submitted by Cinsa and ENASA, except in the following instances where it was not appropriately quantified or valued: (1) frit prices from an affiliated supplier did not approximate fair market value prices; therefore, we increased frit prices by the amount of the undocumented discount given by the affiliated supplier; (2) we included the APSA acquisition costs in Cinsa's general and administrative expenses (*see*, Calculation Memo); and (3) we revised Cinsa's and ENASA's submitted interest costs to exclude the calculation of negative interest expense.

B. Claim for Startup Cost Adjustment

The information submitted by Cinsa and ENASA in this review fails to demonstrate entitlement to a startup cost adjustment under section 773(f)(1)(C) for the additional production costs incurred in connection with the July 1977 acquisition of APSA. Under the definition of a startup cost adjustment, two conditions must both be satisfied: (1) a company is using new production facilities or producing a new product that requires substantial additional investment, and (2) production levels are limited by technical factors associated with the initial phase of commercial production. Since the claim for a startup cost adjustment is not being made for the production of a new product, the first condition must be satisfied through evidence of either a new plant or the substantially complete retooling of the existing plant. This substantial retooling must involve the replacement of nearly all production equipment and a complete revamping of existing machinery.

The Department has addressed the issue of what constitutes a ''new production facility'' within the meaning of section 773(f)(1)(C) in several recent cases. See, *Stainless Steel Wire Rod from Spain*, 63 FR 40391, 40401 (July 29, 1998), *Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Germany*, 63 FR 13170, 13199 (March 18, 1998), and *Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails from Korea*, 62 FR 51420, 51426 (October 1, 1997) (*Roofing Nails from Korea*). In order for an existing facility to be considered a new production facility within the meaning of section 773(f)(1)(C) of the Act, the Statement of Administrative Action (SAA) at 836 provides that it must be retooled to the extent that it becomes a brand new facility in virtually all respects. The SAA and the Department's regulations define new production facilities as including ''the substantially complete retooling of an existing plant'' during the period of investigation or review (SAA at 836; 19 CFR 351.407(d)(1)(i)). This substantial retooling must involve the replacement of nearly all production equipment and a complete revamping of existing machinery (SAA at 836). Thus, the SAA makes clear that, in analyzing these situations, an adjustment for startup costs is warranted only in those circumstances wherein the renovations result in a nearly-new facility.

In *Roofing Nails from Korea*, the Department rejected respondent Kabool's startup claim noting that Kabool had not replaced or rebuilt existing machinery and equipment but, instead, had merely moved these assets to a new site. The Department also stated that, because the first condition of startup— a new production facility or product—had not been met, it was not required to address whether Kabool's production levels had been limited during the POR.

In this review, we do not consider Cinsa's installation of new equipment and adaptation of existing kilns to handle increased production volume a new plant or a substantially complete

retooling of the existing plant. We consider the situation in the instant review to be parallel to that in *Roofing Nails from Korea* where respondent Kabool moved equipment from one location to another. The partial retooling of Cinsa's plant to incorporate machinery acquired from APSA and to begin commercial production of APSA-designed cookware did not have a substantial effect on virtually all of the assets at Cinsa's facility.

With regard to the second factor—whether production levels were limited by technical factors associated with the initial phase of commercial production—it need not be addressed because the first factor of the test has not been satisfied. This finding that Cinsa did not use new production facilities or produce a new product during the POR is sufficient to deny Cinsa's claim. *See Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, 56618 (October 22, 1998), and *Roofing Nails from Korea*. Therefore, we have denied respondents' claim for a startup cost adjustment. *See* the Calculation Memo for an explanation of how the aforementioned acquisition costs were included in Cinsa's costs.

C. Test of Home Market Prices

We compared the weight-averaged, per-unit COP figures for the period December 1996 to November 1997, to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP (net of selling expenses) to the home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses.

