IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 3, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–18051 Filed 7–9–97; 8:45 a.m.]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Circular Welded Non-Alloy Steel Pipe and Tube From Mexico: 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 December 30, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative reviews of the antidumping duty order on circular welded non-alloy steel pipe from Mexico covering exports of this merchandise to the United States by certain manufacturers. Based on our preliminary review of these exports during the period November 1, 1994 through October 31, 1995, we found margins for all reviewed companies. We invited interested parties to comment on the preliminary results. We received comments and rebuttals from petitioners and from TUNA and Hylsa (respondents). We have now completed our final results of review and determine that the results have changed with respect to one respondent.

EFFECTIVE DATE: July 10, 1997.

FOR FURTHER INFORMATION CONTACT: John Drury, Robin Gray or Linda Ludwig, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 7866, Washington, D.C. 20230; telephone (202) 482–0414 (Drury), (202) 482–0196 (Gray), or (202) 482–3833 (Ludwig).

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to Part 353 of 19 CFR (1997).

Background

The Department published an antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico on November 2, 1992 (57 FR 49453). The Department published a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order for the 1994/95 review period on November 1, 1995 (60 FR 55541). On November 29, 1995, respondent Hylsa S.A. de C.V. (''Hylsa'') requested that the Department conduct an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. On November 30, 1995, respondent Tuberia Nacional S.A. de C.V. (''TUNA'') requested that the Department conduct an administrative review of this order. We initiated this review on December 8, 1995. *See* 60 FR 44414 (September 15, 1995).

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On July 19, 1996, the Department extended the time limits for preliminary and final results in this case. *See Extension of Time Limit for Antidumping Duty Administrative Reviews,* 61 FR 40603 (August 5, 1996).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

The review of ''circular welded non-alloy steel pipe and tube'' covers products of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this review, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. In accordance with the Final Negative Determination of Scope Inquiry (56 FR 11608, March 21, 1996), pipe certified to the API 5L line pipe specification, or pipe certified to both the API 5L line pipe specifications and the less-stringent ASTM A–53 standard pipe specifications, which fall within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines, are outside of the scope of the antidumping duty order.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.3010.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. These HTS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results of the reviews. We received both comments and rebuttals from petitioners, TUNA, and Hylsa. The following is a summary of comments by company.

Hylsa

Comment 1: Stating that Hylsa's responses contained numerous errors and unverifiable information, petitioners believe that the Department should base the final results on total facts available under sections 776 and 782 of the Act. Petitioners cite numerous alleged errors and omissions on the part of Hylsa as support for their contention that the response as a whole should be rejected and the results based on facts available. The examples include allegations that Hylsa did not provide actual dates of payment and thus distorted credit costs; that it failed to report packing expenses in either market; that it did not properly report freight charges; that it did not properly match CONNUMs; that the Department was unable to verify advertising and warranty expenses; that certain sales traces contained errors; and that comparisons between actual and theoretical weight were distortive.

In addition, petitioners state that the cost response and the information found at verification also contained numerous errors, specifically in the proper allocations and use of costs. The sum of the errors and the quality of information presented, according to petitioners, is sufficient for the Department to find that Hylsa failed to cooperate by not acting to the best of its ability to comply with the Department's information requests. Petitioners cite Circular Welded Non-Alloy Steel Pipe from South Africa, 61 FR 24271 at 24274 (May 14, 1996) as precedent to support this course of action.

Hylsa maintains that the verification conducted by the Department affirmed the overall accuracy of its responses, and that any actual problems can be easily remedied with minor programming changes. Hylsa maintains that it has cooperated to the best of its ability to comply with the Department's requests for information, and that the application of facts available is not warranted. Hylsa states that, even if petitioners had been able to demonstrate that Hylsa had not acted to the best of its ability to comply with the Department's information requests, section 776(b) of the Act indicates merely that the Department may make an adverse inference, not that it is obligated to do so.

DOC Position: We agree with respondent that the final results should not be based on total facts available. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the Department if: (1) The information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties. Accordingly, in using the facts available, the Department may disregard information submitted by a respondent if any of the five criteria has not been met.

While the Department agrees that there are errors and omissions in Hylsa's responses, we do not believe that the scope and impact of the errors in question are sufficient to warrant the application of facts available to the case as a whole. In Circular Welded Non-Alloy Steel Pipe from South Africa, 61 FR 24271 at 24274 (May 14, 1996), the Department noted that errors in the sales traces drew into question the completeness and accuracy of the respondent's remaining sales. The Department also noted that certain home market and U.S. sales were not reported, and concluded that ''[t]he misreporting and inaccuracies of the information were so material and pervasive as to make the responses unreliable within the meaning of section 782(e)(3) of the Act.'' In this case, the quantity and value of sales reported are not under contention. With appropriate corrections, the Department believes that Hylsa's responses are sufficiently usable for the purpose of margin calculations. Pursuant to sections 776(a) and 782(d) and (e) of the Act, the Department will use the facts otherwise available when necessary. The Department will address each of the comments stated by petitioners below.

Comment 2: Petitioners contend that the Department should base Hylsa's home market credit expense on facts available. Petitioners believe that Hylsa has over-reported or has otherwise distorted home market credit expense in three different ways. First, petitioners contend that the calculation of a hypothetical date of payment by Hylsa for home market sales with multiple payment dates distorts credit expenses in a hyperinflationary environment. Petitioners believe that the methodology used by Hylsa is contrary to the Department's instructions and that Hylsa had the ability to report separate payment dates without undue burden. Second, petitioners contend that Hylsa erred in calculating credit expenses by including the IVA (VAT tax) in the base price for such calculations. In other words, Hylsa included the VAT tax in the total amount due to them by their customers for the purposes of calculating the credit expense on each transaction. Petitioners state that section 773 (a)(6)(B)(iii) requires that the Department deduct any taxes included in the price of a foreign like product from normal value so that the Department calculates a tax-neutral margin. Petitioners cite the Statement of Administrative Action to the Uruguay Round Agreements Act (''the SAA'') (H. Doc. No. 316 (Vol. 1), 103d Cong., 2d Sess. (1994) at 827) in support of their contention. Third, petitioners state that the calculation of the credit expense using a 360-day year for home market sales and a 365-day year for U.S. sales results in a similar overstatement of home market credit expenses. Therefore, petitioners believe that the Department should not deduct home market credit expenses from normal value, nor make a circumstance-of-sale adjustment, but should deduct corrected U.S. credit expenses from export price. If the Department does use Hylsa's reported credit expense, petitioners recommend that the Department correct for the existing problems by reducing the base rate on which credit is calculated by the IVA and by applying a credit calculation based on a 365-day year.

Hylsa answers, first, that it followed the Department's instructions in the original questionnaire to calculate credit expense on a transaction-by-transaction basis, and in a supplemental questionnaire to calculate this expense using monthly interest rates. Second, Hylsa contends that since it extends credit to its customers on the IVA amount, it should be used in the credit calculation as the Department did for the preliminary results. Hylsa cites Certain Fresh Cut Flowers from Mexico, 56 FR 1794 at 1798 (January 17, 1991) and Shop Towels from Bangladesh, 57 FR 3996 at 4001 (February 3, 1992) in support of its position. Third, Hylsa states that it adjusted for the difference in the 360/365 day credit calculations for home market sales and that the Department verified that adjustment while examining home market sales traces. Therefore, in respondent's view, no changes should be made to the credit calculation methodology used by the Department in the preliminary determination.

DOC Position: We agree in part with petitioners. Concerning the issue of the

360/365 days used to calculate credit expense, the worksheet in Exhibit 27 indicates that Hylsa did make the adjustment so that it calculated credit expense in both markets using the same number of days as the denominator. As to the inclusion of IVA in the basis for the credit calculation, while we disagree with petitioners' claims that this is a tax neutrality issue, the Department believes that the methodology used by Hylsa is incorrect and should be exclusive of the IVA. Finally, the Department believes that the calculation of an average date of payment for home market sales in instances of multiple payments is distortive and contrary to the instructions of the Department (see discussion below). Therefore, the Department has used facts available for the credit expense as outlined below.

Hylsa's statement that the credit expense ''reflects the opportunity cost when potential revenues from an immediate cash-for-goods sale are exchanged for receipt of payment after some extended period'' (Hylsa's March 11 brief at 6) supports the Department's position on the VAT tax. The collection and payment of the IVA is not a revenue for the company, but for the government. The calculation of a credit expense for the company on what is plainly government revenue is inconsistent with the intent of the adjustment.

In Certain Cut-to-Length Carbon Steel Plate from Brazil, the Department stated that ''[i]t is not the Department's current practice to impute credit expenses related to VAT payments. We find that there is no statutory or regulatory requirement for making the proposed adjustment.'' Certain Cut-to-Length Carbon Steel Plate from Brazil, 62 FR 18486 at 18488 (April 15, 1997). *See also* Steel Wire Rope from Korea, 58 FR 11029 at 11032 (February 23, 1993).

Concerning the reporting of a weighted-average hypothetical date of payment by Hylsa for certain home market sales, Hylsa has not complied completely with the Department's requests in this matter. The original questionnaire states in part that, when calculating credit expense, the respondent must ''[e]xplain the calculation and *any other factors that affect net credit costs* * * * '' (emphasis added). Obviously, multiple payments will affect net credit costs, especially in economies experiencing high inflation. Since the Department determined that Mexico experienced high inflation during the period of review, the proper reporting of expenses that reflect the effects of inflation is of paramount importance.

Hylsa did report credit expense on a transaction-specific basis, and did use monthly interest rates as requested by the Department. However, Hylsa did not indicate that it received multiple payments until verification. It was also at verification that Hylsa first explained its methodology with regard to multiple payments. Of the three home market sales examined by the Department during verification, one of these had multiple payment dates. (See Sales Verification Exhibit 6.) As discovered at verification, Hylsa had the ability to report each separate payment and calculate a separate credit expense, but chose not to do so. Given that one-third of the sales traces examined by the Department contained multiple payments, the potential for distortion of credit expense using Hylsa's methodology is significant.

Section 776(b) states that the Department has the authority to use an adverse inference in selecting from among facts otherwise available if an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The Department believes that the failure to report multiple payments, and the subsequent calculation of credit expense, constitutes grounds for the use of adverse facts available under this section. Therefore, as facts available, we calculated the lowest non-zero reported credit expense per ton by Hylsa and used this expense in all home market sales for purposes of calculating normal value. We have not made any adjustments to the credit expense calculation for U.S. sales for calculating export price.

Comment 3: Petitioners state that, in accordance with the decision in the preliminary determination, the Department should not make an adjustment for a steel supplier rebate.

DOC Position: We agree with petitioners, and have not altered our decision from the preliminary determination. *See* Circular Welded Non-Alloy Steel Pipe from Mexico, 61 FR 68708 at 68710 (December 30, 1996).

Comment 4: Petitioners argue that, to the extent that Hylsa acts as the importer of record on certain of its U.S. sales of subject merchandise and/or pays all duties due, the Department should presume reimbursement under 19 CFR 353.26 and deduct any duties paid by Hylsa from export price. Petitioners cite section 353.26(a) as applying directly to Hylsa's responsibilities for the payment of antidumping duties, stating that ''[w]hen Hylsa pays antidumping duties on its own behalf it is a producer paying the antidumping duties on behalf of the importer (itself) within the unambiguous meaning of 19 CFR 353.26(a)(i). There is no requirement in the regulation that the importer and producer be separate entities.'' In arguing that the regulation should be applied to non-separate entities, petitioners state that ''[i]t would be ludicrous to apply the regulation where the producer and importer are affiliated (i.e., are related closely enough to be treated as a single entity for the purposes (of) calculating United States price) but not apply it where the producer and importer are a single entity in fact.'' Petitioners cite Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom, 61 FR 65022 at 65023 (December 10, 1996) (prelim.) (''British Bar'') as demonstrating that where a producer/exporter and importer are the same entity, the Department treats them as being ''affiliated'' under the statutory provision on duty absorption (section 751(a)(4) of the Act). If a producer/exporter is deemed to be ''affiliated'' with itself for the purposes of duty absorption, reason petitioners, there is no reason why the same conclusion cannot be reached for the reimbursement provision.

Petitioners contend that a requirement that the producer and importer be separate entities to apply section 353.26 is inconsistent with both the SAA and Department practice. In citing the SAA, petitioners concentrate on the statement that Commerce has full authority to increase duties ''[w]hen an exporter directly pays the duties due * * *,'' and state that the regulation applies as long as the producer pays the duties on behalf of the importer. Petitioners also cite Color Television Receivers from the Republic of Korea, 61 FR 4408 at 4411 (February 6, 1996) as supporting their position. Petitioners further state that the provisions for duty absorption and duty reimbursement are separate and do not preclude the Department from applying section 353.26. Should the Department apply section 353.26, petitioners urge the Department to deduct the amount of antidumping duties paid from export price as required by the regulation.

Hylsa counters that when it acts as importer of record, it does not, under any sense of the word, ''reimburse'' itself or pay the duties on behalf of another party. In addition, Hylsa states that any such adjustment must be made against antidumping duties assessed and reimbursed, rather than against cash deposits of estimated antidumping duties. Therefore, making any adjustment at this time would be improper.

DOC Position: The Department closely analyzed all sales made by Hylsa to the U.S. during the period of review. In our analysis, we found that none of the sales where Hylsa acted as its own importer were sold at less than normal value. Therefore, the issue is moot in this instance.

Comment 5: Petitioners contend that, as in the preliminary determination, the Department should not adjust normal value for additional inland freight. Petitioners believe that the methodology presented by Hylsa is inaccurate and distortive, given that Hylsa could not tie specific freight charges to certain sales, that the amount of total additional inland freight allocated to all home market sales was questionable due to the non-reporting of certain small freight charges, and that additional inland freight was allocated to certain home market sales that would not normally incur freight (*e.g.,* pick-up by the customer). In addition, petitioners note that the verification report indicated that it was possible for Hylsa to tie specific freight charges to specific sales transactions. As a result, petitioners argue that the Department should not make an adjustment to home market sales. For the purposes of the cost-price comparison, petitioners believe that the Department should allocate a minimum amount to all sales where the reported freight was zero, and increase the overall value of home market freight by taking the percentage of such sales that had additional unreported freight, multiplying that by the total freight charges, and allocating the result over all sales. These extra charges should be deducted from all home market sales in the cost-price comparison.

Hylsa contends that while it was possible to tie specific freight charges to individual sales transactions, the lack of computerized records of inland freight at the time of the review would have necessitated a level of preparation that would be unreasonable. Furthermore, Hylsa asserts that the allocation of additional inland freight charges to sales that would incur no freight can be corrected easily by setting the additional inland freight field to zero and calculating additional freight using the cost methodology advocated by petitioners in their case brief. Finally, Hylsa states that the methodology of allocating additional inland freight, using the corrections mentioned above, is the only reasonable method of making an adjustment for the freight charges incurred.

DOC Position: We disagree with respondent in part. While the Department agrees that requiring Hylsa to manually tie specific freight charges to sales in this proceeding would be an undue burden, due to the lack of computer records, the problems which still exist with the data submitted on the record render it impossible to clarify these freight charges. Even if they could be corrected, there would still be unacceptable distortions.

As mentioned in the verification report, Hylsa has five separate categories of freight charges. Additional inland freight was allocated over all home market sales, regardless of the category of freight charge. One of the freight categories is for pick-up, which would by definition not incur a freight charge. Therefore, the allocation of additional inland freight to these sales is inappropriate. We also note that the total additional inland freight figure to be allocated is incorrect, because Hylsa did not take into account certain freight charges for local delivery sales. While included in Hylsa's calculation for the total freight, these local delivery charges were not reported for individual sales. Therefore, the total additional inland freight figure (total freight incurred by Hylsa minus total freight charged to customer) is inaccurate. Consequently, we agree with petitioners and are disallowing the adjustment.

Finally, we note that Hylsa does maintain computer records that would allow the company to tie freight charges to individual sales, but that these records are usually destroyed after a short period of time. The Department intends to examine this issue more closely in future reviews.

Comment 6: Petitioners argue that the Department should not adjust normal value for either advertising or warranty expenses. Petitioners cite the verification report as indicating that the Department was unable to verify the accuracy of these expenses.

Hylsa argues that Verification Exhibit 25 demonstrates that the expenses were calculated accurately and that the Department verified their accuracy.

DOC Position: We agree with petitioners. Hylsa prepared verification Exhibit 25 and submitted it late on the last day of verification. As stated in the verification report, ''[t]he verification team sampled the calculation of advertising and warranty for this sale. After attempting to calculate advertising and warranty expenses, the company indicated that it could not reconcile the amounts reported for this transaction. Company officials submitted a hand-written calculation sheet which they stated showed the correct calculation for these expenses.'' (Sales Verification Report, sales trace at 20.) The verifiers did not have sufficient time to check the accuracy and completeness of the worksheet. Therefore, we are disallowing these adjustments.

Comment 7: Petitioners assert that the Department must adjust all home market sales prices and adjustments for A–500 pipe to a theoretical weight basis for comparison to the U.S. price. Petitioners point to the verification report as affirming the fact that Hylsa made sales of A–500 pipe in one market on a theoretical weight basis and in the other on an actual weight basis. Since the variance between actual and theoretical weight could be as much as ten percent, petitioners advocate a specific adjustment based on the actual size of the pipe sold in the home market.

Hylsa counters that petitioners assume that all pipe sold in the home market is undersized, and that petitioners wish to penalize Hylsa for information that it does not have on actual weights. In fact, Hylsa states that pipe sold in the home market can be undersized or oversized and still be within tolerance specifications. Therefore, no adjustment should be made.

DOC Position: We disagree with petitioners. Hylsa is correct in stating that the tolerances for A–500 pipe allow for both the under- and over-statement of weight on a theoretical basis. Information on the record is insufficient to indicate that Hylsa systematically produces pipe which is undersized. Consequently, we are not making any adjustment.

Comment 8: Petitioners assert that the Department must use facts available for both U.S. and home market packing expenses. Petitioners note that, while Hylsa claims that it uses only three straps for packing a bundle of merchandise, the verification team observed identical merchandise with different numbers of straps per bundle. Petitioners also refer to Hylsa's U.S. product brochure, which indicates that a bundle of pipe could have between six and eight straps (see April 22, 1996 Section A questionnaire response, Exhibit 18). Finally, petitioners state that Hylsa had the ability to calculate actual packing costs. As facts available, petitioners advocate that the Department calculate one packing cost for three straps for home market sales, and a separate one for eight straps for U.S. sales.

Hylsa states that it could not report a separate packing cost for different types of pipe. Regardless of the number of straps per bundle, Hylsa maintains that the costs of packing for both the home and U.S. markets are identical. Hylsa questions the observations of the verification team, and states that the problem was not brought to the attention of company officials. Therefore, Hylsa maintains that there are a number of scenarios that could disprove the observations of the team. Such scenarios include the possibility that the bundles may have been wrapped with less than the normal number of straps while the pipes were still in process, or that the pipes were bundled with fewer straps than should have been used. Finally, Hylsa notes that the number of straps per bundle is eight only when the bundle in question is double-length pipe. Since the cost of packing is the same in both markets, Hylsa continues to maintain that no further adjustment is necessary.

DOC Position: We agree with petitioners in part. As noted in the sales verification report at 31, Hylsa stated that ''[i]n all instances, each bundle of pipes is supposed to have three straps. However, during the plant and storage facility tour, we noted that two bundles of identical merchandise had different types of packing. One bundle had three straps, while a second one had five. Company officials had no explanation as to why this difference existed.'' On the other hand, the U.S. product brochure indicates that six straps per bundle are used for normal lengths of pipe for ASTM A–53 and A–500 (Hylsa April 22 Sec. A response, Exhibit 18 at 7 and 20) (''Hylsa uses high strength galvanized metal straps, 1.25 in (31.8 mm) wide. Single Length: 6 Straps (double straps on each end and 2 single straps distributed at the middle)''). Eight straps are used for double lengths, according to the brochure. We also note that the brochure states that A–500 is oiled and wrapped in paper. Information on the record therefore indicates that the number of straps (and possibly other packing materials) is different depending upon the market. Since the number of straps is different, it is reasonable to assume that labor and materials costs will be greater with the greater number of straps. Therefore, total packing costs for each market are different.

Section 776(b) states that the Department has the authority to use an adverse inference in selecting from among facts otherwise available if an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The Department believes that the failure to report packing costs for both markets constitutes grounds for the use of adverse facts available under this section. Therefore, in accordance with section 776(b) of the Act, the Department has examined cost verification Exhibit 19 and taken the total historical peso figures for all cost centers involved in packing, summed the total, and divided it by the total production of pipe and tube as derived from sales Exhibit 19. The result is a per-ton peso cost, which we have applied as adverse facts available to home market sales and doubled for U.S. market sales.

Comment 9: Petitioners believe that the Department should make a circumstance-of-sale adjustment for certain differences in discounts between the U.S. and Mexico under 19 CFR 353.56. The differences, argue petitioners, are clearly attributable to the differences between the two markets with respect to the higher rates of interest in Mexico and the attendant higher cost of carrying accounts receivable.

Hylsa states that petitioners assume that discounts are adjustments to a price which has already been determined, while in reality they determine the actual price. Hylsa cites previous Department rulings that categorized discounts as reductions in the prices paid by consumers, and not circumstances-of-sale adjustments. In particular, Hylsa points to Industrial Belts from Italy, 57 FR 8295 (March 9, 1992) to support its position.

DOC Position: We agree with respondent, and have not made any circumstance-of-sale adjustments for differences in discounts. As Industrial Belts from Italy states, ''[c]ash discounts represent reductions in the price paid by the customer; they are not circumstance of sale adjustments.'' (57 FR 8295, Comment 3). The CIT decision in *Mantex* v *United States,* 841 F. Supp. 1290 at 1300 (CIT 1993) also supports this position: ''This Court has consistently interpreted the ''directly related'' standard (under section 353.56(a)(1)) to require (an interested party) to show the item for which the claim a COS adjustment accounts for the differences in the prices of the sales under review. In other words, to be entitled to a COS adjustment, an (interested party) must demonstrate a '' 'causal link' * * * between the differences in circumstances of sale and the differential between United States price and foreign market value''.'' Petitioners have not established this link.

Comment 10: Petitioners believe that the Department should not compare U.S. sales to home market sales which received the co-export rebate, and that the Department may exclude such sales because they are not sold for consumption in the exporting country and/or are not made within the ordinary course of trade. As proof, petitioners cite the nature of the co-export rebate program that these sales are neither home market sales nor sales within the ordinary course of trade. The fact that the price is lower for such sales, conditioned upon export of a non-subject product, is evidence enough that these sales are not normal home market sales and should be excluded.

Specifically, petitioners argue that the program is not a rebate at all, but a separate price list for customers that prove they have exported the transformed product to the U.S. Therefore, the co-export price is not ''the price at which the foreign like product is first sold * * * for consumption in the exporting country'' within the section 773(a)(1)(B)(i) of the Act. Petitioners reason that since the statute does not define 'consumption in the exporting country, the Department may give that phrase meaning at its discretion within the antidumping law. In citing *Chevron U.S.A.* v. *Natural Resources Defense Council,* 467 U.S. 837, 842–43 (1984), petitioners argue that the meaning of ''consumption in the exporting country'' is ambiguous and that the Department should not apply a rigid and unchanging set of criteria to each and every case when deciding whether or not a product is ''consumed'' in the exporting country. Rather, the Department should examine each case and set of circumstances with the intention of upholding the purpose of the antidumping statute, which is to prevent injurious price discrimination on sales to the U.S. from foreign countries.

Alternatively, petitioners argue that co-export sales were not made in the ordinary course of trade. In defining ordinary course of trade as ''the conditions and practices, which for a reasonable period of time prior to the exportation of subject merchandise, have been normal in the trade under consideration with respect to merchandise of same class or kind,'' petitioners assert that the normal practice for Hylsa's sales of standard pipe is to provide different prices for the same product in the foreign market based upon subsequent re-export of a transformed product. Petitioners further outline a set of criteria for consideration of whether standard pipe is outside of the ordinary course of trade based on the criteria that the Department used in *Laclede Steel Co.* v. *United States,* Slip Op. 95–144 (CIT, August 11, 1995), 17 ITRD 2184 at 2187. That case involved sales of circular welded non-alloy steel pipe from Korea. Those criteria included differences in prices, profit, the number of customers who purchase the product, the types of assurances given to these customers, the basis of how the merchandise is sold, whether the end-users of the merchandise are different from other sales, the quantity and size of the sales, the percentage of such sales to all sales in the home market, and the type of markings. According to petitioners, the co-export rebate sales differ in price, the percentage of home market sales, profitability, and the number of customers. Additionally, petitioners propose that dual invoicing and the recording of such sales on the ledgers separate from other domestic sales means that the bookkeeping system is different for these sales.

Finally, petitioners state that even if the Department does not consider these sales to be outside of the ordinary course of trade, it has the authority under 19 CFR § 353.44(b) or (c) to exclude sales from consideration if their inclusion would not serve the purposes of the antidumping statute. It then states, without further elaboration, that the exclusion of co-export sales would be consistent with the statute in this case.

Hylsa counters that the merchandise is clearly sold for consumption in the home market, and that such consumption occurs (*i.e.*, a transformation of the product) prior to exportation. Hylsa also maintains that other aspects of the sales, such as the quality assurance, size of pipe, etc., are the same as other home market sales. Finally, Hylsa notes that this program has been in existence for some time and that the Department verified it during the original investigation without making any further adjustments. Therefore, these are ordinary home market sales and should be used in the calculation.

DOC Position: The Department closely analyzed all sales made by Hylsa to the U.S. and in the home market during the period of review. In our analysis, we found that none of the co-export sales by Hylsa in the home market were used for the purposes of calculating normal value. Specifically, they did not occur in the same months as the U.S. sales and were not used for matching purposes. Therefore, the issue is moot in this instance.

Comment 11: Petitioners state that, due to its finding that Mexico experienced high inflation during the period of review, the Department must compare U.S. sales to home market sales made in the same month.

DOC Position: We agree with petitioners and have correspondingly adjusted the programming to compare U.S. sales to home market sales made in the same month.

Comment 12: Petitioners note that the home market database for Hylsa shows certain sales that are outside of the reporting window. Petitioners request that the Department exclude these sales from its analysis.

Hylsa notes that these are all co-export rebate sales, and that, in following the guidelines set forth by the Department, the first invoice date is reported as well as the second invoice date. Hylsa explains that it is for this reason that these sales appear to be outside of the reporting window. Hylsa argues that the actual date of sale is the second invoice date, which is within the reporting window; therefore the sales should not be excluded.

DOC Position: We agree with respondent. The Department has consistently set the date of sale as the date when all terms of the sale are finalized. Due to the nature of the co-export rebate program, certain items (*e.g.* freight) might be modified or changed at the time that the second invoice is issued. Therefore, we are not excluding these sales on the basis of the date of the original invoice.

Comment 13: Hylsa states that the unit prices which it reported for U.S. sales are net of movement charges. Therefore, respondent argues that the Department should not deduct these charges a second time. Hylsa indicates that its questionnaire response of June 24, 1996, for this, the third administrative review, makes plain that the unit price on U.S. sales listings is net of movement charges. It also points to documents observed at verification, which indicate that the invoice format breaks out the movement expenses. Hylsa provides an equation in its case brief which it states proves that the gross unit price is reported net of movement charges.

Petitioners note that the record is unclear, but that Hylsa's responses strongly suggest that movement charges are included in the unit price. Petitioners in particular point to Hylsa's May 30, 1996 submission as making statements in two instances that, in effect, the gross unit prices of the U.S. sales were not net of movement charges. While petitioners acknowledge that one verification exhibit seems to indicate that the unit price is net of movement expenses, it also stated that just because ''a single sale (Verification Exhibit 30) appears to be listed without freight charges * * *'' does not mean that the Department should assume that all other U.S. sales have the same circumstances.

DOC Position: We reviewed Hylsa's questionnaire responses, the verification report and the accompanying exhibits, and both Hylsa's and petitioners' briefs on the issue. We can find no record of a June 24, 1996 submission by Hylsa for this review, as it references in its March 3, 1997 brief. There is, however, a June 24, 1996 submission for the first and second reviews. Furthermore, an examination of Hylsa's May 30, 1996 submission for this review presents an unclear picture. In describing the gross unit price for the U.S. sales, Hylsa stated that the gross unit price ''[r]epresents the invoiced price to the customer for one meter of material.''

At verification, the Department examined two sales by Hylsa to the United States. Only one of these sales shows U.S. inland freight charges on the invoice. As Hylsa noted in its March 3, 1997 brief, the gross unit price reported to the Department for this one sale is net of U.S. movement charges.

For these final results, the Department will not deduct U.S. movement expenses for this single U.S. sale. Otherwise, the Department will not deviate from its methodology in the preliminary results of review of deducting inland freight charges from all of Hylsa's U.S. sales where the reported terms of sale indicated that freight was included in the price paid by the customer. This methodology is consistent with Hylsa's statements on the record that the gross unit price is the priced for one meter of pipe invoiced to the customer, and with the terms of sale reported to the Department.

Comment 14: Petitioners argue that, since Hylsa did not report packing costs for either market, and U.S. packing costs are significantly different from those in the home market, the Department should assign additional packing costs to constructed value on a facts available basis. Barring the assignment of additional packing costs, petitioners maintain that the Department should base the entire constructed value figures on facts available. As previously stated, petitioners rely in part on the observations of the verification team as written in the verification report and on Hylsa's product brochure to note that the difference between packing costs in the U.S. and home market could be as great as 8/3 (eight straps used for bundling as opposed to three). Petitioners also assert that Hylsa was able to calculate packing costs, but chose not to do so. Finally, petitioners state that all sales that must be compared to constructed value should receive the original investigation rate as facts available.

Hylsa asserts, first, that it was not possible to calculate packing for each individual product. Second, Hylsa states that the Department's verification team did not raise the issue of apparently identical merchandise with different straps and that it was thus unable to substantiate whether the bundles in question were indeed the same merchandise or in the same stage of production. Regardless, Hylsa states that only the total aggregate cost of packing is important to them and that there is no difference between the packing methods used for identical merchandise sold in both markets. In addition, Hylsa states that its brochure indicates that eight straps are used only for bundles of double-length pipe. Finally, Hylsa states that the Department can calculate normal value by using packed home-market prices to compare to a packed U.S. price since the two packing costs are identical.

DOC Position: We agree with petitioners. As partial adverse facts available, we have calculated an average per-ton cost of packing in the home market (as discussed in comment 8 above) and doubled it in the U.S. market for the purposes of calculating both normal value and export price. Rather than having no packing cost for the U.S., we have included a figure that is twice that of the calculated packing cost in the home market. For Cost of Production (''COP'') and Constructed Value (''CV''), since the cost of packing is already incorporated indirectly into the RCOM and CVCOP figures, we have not added additional packing to the TOTCOM but have added half of the PACKU costs to CV to reflect the doubling of packing costs in the United States.

Comment 15: Petitioners state that, since Hylsa did not report all freight costs, or assign the freight costs properly when it had the means to do so, the Department should base the entire cost-price comparison on facts available and assume that all home market sales were made at less than the cost of production. Barring this action, petitioners believe that the Department should assign a minimum freight cost to certain home market sales and increase the overall freight charges by the percentage of home market sales with additional unreported freight and deduct this from all home market sales.

Hylsa maintains that while it is able to assign freight accurately on a transaction-specific basis, to do so would be labor intensive and would not be a reasonable reporting option. In addition, Hylsa believes that ''minor'' adjustments by the Department to the reported additional inland freight charges will correct many of the extant problems.

DOC Position: As stated above, we agree with petitioners in part. While we agree with Hylsa that assigning additional inland freight accurately on a transaction-specific basis would be an undue burden for this review, we believe that the reporting of all inland freight is distortive for the reasons cited in comment 5 above. As noted in the sales verification report (at 19), Hylsa had the ability to accurately report certain types of freight unrelated to the additional inland freight. In particular, the company did not report freight charges for local delivery. Therefore, as adverse facts available, we are increasing the movement expenses deducted from home market sales in the cost/price comparison by a minimum freight charge where the reported freight charge was zero for local delivery sales.

Comment 16: Petitioners argue that respondent's cost and constructed values should be rejected as not properly capturing accurate costs for the period. Petitioners cite a number of alleged problems in support of their argument. First, petitioners state that Hylsa did not calculate monthly costs of production properly. Rather than calculating the costs based on the cost of iron ore through to the finished pipe production, which petitioners believe is the proper method of calculating said costs, petitioners allege that Hylsa used the cost of coil transferred from the flat-rolled division and built its cost calculation from that point. Petitioners note that this does not represent a fully loaded monthly cost of production.

Second, petitioners maintain that the adjustments to the monthly cost of the flat coil products were based on average annual data, rather than monthly replacement costs, and thus result in a mis-allocation of costs. Third, petitioners argue that Hylsa did not correctly calculate the costs for iron ore purchased from affiliated suppliers. Petitioners cite a loss made by one supplier in one month of 1995 and the effects of inflation.

Fourth, petitioners argue that Hylsa did not include scrap costs in raw materials but rather in overhead. Petitioners assert that this means that the coil cost adjustments in Appendix D–10 of the November 5, 1996 submission are not being applied to a fully yielded material cost. Fifth, petitioners note that all costs were based on a single average monthly coil cost (for all characteristics and grades of coil), which, the petitioners assert, means Hylsa's cost are distorted since thinner coil used for thinner pipe costs more than thicker coil for thicker pipe.

Sixth, petitioners maintain that the flat products division allocated all indirect costs in 1995 based on budgeted direct costs for that year. Petitioners note that budgeted costs for 1995 were based on the actual costs for 1994. Petitioners point out that actual direct costs for 1995 were available at the time Hylsa submitted its section D response. Petitioners maintain that Hylsa should have allocated indirect steelmaking and rolling costs using its actual direct costs for 1995, and that the failure to use these figures distorts the reported costs, but it is impossible to determine how much.

Finally, petitioners believe that the allocation of product-specific costs in the tubular products division by tonnage, rather than by processing time or some other manner that acknowledges the extra time needed to produce small diameter pipe, distorts the tube processing costs. The sum of these errors and omissions, according to petitioners, materially distorts the reported costs of production and constructed value figures to the point that it renders them unusable for the final results. Therefore, the Department should assign to Hylsa the margin from the original investigation.

Respondent counters by stating that, contrary to petitioners' claims, Hylsa began its calculation with the Flat Product division's actual costs of manufacturing steel coil in each month. The calculation, according to Hylsa, was based on the actual amounts paid by the Flat Products division for raw materials inputs in the current month, as well as actual fabrication costs incurred in the month. Respondent notes that G&A and exchange gains and losses on purchases were added to get a fully loaded cost of manufacturing for coil for the month. Once this cost is transferred to the tubular products division, respondent notes that it is used as the basis for calculating the reported cost of materials for pipe production, as well as to determine the scrap loss at each production stage. In summary, the respondent asserts that the calculation is based on all actual costs incurred by Hylsa starting with raw materials purchased from outside suppliers.

Respondent also counters that the costs of a raw material supplied by an affiliate have been properly calculated. Respondent notes that one affiliated iron ore supplier was profitable throughout the period and for all of 1995. Respondent notes that there was a loss in only one month and that the loss was not due to unrealistically low transfer prices but an unscheduled disruption of production. Respondent goes on to point out that the suppliers unit costs were 50 percent above average during that month, since fixed costs were allocated over a small quantity. Respondent argues that the

Department has held that fixed costs should be calculated in a manner to avoid disruption of production quantities. The respondent cites Gray Portland Cement and Clinker from Mexico, 58 FR 47253 at 47256 (September 8, 1993) and Gray Portland Cement and Clinker from Japan, 56 FR 12156 at 12165 (March 22, 1991). Respondent argues that the Department should examine whether the affiliate recovered its costs over an extended period of time rather than base the affiliates profitability on one distortive month. Since the affiliate earned a profit on eleven of the twelve months in the POR and for the year as a whole, respondent argues that there is no reason to disregard the transfer prices reported by Hylsa.

Respondent also states that it properly calculated the scrap cost based on actual cost of steel coil obtained from the flat products division. Respondent notes that it calculated the scrap loss amount for each process by applying the percentage scrap loss rate to the adjusted steel coil costs. The result is ''fully yielded materials costs.'' The fully yielded cost of actual material was reported in direct materials costs, the respondent notes, while the fully yielded cost of materials lost during production was included in the overhead costs of the appropriate process and allocated to products as they passed through the production process.

Finally, respondent states that it used the normal accounting system and normal cost calculations for both the Tubular (regarding allocation based on tonnage rather than time) and Flat Rolled (regarding differentiation of coil costs by size of coil and allocation of certain overhead costs by standard percentages) divisions in calculating its reported costs. Respondent refers to section 773(f)(1) of the Act as evidence that the statute generally directs the Department to use a company's normal cost accounting system, and to Erasable Programmable Read-Only Memories from Japan, 51 FR 39680, 39688 (October 30, 1986) as evidence that the Department is generally reluctant to deviate from a company's normal system.

Respondent argues that it in no way hid or mis-described the methodologies used in its normal cost calculations. In closing, respondent notes that its normal accounting system does not result in the amount of distortion that petitioners suggest. Respondent notes its product-specific cost calculation does allocate overhead based on tonnage; however, the pipe sizes in each process are limited. Respondent argues that Hylsa does not assign the same pipe forming costs to all sizes of pipe. Respondent contends that each forming mill is a separate process and each handles a limited range of pipe sizes.

DOC Position: We disagree with petitioners that Hylsa's COP and CV should be rejected. We address each of petitioners comments below.

We found that Hylsa did report the actual cost of manufacturing coil by the flat products division and not the transfer price. It adjusted the cost of coil manufacturing by the flat product division's exchange loss, its G&A, and another loss adjustment from a related supplier, since these items were not included in the flat product division's COM.

Second, while the above-mentioned exchange loss and G&A adjustments to COM for coil were based on annual rather than monthly data, the data were taken from constant currency financial statements. G&A is a period expense, so using an entire year eliminates seasonal fluctuations. Moreover, the respondent's use of constant currency financial statements in determining the G&A expense ratio neutralizes the effects of inflation in the calculation.

Regarding the adjustments for loss by an iron ore producing affiliate, we asked the respondent to report the higher of the transfer price, market price or cost for all major inputs obtained from affiliated parties (including iron ore). The respondent used transfer price with one adjustment for loss. The loss adjustment was based on a constant currency financial statement, which takes into account the effects of inflation. The respondent noted that another supplier's loss in one month was caused by an unscheduled disruption.

We have asked for monthly reporting in this case to account for the effects of inflation. We have taken reported conversion costs and indexed them to the end of the period, weight-averaged them, and then indexed the average unit cost for each product back to the month in question. This approach accounts for inflation and smooths out the conversion costs over the reporting period. We therefore have allowed Hylsa to apply the same approach to the loss adjustment by the affiliated supplier. Since the constant currency financial statements indicate no loss for the year, we are not making an adjustment.

With respect to the issue of scrap cost accounting, the scrap used as input to the coil manufacturing process would be reported in direct materials. The scrap yield costs (less related revenue) were reported in variable overhead. The scrap yield percentage at the first stage was divided by cumulative yield and multiplied by the adjusted input coil costs (direct materials costs). The result was reported in variable overhead.

Regarding the accounting for various costs, it is the Department's practice to calculate costs based on the records of the producer if such records are kept in accordance with the GAAP of the producing country and reasonably reflect the costs associated with the production of the merchandise. *See* New Minivans from Japan, 57 FR 21937, Comment 21 (''The Department typically allows individual respondent companies to report the production costs of subject merchandise as valued under their normal accounting methods and following GAAP of their home country.'') At verification, the Department verified Hylsa's cost methodology and, based on the information on the record, found that it was in accordance with Mexican GAAP.

We found at verification that Hylsa's pipe and tube division keeps in its records one cost for hot-rolled coil. Hylsa's flat product division's reported costs were based on its accounting system. Therefore, the allocation of indirect costs is based on Hylsa's books kept in the normal course of business. Regarding allocation of product-specific costs on the basis of tonnage rather than time, based on the information on the record, we found that Hylsa's methodology was in again accordance with Mexican GAAP. In all three cases, we found no evidence that this methodology materially distorts the production costs for sales during this period of review. However, we intend to continue to examine these issues closely in future reviews.

The respondent also used surface area to allocate zinc costs. Once again, the Department normally calculates costs based on the records of the producer if such records are kept in accordance with the GAAP of the producing country and reasonably reflect the costs associated with the production of the merchandise.

For the above-mentioned reasons, the Department agrees with respondent and has used the submitted cost of production figures

Comment 17: Petitioners argue that the Department should reject Hylsa's COP/CV response as unverified. Petitioners state that at the outset of verification Hylsa submitted a revised cost database that allegedly corrected errors. Petitioners note that this database did not correct an error in production quantities identified by the Department at verification. Petitioners state that the Department could not verify the first database, after which Hylsa submitted another database which also corrected other un-described minor errors. Petitioners argue that it is the Department's policy not to accept ''substantially new'' information at verification. Petitioners cite as precedent Circular Welded Carbon Steel Pipes and Tubes from Thailand, 51 FR 3384, 3386 (January 27, 1986). Petitioner note that the Department's regulations state that new factual information will not be accepted more than 180 days after the initiation of the review. Petitioners assert that the Department should therefore base the final results on facts available.

Respondent counters that its errors were not intentional and do not call into question the integrity of Hylsa's response. Respondent notes that the product specific cost calculation, used to calculate individual pipe product costs, was not operational during 1995 because of a change in Hylsa's accounting system. Respondent asserts that to report costs to the Department Hylsa had to convert the product specific cost calculation to work with new accounting numbers on the new system, in place of old accounting numbers, and that this matching process took a lot of effort. Respondent notes that for a variety of reasons Hylsa was unable to completely check all account conversions before verification. Respondent goes on to note that some minor mistakes were discovered and promptly brought to the Department's attention. The respondent further argues that in the end it was able to provide corrected cost calculations. Respondent cites Ferrosilicon from Brazil, 59 FR 732, 736 (January 6, 1994) as precedent for accepting corrections to errors ''as long as those errors are minor and do not exhibit a pattern of systematic misstatement of fact.''

DOC Position: We disagree with petitioners that Hylsa's cost response should be rejected as unverified. The practice of the Department is to accept minor corrections at the start of verification. When we received the first revised database at the outset of verification, Hylsa noted that it contained all minor error corrections which were due mainly to the account number conversion as cited by respondent above.

The Department accepted a revised database (fixing the first and second set of minor errors, as well as the production quantity error) from the respondent, since the first and second set of errors were minor in nature and the production quantity error appeared to be inadvertent. In Ferrosilicon from Brazil, the Department found that the respondents mistakes found during the course of the investigation, when taken as a whole, did not support a claim of respondent's non-cooperation. The Department also stated in that case that it followed its practice of correcting errors found at verification as long as those errors are minor and do not exhibit a pattern of systemic misstatement of fact. Therefore in the present case, we are continuing to use Hylsa's revised cost database.

Comment 18: Petitioners assert that Hylsa misreported G&A expenses by reporting the G&A only for the Tubular Products division rather than the company as a whole. Petitioners cite to the Cost Verification report at 2 and 36–37. The petitioners note that Hylsa did this even though Hylsa claims that for coil cost reporting purposes the Tubular and Flat Product divisions are not separate entities. Petitioners argue that it is the Department's policy to use the G&A for the entire operating entity. Petitioners believe that G&A has thus been misreported, and asserts that if the Department does not base the final results on facts available, it should adjust G&A costs based on the reported unconsolidated G&A for Hylsa and corporate charges from the parent companies.

Hylsa counters that it reported G&A expenses on a ''layered'' calculation that allocated G&A expenses for each company and division over the sales to which those G&A expenses related. Hylsa argues that petitioners' argument mis-describes Hylsa's G&A calculation and is also contrary to the Department's established practice.

Hylsa states that there may have been some confusion due to the fact that the allocated G&A expenses of the Flat Products division were not included in the G&A expenses reported in the original cost submission. However, Hylsa states that the G&A expenses related to the Flat Products division were included in the cost of the coil produced and subsequently included into the Tubular Products division's cost of materials. Furthermore, Hylsa states that the Department has never held that G&A expenses at all levels of a corporation should be lumped together and allocated over the total cost of goods sold.

Hylsa asserts that the Department has routinely adopted a layered approach in the past that allocates G&A expenses at each corporate level over the cost of goods sold at the same level, citing Flat Panel Displays from Japan, 56 FR 32376, 32398–99 (July 16, 1991) as an example. Therefore, Hylsa argues that there is no basis for rejecting the G&A calculation.

DOC Position: We agree with petitioners that an adjustment to Hylsa's G&A is necessary. In the preliminary results of this review, we calculated an adjusted G&A as follows: Hylsa's unconsolidated G&A less corporate charges from Hylsa's parents, divided by Hylsa's unconsolidated cost of goods sold; plus a portion of the two parent companies' G&A (as calculated by Hylsa). We allowed the deduction of corporate charges from Hylsa's G&A since we were separately including a portion of each parent's G&A into the calculation. The Department's questionnaire stated that G&A expenses relate to the activities of the company as a whole rather than to the production process alone. It also stated that Hylsa should include an amount for administrative services performed on the company's behalf by its parent company. For these reasons, we are continuing to make the adjustment, as describe above, that we made in the preliminary results of this review.

Comment 19: Petitioners argue that Hylsa did not report costs for adding lead to the galvanizing pot and for amortized costs of replacing the pot. Therefore, the petitioners assert that an appropriate adjustment to the reported galvanizing costs in COP and CV is necessary.

DOC Position: We agree with petitioners that respondent did not include these costs. In the preliminary results of this review, we made an adjustment to variable overhead in COP and CV to account for these costs. We have continued to make this adjustment in this final determination.

Comment 20: Petitioners maintain that the Department must adjust the July 1995 costs for capitalized fixed costs for Plant 2. Specifically, petitioners believe that Hylsa did not include any fixed costs for this plant due to it being in a start-up period. Therefore, the Department should substitute fixed costs for a period at the end of the start-up period in accordance with section 773(f)(1)(C)(iii) of the Act. Otherwise, July 1995 costs are understated.

Hylsa responds that it reported the July 1995 costs according to its normal accounting practices and Mexican GAAP. Under the statute, the Department is required to use the costs as recorded in a respondent's normal accounting records. Since Hylsa reported the costs using its normal accounting records, there should be no adjustment. Finally, Hylsa argues that the revision advocated by petitioners would have an ''insignificant'' effect upon the Department's calculation.

However, should the Department decide to apply December 1995 costs to the July coils, Hylsa believes that the Department should restate the nominal December costs to eliminate the effects of inflation.

DOC Position: We agree with petitioners. It is the Department's practice to calculate costs based on the records of the producer if such records are kept in accordance with the GAAP of the producing country and reasonably reflect the costs associated with the production of the merchandise. In this case, the costs to produce the merchandise for July are not fully reflected in reported costs, since no fixed costs are reported for plant #2 in July. After a further review of verification exhibits, we have found that products were also sourced from plant #2 in other months as well and no fixed costs were reported for those months either. The first month for which fixed costs are reported by Hylsa is in December.

While this practice appears to conform with Mexican GAAP, we determine that it does not reasonably reflect the costs associated with production of the subject merchandise. Since this is the only information we have as to the fixed costs of plant #2, we have used the December unit fixed costs as a surrogate for July and other months for which no fixed costs were reported. Even if the effect of this adjustment is insignificant as respondent argues, we are still making the adjustment to ensure that all costs are reasonably reflected. In agreement with respondent, we have indexed these costs back to each applicable month by the CPI, which is used in other indexing throughout this review. The increase in unit coil costs in each month was then further yielded by the flat products division's exchange loss and G&A and the further loss adjustment made by Hylsa. The total increase in coil costs after other yields was added to the reported cost of manufacturing.

TUNA

Comment 21: As with Hylsa, petitioners argue that the Department should presume reimbursement on the part of TUNA to Acerotex, since the two parties are affiliated and TUNA apparently exercises control over the operations of Acerotex. Additionally, petitioners state that Acerotex has virtually no other function in U.S. sales other than to post the cash deposit for estimated antidumping duties. In return for this function, Acerotex receives a commission that is far less than the amount of cash deposits posted. Because mechanisms for reimbursement exist and the fact that TUNA can exercise control over Acerotex (and thus manipulate prices in such away that the result would be circumvention) petitioners argue that the Department should collapse the two entities into one for the purposes of reimbursement analysis and presume reimbursement. Petitioners cite Color Television Receivers from the Republic of Korea, 61 FR 4408 at 4411 (February 6, 1996) in support of their contention.

TUNA states that the Department did a thorough examination of Acerotex's books and found no evidence of reimbursement or an agreement to reimburse. TUNA further states that presuming reimbursement based on affiliation or what might happen in the future is improper as a matter of law. In addressing Korean TVs, TUNA states that the citation does not support petitioners' position but in fact supports its contention that the Department cannot presume reimbursement.

DOC Position: We agree with respondent. Section 353.26 of the Department's regulations requires the Department to deduct from United States price (now EP or CEP) the amount of any antidumping duty paid, or reimbursed, by the producer or exporter, thereby increasing the amount of the duty ultimately collected. 19 CFR 353.26(a) (1996). The Department has interpreted this regulation as applying regardless of whether the importer is affiliated to the producer or exporter.

As the Department stated in Korean TVs, however, ''[t]his does not imply that foreign exporters automatically will be assumed to have reimbursed related U.S. importers for antidumping duties by virtue of the relationship between them.'' 61 FR at 4411. The regulation requires ''evidence beyond mere allegation that the foreign manufacturer either paid the antidumping duty on behalf of the U.S. importer, or reimbursed the U.S. importer for its payment of the antidumping duty.'' Federal-Mogul Corp., 918 F. Supp. at 393 (citing *Torrington Co.* v. *United States*, 881 F. Supp. 622, 631 (CIT 1995)).

In the present review, we found no evidence of inappropriate financial intermingling between TUNA and Acerotex. The Department verified that Acerotex is responsible for all cash deposits. Petitioners are correct that Acerotex had established a general ledger provision in its accounting records with respect to antidumping duties. However, we found no evidence that this account was in any way related to reimbursement of these duties.

In Korean TVs, the Department specifically stated that it would not presume reimbursement between affiliated parties absent a clear and irrefutable reimbursement agreement between them. The Department found neither evidence of an agreement between TUNA and Acerotex for reimbursement of antidumping duties, nor the actual reimbursement of these duties between the two affiliated parties. Collapsing the two companies together for the purposes of reimbursement, as petitioners advocate, would be contrary to past practice. While the Department does sometimes ''collapse'' affiliated parties for purposes of the margin calculation, the Department has consistently treated such parties as separate entities when examining the question of reimbursement. Consequently, we are not presuming reimbursement.

Comment 22: Petitioners state that the Department must compare U.S. sales to home market sales made in the same month, due to the effects of high inflation.

TUNA states that, should the Department index for sales that are not within the same month, it should use the index used in indexing costs and also index the VCOM used to calculate the DIFFMER adjustment.

DOC Position: We agree with petitioners, and have adjusted the programming accordingly. *See also* Comment 11. Because we matched each U.S. sale to home market sales in the same month, all VCOM and DIFFMER figures properly reflect costs for that month. Therefore, we are not making any further adjustment.

Comment 23: Petitioners state that the Department should reaffirm its preliminary determination and not grant a level-of-trade adjustment. Petitioners state that the Department was correct in finding that there was not a ''consistent'' price differential between home market sales at different levels of trade. While there may have been differences, they varied greatly from month to month and did not indicate a consistent pattern of price differentials over the entire POR, even adjusting for inflation.

TUNA argues that petitioners are incorrect and that information in its case brief demonstrates that there is in fact a consistent price difference based on different levels of trade.

DOC Position: We agree with petitioners. While we found that two distinct levels of trade exist, our analysis does not show a pattern of consistent price differences between the two levels. In fact, the differences fluctuate greatly from month to month. Therefore, we are not changing our position from the preliminary results of review.

Comment 24: Petitioners argue that the Department's position in the preliminary determination of excluding home market sales with missing or negative values from consideration was incorrect. Instead, petitioners argue that such sales should be based on facts available. Petitioners believe that the verification of TUNA uncovered numerous small errors and omissions, which in their totality compel the use of facts available.

TUNA responds that the Department's treatment of home market sales with missing or negative values is consistent with past practice and reasonable. Therefore, no changes should be made. TUNA notes that the sales disregarded are those with zero values in the QTYH and GRSUPRH fields, and that the total number of sales under consideration is seven; an extremely small number in comparison to the entire home market data set. Finally, of the seven with missing values, TUNA notes that none of these was used in the calculation of normal value. Therefore, petitioners' statement that it was impossible to state what prejudicial effect these sales would have is incorrect.

DOC Position: We agree with respondent. While the Department did discover small errors and omissions during verification, most of these were corrected easily and do not merit, in our opinion, the use of facts available (except as otherwise noted). Finally, the seven sales in question were not used in the calculation of normal value since they did not match in the month of a U.S. sale and thus have no impact on the margin. Therefore, this issue is moot.

Comment 25: TUNA contends that the Department erred in conducting a sales-below-cost investigation. The basis for this error, according to TUNA, is that petitioners' request was untimely. TUNA takes issue with the Department's August 7, 1996 decision memorandum regarding the initiation of this cost investigation, particularly with the Department's decision that TUNA's initial section A, B and C responses were both untimely and incomplete and therefore the 120-day deadline for filing a below-cost allegation did not apply (19 CFR 353.31(c)(1)). TUNA contends that its responses were timely and complete, and that they were filed prior to the allegation of sales below cost. Finally, TUNA states that petitioners failed to preserve their right to submit a cost allegation by failing to submit an extension request prior to the expiration of the 120-day deadline.

Petitioners claim that the Department properly initiated a sales-below-cost investigation. First, petitioners state that the cost investigation has already proven the validity of the initial allegation. Second, petitioners state that portions of the filing made by TUNA occurred subsequent to the expiration of the 120-day deadline. Using TUNA's logic, petitioners claim, any respondent that delays its filing until after the expiration of the 120-day time limit is immune from a below-cost investigation.

DOC Position: We agree with petitioners that its allegation was not untimely. As stated in our cost initiation memorandum of August 8, ''[w]ith respect to the respondent's claim that petitioners'' allegation was untimely filed, we note that TUNA's questionnaire response was not received until after the 120-day deadline for COP allegations set out by 19 CFR 353.31(c)(ii).'' The Department's established practice in such situations is to use its discretion in determining what constitutes a reasonable time limit for making a sales below cost allegation. *See* Certain Forged Steel Crankshafts From the United Kingdom, 60 FR 52150 at 52153 (Oct. 5, 1995). *See also* Memorandum from Linda Ludwig to Richard Weible, August 8, 1996 at 3). Therefore, the cost investigation was properly initiated.

Comment 26: TUNA asserts that the Department erred in disregarding certain below-cost sales without first determining whether all costs were recovered ''within a reasonable period of time.'' TUNA states that the margin program used by the Department had no test for determining recovery of costs, and that the Department should include program language that will perform the test and account for inflationary effects.

Petitioners state that the Department properly applied the test in the margin calculation program, and has already accounted for the effects of inflation by having monthly historical costs indexed to December, summed, averaged, then indexed back by month.

DOC Position: We disagree with respondent. As we stated in our preliminary results, ''[w]here 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we found that sales of that model were made in 'substantial quantities' within an extended period of time, in accordance with sections 773(b)(2) (B) and (C) of the Act, and were not at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.''

Section 773(b)(2)(D), cited by TUNA in its case brief, states the following: ''Recovery of costs.—If prices which are below the per unit cost of production at the time of sale are above the weighted average per unit cost of production for the period of investigation or review, such prices shall be considered to provide for recovery of costs within a reasonable period of time.'' This section therefore defines ''reasonable period of time'' as outlined in section 773(b)(1)(B) as being the period of review or investigation.

In a non-inflationary economy, the Department calculates a single weight-average cost of production per product for the entire POR. By inference, any sales which are below the per unit cost of production at the time of sale would remain below the weighted average per unit cost of production for the POR, since the cost of production would not change over the POR. The only time that the cost of production might change within the same POR is in cases where a respondent has provided multiple costs of production per product within a single POR. In such instances, sales below the per unit cost of production for one reported cost period might be above the average per unit costs for the entire POR.

In this case, TUNA did report multiple per unit costs for the same product. Specifically, in accordance with instructions from the Department, TUNA reported monthly per unit costs for each product due to the effects of high inflation. However, as noted by petitioners, the Department did index each of these per unit costs for inflation and then calculated a weight-average, per unit cost for the POR as it would normally do in a non-inflationary review. Therefore, the Department has already compared individual home market sales to a weighted average cost for the entire POR. Thus, as explained above, we have performed a recovery of cost test which takes into account the effects of inflation. For these reasons, no further test is necessary.

Comment 27: Petitioners state that the COP and CV in the final results should be based on facts available, saying that problems found at verification render TUNA's cost and CV data unusable. Petitioners note that TUNA allocated finishing line costs on the basis of weight, since TUNA claimed that finishing takes the same time regardless of the diameter for each pipe, since each has the same length. Petitioners argue that this proposition is wrong. The petitioners assert that while each individual pipe may have the same length, pipe of different diameters have different total lengths per ton and a different number of pieces per ton. Therefore, the petitioners assert that smaller diameter pipe will require more finishing time and expense. Petitioners argue that despite the fact that the

Department found all costs are being absorbed on a macro basis, those costs are being allocated inaccurately in a way that benefits TUNA and prejudices an accurate dumping margin calculation. The petitioners note the same problem exists for threading line expenses. The petitioners argue that TUNA originally claimed that it allocated these costs by time, but now states that such an allocation is not possible because time is not recorded by diameter. Petitioners assert that TUNA could have allocated threading time over the total number of pieces threaded, which would have provided a more accurate allocation than weight. Petitioners further state that varnishing line allocations were also based on weight and suffer the same defect as threading and finishing allocations. The petitioners argue that the amount of time it takes to varnish a particular type of pipe depends on either the number of pieces varnished or the surface area of the pipe, further arguing that an allocation based on number of pieces varnished would be the most accurate.

Petitioners further assert that TUNA rounded zinc consumption, which may have caused an under-or over-allocation of galvanizing costs. In addition, petitioners note that when the Department found that it could not reconcile TUNA's reported packing costs with those in the sales response, TUNA revised the cost exhibit to match the figures in the sales response. The petitioners argue that TUNA incorrectly based its packing labor on historical rather than indexed replacement costs. Also, petitioners argue that TUNA indexed coil prices using the consumer price index rather than the wholesale price index. Petitioners assert that since wholesale prices were growing faster than consumer prices during the period, the use of the consumer price index tends to understate the indexed monthly costs. The petitioners argue that the Department generally prefers the wholesale or producer price indices for costs other than labor costs. The petitioners assert that if the Department does not base the final results on the facts available, it should re-index costs using the wholesale price index.

The petitioners assert that these problems are not insignificant and seriously prejudice the calculation of COP and CV. The petitioners argue that the Department should determine that the necessary information is not on the record and that COP and CV could not be completely verified as a result, and therefore the petitioners further assert that the Department should base its final results on facts available pursuant to sections 776(a) and 782(e) of the Act.

TUNA asserts that, except for a few minor errors, the Department verified the accuracy of the reported information. TUNA states that use of weight-based allocations of fabrication expenses is reasonable and has been used by the Department in the past. TUNA cites Certain Welded Stainless Steel Pipes from Taiwan, 57 FR 53705 (November 12, 1992), in which, TUNA notes, the Department allocated direct labor and factory overhead costs based on the relative weight of each pipe. TUNA asserts that the Department concluded that allocating fabrication expenses equally over production tonnage was a reasonable allocation base because these costs are primarily a function of tonnage, not steel type or size. TUNA further notes that in its final determination in Pipe from Taiwan, the Department stated that such an allocation did not materially affect the cost calculation because labor and factory overhead represented a small part of the total cost of production. TUNA also cites Welded Stainless Steel Pipe from Malaysia, 59 FR 4023 at 4026–27 (January 28, 1994), in which the Department determined that allocation of processing costs was reasonable. TUNA argues that the Department's conclusion in past proceedings that a weight-based allocation is reasonable applies equally in this review. TUNA notes that the cases cited are also for welded pipe. TUNA also notes that the costs involved represent a small part of both the total processing costs and total cost of production.

Furthermore, TUNA argues that there is no evidence that the use of weight-based allocations is distortive. TUNA further notes that its methodology is used in its normal course of business. TUNA argues that the unsupported theory that allocating fabrication expenses might be distortive does not provide a legitimate basis for rejecting its methodology. TUNA cites *The Timken Company* v. *United States,* 809 F. Supp. 121, 124 (CIT 1992), in which the court rejected petitioner's argument that respondent's allocation methodology should be rejected because petitioner offered no evidence to show that Koyo's information was unreliable, nor had petitioners offered any data more probative than Koyo's. In addition TUNA notes that the fact that there might be other equally valid ways to allocate fabrication expenses does not provide a legitimate basis for rejecting TUNA's verified response. TUNA also asserts that the Court of International Trade has stated that allocation is necessarily an inexact science and is simply a way to estimate costs incurred by the firm to manufacture the product. Such costs vary even among firms in the same industry (*Floral Trade Council* v. *United States,* 822 F. Supp. 766, 722 (CIT 1993)).

Concerning zinc, TUNA maintains that any distortion created by the rounding of its zinc consumption is immaterial. TUNA notes that there is no evidence to conclude that consumption was systematically rounded up or down and that rounding caused any inaccuracy. TUNA argues that even in the worst case scenario the effect on materials costs per metric ton would be negligible.

TUNA argues that petitioners misinterpret the verification of its packing expenses. TUNA asserts that it based its packing costs on historical costs after conferring with the Department. As to the inflation indices, TUNA states that the index used is the same as that used under Mexican GAAP to prepare annual financial statements and the same as it uses in the ordinary course of business. In addition, TUNA asserts that petitioners have no evidence that its index is inaccurate.

DOC Position: We disagree with the petitioners' contention that the methodologies used by TUNA to prepare its COP/CV responses warrant wholesale rejection of those responses and the use of facts available. Section 776(a)(1) of the Act states that if necessary information is not available on the record, the Department ''[s]hall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

We conducted numerous tests, described in our cost verification report, which supported the overall reasonableness of the reported data. Since TUNA's reported costs are in general reliable, we find that the application of total facts available is not warranted. Below, we discuss each of the points raised by petitioners as enumerated above.

Regarding the allocation of finishing line, threading line, and varnishing line costs on the basis of weight, we agree with respondent. In this instance, the costs at issue represent only a small portion of the total production cost of the subject merchandise. Thus, there is no evidence on the record of this review that would suggest that TUNA's normal allocation method would materially distort costs in this review period. Moreover, the Department's December 17, 1996, cost verification report indicates that adequate records of time by diameter were not kept by TUNA for threading and varnishing and, therefore, it was not possible for the company to allocate costs in the manner suggested by petitioners. Accordingly, we find TUNA's allocation methodology is reasonable in light of the specific circumstances of this case.

With regard to zinc consumption, we agree with respondent. Even if the zinc consumption was overestimated as petitioner contends, the effect on the company's total zinc material costs would be negligible.

With regard to the packing labor being reported on a historical basis, we disagree with petitioners. For purposes of cost, the packing labor is deducted from other costs and reported separately in a packing field. When this deduction is made, the other conversion costs are on a historical basis (reported in the currency value of the month in which they are incurred); therefore, the packing labor must also be on a historical basis for a proper deduction.

Finally, regarding the use of the consumer price index for indexing coil costs, we agree with respondent. We found that TUNA uses the consumer price index in its normal course of business and it is required by Mexican GAAP to prepare constant currency financial statements. As such, the consumer price index has been used throughout the response for materials costs, conversion costs, G&A, and interest. We do not find it unreasonable to use the index accepted by Mexican GAAP to index costs in this case.

Comment 28: Petitioners state that the Department should adjust July 1995 materials cost for a credit that did not relate to raw materials purchases, as it did in the preliminary determination.

DOC Position: We agree with petitioners and have continued to make the adjustment that we made in the preliminary results of this review.

Comment 29: Petitioners note that TUNA amortized major maintenance and shutdown costs over the remainder of the year and that, at verification, TUNA provided a reallocation of those costs to months in which they were incurred. The petitioners urge that the Department use reallocated costs if it relies on TUNA's submitted costs for the final results.

DOC Position: We agree with petitioners. TUNA submitted a revised cost database (containing the reallocated major maintenance and shutdown costs to the months in which they were incurred) after verification and before the preliminary results. We used the reallocated costs in our preliminary results of review and have continued to use them in this final results of review.

Comment 30: Petitioners state that the Department should base G&A on TUNA's G&A, rather than the rate for all group companies. The petitioners note that for the preliminary results, the Department calculated a revised G&A percentage, and petitioners assert the Department should apply this rate in the final results as well.

DOC position: We agree with petitioners and, as in the preliminary results of this review, have continued to use the revised G&A (for TUNA only) percentage.

Comment 31: Petitioners assert that TUNA recorded all foreign exchange rate gains and losses as part of financing costs and was unable to differentiate foreign exchange gains and losses on raw materials purchases from other types of foreign exchange gains and losses. Therefore, petitioners state that all exchange rate gains and losses should be excluded from the calculation of interest expense.

TUNA contends that it properly accounted for exchange rate gains and losses in the interest expense calculation. TUNA points to the cost verification report as affirming that it had excluded gains or losses relating to receivables from the interest expense calculation, citing cost verification Exhibit 37 as illustrating how gains and losses relating to carrying receivables were excluded from the calculation. TUNA notes that it removed from the total net interest expense the gain/loss in monetary position and on foreign exchange related to accounts receivable. TUNA concludes that petitioners have apparently misinterpreted the line item ''exchange (gain) loss customers'' as representing all foreign exchange gains and losses, not just those associated with receivables. TUNA notes that petitioners' argument is therefore based on erroneous analysis and should be disregarded.

DOC Position: We disagree with petitioners that all exchange rate gains and losses should be excluded from the calculation of interest expense.

It is the Department's normal practice to distinguish between exchange gains and losses from sales transactions and exchange gains and losses from purchase transactions. Accordingly the Department does not include exchange gains and losses on accounts receivable. The Department includes, however, foreign exchange gains and losses on financial assets and liabilities in its COP and CV calculation where they are related to the company's production. Financial assets and liabilities are directly related to a company's need to borrow money, and we include the cost of borrowing in our COP and CV calculations. *See, e.g.,* Small Diameter Circular Seamless Carbon and Alloy Standard, Line and Pressure Pipe from Italy, 60 FR 31981 at 31991 (June 19, 1995). Also, it is the Department's normal practice that foreign exchange gains and losses on the purchase of raw materials used in production of subject merchandise relate directly to the acquisition of input materials and should be included in the cost of manufacture. *See, e.g.,* Silicomanganese from Venezuela, 59 FR 55436 (November 7, 1994).

In the present case, TUNA has excluded from reported costs exchange gains/losses related to customers, i.e. those related to accounts receivable or sales transactions. It included exchange gains/losses related to purchase of raw materials as part of interest expense rather than cost of manufacturing, because it does not distinguish between exchange gains and losses on raw materials and exchange gains and losses on other payables in its normal course of business. Since the company did not include exchange gains and losses on accounts receivable / sales in its reported costs and since it cannot distinguish exchange gains and losses related to raw materials from those related to other payables, we have made no adjustment to respondent's interest expense calculation.

Comment 32: Petitioners state that since all of TUNA's costs appear to be presented on a theoretical weight basis, the Department should not make an adjustment to reported costs for differences between actual and theoretical weight. The petitioners note that TUNA could not state definitely whether the reported costs were based on actual or theoretical weights, finally settling on claiming that it had reported costs on an actual weight basis and presented a conversion factor. The petitioners note that TUNA did not document its conclusion with records. The petitioners assert that the record reveals costs were allocated on a theoretical weight basis. The petitioners note that while the unit costs were based on actual costs of acquisition, allocations were based on nominal dimensions of the pipe produced. Therefore, the petitioners assert such allocation is based on theoretical weight.

DOC Position: We agree with petitioners. While unit costs were based on actual costs of acquisition, allocations were often made on nominal dimensions of the pipe produced. Therefore, we have not made any adjustment.

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margins exist:

CIRCULAR WELDED NON-ALLOY STEEL PIPES AND TUBES

Producer/manufacturer/exporter	Weighted-average margin
Hylsa	2.99
TUNA	1.77

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of circular welded carbon steel pipe from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed company will be the rate for that firm as stated above; (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, 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) if neither the exporter nor the manufacturer is a firm covered in this review, the cash rate will be 36.00 percent. This is the ''all others'' rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under Sec. 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period.

Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

This administrative review and notice are in accordance with Sec. 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and Sec. 353.22.

Dated: June 30, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–18114 Filed 7–9–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–803]

Initiation of Antidumping Duty Investigation: Fresh Atlantic Salmon From Chile

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

EFFECTIVE DATE: July 10, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle Frederick, at (202) 482–0186, or Kris Campbell, at (202) 482–3813; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

INITIATION OF INVESTIGATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations refer to the regulations, codified at 19 CFR part 353, as they existed on April 1, 1997.

The Petition

On June 12, 1997, the Department of Commerce (the Department) received a petition filed in proper form by the Coalition for Fair Atlantic Salmon Trade (FAST) and the following individual members of FAST: Atlantic Salmon of Maine; Cooke Aquaculture U.S., Inc.; DE Salmon, Inc.; Global Aqua—USA, LLC; Island Aquaculture Corp.; Maine Coast Nordic, Inc.; ScanAm Fish Farms; and Treats Island Fisheries (collectively referred to hereafter as ''the petitioners''). The petitioners submitted information supplementing the petition on June 23, 1997.

The petitioners allege that imports of fresh Atlantic salmon from Chile are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

The Department finds that the petitioners have standing to file the petition because they are interested parties as defined in section 771(9)(C) of the Act, and because they have demonstrated sufficient industry support (*see* discussion below).

Scope of Investigation

The scope of this investigation covers fresh, farmed Atlantic salmon, whether imported ''dressed'' or cut. Atlantic salmon is the species Salmo salar, in the genus Salmo of the family salmoninae. ''Dressed'' Atlantic salmon refers to salmon that has been bled, gutted, and cleaned. Dressed Atlantic salmon may be imported with the head on or off; with the tail on or off; and with the gills in or out. All cuts of fresh Atlantic salmon are included in the scope of the investigation. Examples of cuts include, but are not limited to: crosswise cuts (steaks), lengthwise cuts (fillets), lengthwise cuts attached by skin (butterfly cuts), combinations of crosswise and lengthwise cuts (combination packages), and Atlantic salmon that is minced, shredded, or ground. Cuts may be subjected to various degrees of trimming, and imported with the skin on or off and with the ''pin bones'' in or out.

Excluded from the scope of this petition are (1) fresh Atlantic salmon that is ''not farmed'' (*i.e.*, wild Atlantic salmon); (2) live Atlantic salmon and Atlantic salmon that has been subjected to further processing, such as frozen, canned, dried, and smoked Atlantic salmon; and (3) Atlantic salmon that has been further processed into forms such as sausages, hot dogs, and burgers.

The merchandise subject to this investigation is classifiable as statistical reporting numbers 0302.12.0003 and 0304.10.4091 of the Harmonized Tariff Schedule (HTS) of the United States. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.