D. Results of COP Test

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

The results of our cost tests for both Cinsa and ENASA indicated that for certain home market models less than twenty percent of the sales of the model were at prices below COP. We therefore retained all sales of these models in our analysis and used them as the basis for determining NV. Our cost tests also indicated that for certain other home market models more than twenty percent of home market sales within an extended period of time were at prices below COP and would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we therefore excluded the below-cost sales of these models from our analysis and used the remaining above-cost sales as the basis for determining NV. Finally, our cost tests also indicated that for certain home market models all contemporaneous sales of comparable products were made at prices below the COP. Therefore, we calculated NV based on CV, in accordance with section 773(a)(4) of the Act.

E. Calculation of CV

For Cinsa's and ENASA's products for which we could not determine the NV based on comparison market sales because there were no contemporaneous sales of a comparable product, we compared U.S. prices to CV, in accordance with *CEMEX*, as discussed above.

In accordance with section 773(e)(1) of the Act, we calculated a CV based on the sum of the respondents' cost of materials, fabrication, SG&A, and U.S. packing costs as reported in the U.S. sales listing. We calculated CV based on the methodology described in the ''Calculation of COP'' section, above.

In accordance with section 773(e)(2)A), we based SG&A and profit on the actual amounts incurred and realized by Cinsa and ENASA in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

F. Price-to-Price Comparisons

For those comparison products for which there were sales at prices above the COP, we based the respondents' NV on home market prices. For both of the respondents, we calculated NV based on the VAT-exclusive gross unit price and deducted, where appropriate, inland freight, rebates, and early payment discounts.

For comparisons to Cinsa's and ENASA's EP sales, we made a circumstance-of-sale adjustment, where appropriate, for differences in credit expenses and commissions. We offset home market commissions with U.S. indirect selling expenses capped by the amount of home market commissions (no commissions were incurred on EP sales). For comparisons to Cinsa's and ENASA's CEP sales, we also deducted credit expenses and commissions from NV. We made adjustments for differences in packing expenses for both Cinsa and ENASA. We also made adjustments to NV, where appropriate, for differences in costs attributable to differences in the physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act.

G. Price-to-CV

Where we compared EP or CEP to CV, we made circumstance-of-sale adjustments by deducting from CV the weighted-average home market direct selling expenses and adding the U.S. direct selling expenses (except those deducted in calculating CEP), in accordance with section 773(a)(8) of the Act and section 351.410(c) of the Department's regulations.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. *See, e.g., Certain Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 8915, 8918, March 6, 1998, and Policy Bulletin 96–1: *Currency Conversions*, 61 FR 9434, March 8, 1996. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark for the daily rate.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the weighted-average dumping margins for

the period December 1, 1996, through November 30, 1997, are as follows:

Manufacturer/exporter	Period	Margin
Cinsa	12/1/96–11/30/97	64.02
ENASA	12/1/96–11/30/97	124.69

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be those established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufactures or exporters will continue to be 29.52 percent, the ''All Others'' rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise. In calculating these importer-specific assessment rates, we will take into account the amount of the reimbursement calculated on sales during the POR. *See* Calculation Memorandum for details. For both EP and CEP sales, we will divide the total dumping margins (calculated as the difference between NV and EP (or CEP) for each importer) by the entered value of the merchandise. Upon the completion of this review, we will direct the U.S. Customs Service to assess the resulting *ad valorem* rates against the entered value of each entry of the subject merchandise made by the importer during the POR.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter.

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

The Department will subsequently issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs.

This administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 351.221.

Dated: December 31, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–435 Filed 1–8–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–834–803]

Titanium Sponge From the Republic of Kazakhstan: Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On September 8, 1998, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding on titanium sponge from the Republic of Kazakhstan (Kazakhstan). The review covers the period August 1, 1996, through July 31, 1997.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments and have not changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: January 11, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Wendy Frankel, Office of AD/CVD Enforcement, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3936 and 482–5849, respectively.

SUPPLEMENTARY INFORMATION: