Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Destruction of Proprietary Information

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

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

Dated: January 18, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1849 Filed 2–3–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–830]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil

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

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: February 4, 2000.

FOR FURTHER INFORMATION CONTACT: Phyllis Hall (Companhia Siderurgica Nacional or CSN), Martin Odenyo (Usinas Siderurgicas de Minas Gerais and Companhia Siderπrgica Paulista or USIMINAS/COSIPA), Nancy Decker, or Robert M. James, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, DC 20230; telephone: (202) 482–1398, (202) 482–5254, (202) 482–0196 and (202) 482–5222, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (April 1999).

Final Determination

We determine that certain cold-rolled flat-rolled carbon-quality steel products (cold-rolled steel) from Brazil are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the Suspension of Liquidation section of this notice.

Case History

We published in the **Federal Register** the Preliminary Determination in this investigation on November 10, 1999. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, 64 FR 61249 (November 10, 1999) (Preliminary Determination). Since the publication of the PreliminaryDetermination the following events have occurred.

One of the respondents in this investigation, Companhia Siderurgica Nacional (CSN) refused verification. The Department verified sections A–C of Usinas Siderugicas de Minas Gerais (USIMINAS') responses from November 15 through November 19, 1999, at USIMINAS' administrative headquarters in Belo Horizonte, Brazil. The Department verified section D of USIMINAS' response from November 8 through November 12, 1999, at USIMINAS' production facility in Ipatinga, Brazil. See Memorandum For the File; ''Sales Verification of Sections A–C Questionnaire Responses Submitted by Usinas Siderurgicas de Minas Gerais, S.A., December 23, 1999 (USIMINAS' Sales Verification Report) and Memorandum to Neal Halper, Acting Director, Office of Accounting; ''Verification of the Cost of Production and Constructed Value Data—USIMINAS,'' December 20, 1999 (USIMINAS' Cost Verification Report).

The Department verified sections A–C of Companhia Siderurgica Paulista (COSIPA's) responses from November 8 through November 12, 1999, at COSIPA's production facility in Cubatao, Brazil. The Department verified section D of COSIPA's response from November 15 through November 20, 1999, at COSIPA's production facility in Cubatao, Brazil. See Memorandum For the File; ''Sales Verification of Sections A–C Questionnaire Responses Submitted by Companhia Siderurgica Paulista (COSIPA),'' December 17, 1999 (COSIPA's Sales Verification Report) and Memorandum to Neal Halper, Acting Director, Office of Accounting; ''Verification of the Cost of Production and Constructed Value Submissions of Companhia Siderurgica Paulista,'' December 23, 1999 (COSIPA's Cost Verification Report).

The Department verified sections A (General Information) and B (Home Market Sales) responses of Rio Negro Industria e Comercio de Aco S.A. (Rio Negro) (an affiliated distributor of USIMINAS) on November 4 and November 5, 1999. The verification was performed at Rio Negro's sales branch and administrative headquarters in Guarulhos, Brazil. See Memorandum to the File; ''Sales Verification Report of Rio Negro Industria e Comercio de Aco S.A.,'' December 27, 1999, (Rio Negro's Sales Verification Report). Public versions of these, and all other Departmental memoranda referred to herein, are on file in room B–099 of the main Commerce building.

On November 29, 1999, Bethlehem Steel Corporation, Gulf States Steel, Inc., Ispat Inland Steel, LTV Steel Company, Inc., National Steel Corporation, Steel Dynamics, Inc.,U.S. Steel Group, a unit of USX Corporation, Weirton Steel Corporation, Independent Steelworkers Union, and United Steelworkers of America (petitioners) requested a public hearing. On January 6, 1999, the petitioners withdrew requests for a hearing, and therefore, there was no hearing for this investigation. On December 30, 1999, petitioners and USIMINAS/COSIPA filed case briefs. We received rebuttal briefs from petitioners, USIMINAS/COSIPA and CSN on January 5, 2000. On December 23, 1999, the Department sent a request to USIMINAS to submit a new home market sales listing as a result of minor corrections identified at verification. The Department received this information on December 30, 1999.

Scope of the Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum.

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

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium (also called columbium), or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- SAE grades (formerly also called AISI grades) above 2300;
- Ball bearing steels, as defined in the HTSUS;
- Tool steels, as defined in the HTSUS;
- Silico-manganese steel, as defined in the HTSUS;
- Silicon-electrical steels, as defined in the HTSUS, that are grain-oriented;
- Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level exceeding 2.25 percent;
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507);
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.
- Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level less than 2.25 percent, and

(a) fully-processed, with a core loss of less than 0.14 watts/pound per mil (.001 inch), or

(b) semi-processed, with core loss of less than 0.085 watts/pound per mil (.001 inch);

- Certain shadow mask steel, which is aluminum killed cold-rolled steel coil that is open coil annealed, has an ultra-flat, isotropic surface, and which meets the following characteristics:

Thickness: 0.001 to 0.010 inch
Width: 15 to 32 inches

CHEMICAL COMPOSITION

Element	C
Weight %	<0.002%

- Certain flapper valve steel, which is hardened and tempered, surface polished, and which meets the following characteristics:

Thickness: ≤1.0 mm
Width: ≤ 152.4 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S
Weight %	0.90–1.05	0.15–0.35	0.30–0.50	≤0.03	≤0.006

MECHANICAL PROPERTIES

Tensile Strength	≥162 Kgf/mm ^{2}
Hardness	≥475 Vickers hardness number

PHYSICAL PROPERTIES

Flatness	<0.2% of nominal strip width

Microstructure: Completely free from decarburization. Carbides are spheroidal and fine within 1% to 4% (area percentage) and are undissolved in the uniform tempered martensite.

NON-METALLIC INCLUSION

	Area Percentage
Sulfide Inclusion %	≤0.04
Oxide Inclusion %	≤0.05

Compressive Stress: 10 to 40 Kgf/mm ^{2}

SURFACE ROUGHNESS

Thickness (mm)	Roughness (μ)
t ≤0.209	Rz ≤0.5
0.209 <t ≤0.310	Rz ≤0.6
0.310 <t ≤0.440	Rz ≤0.7
0.440 <t ≤0.560	Rz ≤0.8
0.560 <t	Rz ≤1.0

• Certain ultra thin gauge steel strip, which meets the following characteristics:

Thickness: ≤0.100 mm ±7%

Width: 100 to 600 mm

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Al	Fe
Weight %	≤0.07	0.2–0.5	≤0.05	≤0.05	≤0.07	Balance

MECHANICAL PROPERTIES

Hardness	Full Hard (Hv 180 minimum)
Total Elongation	<3%
Tensile Strength	600 to 850 N/mm ^{2}

PHYSICAL PROPERTIES

Surface Finish	≤0.3 micron.
Camber (in 2.0 m)	<3.0 mm.
Flatness (in 2.0 m)	≤0.5 mm.
Edge Burr	<0.01 mm greater than thickness.
Coil Set (in 1.0 m)	<75.0 mm.

• Certain silicon steel, which meets the following characteristics:

Thickness: 0.024 inch +/−.0015 inch

Width: 33 to 45.5 inches

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al
Min. Weight %					0.65	
Max. Weight %	0.004	0.4	0.09	0.009		0.4

MECHANICAL PROPERTIES

Hardness	B 60–75 (AIM 65)

PHYSICAL PROPERTIES

Finish	Smooth (30–60 microinches)
Gamma Crown (in 5 inches)	0.0005 inch, start measuring 1/4 inch from slit edge
Flatness	20 I–UNIT max.
Coating	C3A–.08A max. (A2 coating acceptable)
Camber (in any 10 feet)	1/16 inch
Coil Size I.D.	20 inches

MAGNETIC PROPERTIES

Core Loss (1.5T/60 Hz)	3.8 Watts/Pound max.
NAAS	
Permeability (1.5T/60 Hz)	1700 gauss/oersted typical
NAAS	1500 minimum

• Certain aperture mask steel, which has an ultra-flat surface flatness and which meets the following characteristics:
Thickness: 0.025 to 0.245 mm
Width: 381–1000 mm

CHEMICAL COMPOSITION

Element	C	N	Al
Weight %	<0.01	0.004 to 0.007	<0.007

• Certain annealed and temper-rolled cold-rolled continuously cast steel, which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight %	0.02	0.20				0.03			—	0.003
Max. Weight %	0.06	0.40	0.02	0.023 (Aiming 0.018 Max.)	0.03	0.08 (Aiming 0.05)	0.02	0.08	—	0.008 (Aiming 0.005)

Non-metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides >1 micron (0.000039 inch) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inch) in length.
Surface Treatment as follows:
The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating.

SURFACE FINISH

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Extra Bright	5 (0.1)	0 (0)	7 (0.2)

• Certain annealed and temper-rolled cold-rolled continuously cast steel, which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Al	N
Weight %	<0.08	<0.04	<0.40	<0.03	<0.03	0.010–0.025	<0.0025

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Tolerance: Guaranteed inside of 15 mm from mill edges	±5 percent (aim ±4 percent)
Width Tolerance	−0/+7 mm
Hardness (Hv)	Hv 85–110
Annealing	Annealed
Surface	Matte
Tensile Strength	>275N/mm^2
Elongation	>36%

• Certain annealed and temper-rolled cold-rolled continuously cast steel, in coils, with a certificate of analysis per Cable System International (''CSI'') Specification 96012, with the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S
Max. Weight %	0.13	0.60	0.02	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Base Weight	55 pounds
Theoretical Thickness	0.0061 inch (+/−10 percent of theoretical thickness)
Width	31 inches
Tensile Strength	45,000–55,000 psi

PHYSICAL AND MECHANICAL PROPERTIES—Continued

Elongation	minimum of 15 percent in 2 inches

• Certain full hard tin mill black plate, continuously cast, which meets the following characteristics:

CHEMICAL COMPOSITION:

Element	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight %	0.02	0.20				0.03				0.003
Max. Weight %	0.06	0.40	0.02	0.023 (Aiming 0.018 Max.)	0.03	0.08 (Aiming 0.05)	0.02	0.08		0.008 (Aiming 0.005)

Non-metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides 1 micron (0.000039 inch) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inch) in length.

Surface Treatment as follows:

The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating.

SURFACE FINISH

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Stone Finish	16(0.4)	8(0.2)	24(0.6)

• Certain ultra-bright tin mill black plate meeting ASTM 7A specifications for surface finish and RA of seven micro-inches or lower.

• Concast cold-rolled drawing quality sheet steel, ASTM A–620–97, Type B, or single reduced black plate, ASTM A–625–92, Type D, T–1, ASTM A–625–76 and ASTM A–366–96, T1–T2–T3 Commercial bright/luster 7a both sides, RMS 12 maximum. Thickness range of 0.0088 to 0.038 inches, width of 23.0 inches to 36.875 inches.

• Certain single reduced black plate, meeting ASTM A–625–98 specifications, 53 pound base weight (0.0058 inch thick) with a Temper classification of T–2 (49–57 hardness using the Rockwell 30 T scale).

• Certain single reduced black plate, meeting ASTM A–625–76 specifications, 55 pound base weight, MR type matte finish, TH basic tolerance as per A263 trimmed.

• Certain single reduced black plate, meeting ASTM A–625–98 specifications, 65 pound base weight (0.0072 inch thick) with a Temper classification of T–3 (53–61 hardness using the Rockwell 30 T scale).

• Certain cold-rolled black plate bare steel strip, meeting ASTM A–625 specifications, which meet the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S
Max. Weight %	0.13	0.60	0.02	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Thickness	0.0058 inch ±0.0003 inch
Hardness	T2/HR 30T 50–60 aiming
Elongation	≥ 15%
Tensile Strength	51,000 psi ±4.0 aiming

• Certain cold-rolled black plate bare steel strip, in coils, meeting ASTM A–623, Table II, Type MR specifications, which meet the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S
Max. Weight %	0.13	0.60	0.04	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Thickness	0.0060 inch (±0.0005 inch)
Width	≤10 inches (+1/4 to 3/8 inch/–0)
Tensile strength	55,000 psi max.
Elongation:	minimum of 15 percent in 2 inches

• Certain ''blued steel'' coil (also know as ''steamed blue steel'' or ''blue oxide'') with a thickness of 0.30 mm to 0.42 mm and width of 609 mm to 1219 mm, in coil form;

• Certain cold-rolled steel sheet, whether coated or not coated with porcelain enameling prior to importation, which meets the following characteristics:

• Thickness (nominal): ≤ 0.019 inch

• Width: 35 to 60 inches

CHEMICAL COMPOSITION

Element	C	O	B
Max. Weight %	0.004		
Min. Weight %		0.010	0.012

• Certain cold-rolled steel, which meets the following characteristics:
• Width: > 66 inches

CHEMICAL COMPOSITION

Element	C	Mn	P	Si
Max. Weight %	0.07	0.67	0.14	0.03

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	0.800–2.000
Min. Yield Point (MPa)	265
Max Yield Point (MPa)	365
Min. Tensile Strength (MPa)	440
Min. Elongation %	26

• Certain band saw steel, which meets the following characteristics:
Thickness: ≤ 1.31 mm
Width: ≤ 80 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Cr	Ni
Weight %	1.2 to 1.3	0.15 to 0.35	0.20 to 0.35	≤ 0.03	≤ 0.007	0.3 to 0.5	≤ 0.25

Other properties:
Carbide: fully spheroidized having > 80% of carbides, which are ≤ 0.003 mm and uniformly dispersed
Surface finish: bright finish free from pits, scratches, rust, cracks, or seams, smooth edges
Edge camber (in each 300 mm of length): ≤ 7 mm arc height
Cross bow (per inch of width): 0.015 mm max.
• Certain transformation-induced plasticity (TRIP) steel, which meets the following characteristics:

Variety 1

CHEMICAL COMPOSITION

Element	C	Si	Mn
Min. Weight %	0.09	1.0	0.90
Max. Weight %	0.13	2.1	1.7

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	1.000–2.300 (inclusive)
Min. Yield Point (MPa)	320
Max Yield Point (MPa)	480
Min. Tensile Strength (MPa)	590
Min. Elongation %	24 (if 1.000–1.199 thickness range) 25 (if 1.200–1.599 thickness range) 26 (if 1.600–1.999 thickness range) 27 (if 2.000–2.300 thickness range)

Variety 2

CHEMICAL COMPOSITION

Element	C	Si	Mn
Min. Weight %	0.12	1.5	1.1
Max. Weight %	0.16	2.1	1.9

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	1.000–2.300 (inclusive)

PHYSICAL AND MECHANICAL PROPERTIES—Continued

Min. Yield Point (MPa)	340
Max Yield Point (MPa)	520
Min. Tensile Strength (MPa)	690
Min. Elongation %	21 (if 1.000–1.199 thickness range) 22 (if 1.200–1.599 thickness range) 23 (if 1.600–1.999 thickness range) 24 (if 2.000–2.300 thickness range)

Variety 3:

CHEMICAL COMPOSITION

Element	C	Si	Mn
Min. Weight %	0.13	1.3	1.5
Max. Weight %	0.21	2.0	2.0

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	1.200–2.300 (inclusive)
Min. Yield Point (MPa)	370
Max Yield Point (MPa)	570
Min. Tensile Strength (MPa)	780
Min. Elongation %	18 (if 1.200–1.599 thickness range) 19 (if 1.600–1.999 thickness range) 20 (if 2.000–2.300 thickness range)

• Certain corrosion-resistant cold-rolled steel, which meets the following characteristics:

Variety 1:

CHEMICAL COMPOSITION

Element	C	Mn	P	Cu
Min. Weight %				0.15
Max. Weight %	0.15	0.40	0.08	0.35

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	0.600–0.800
Min. Yield Point (MPa)	185
Max Yield Point (MPa)	285
Min. Tensile Strength (MPa)	340
Min. Elongation %	31 (ASTM standard 31% = JIS standard 35%)

Variety 2:

CHEMICAL COMPOSITION

Element	C	Mn	P	Cu
Min. Weight %				0.15
Max. Weight %	0.10	0.40	0.10	0.35

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	0.800–1.000
Min. Yield Point (MPa)	145
Max Yield Point (MPa)	245
Min. Tensile Strength (MPa)	295
Min. Elongation %	31 (ASTM standard 31% = JIS standard 35%)

Variety 3:

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Cu	Ni	Al	Nb, Ti, V, B	Mo
Max. Weight %	0.01	0.05	0.40	0.10	0.023	0.15–.35	0.35	0.10	0.10	0.30

PHYSICAL AND MECHANICAL PROPERTIES

Thickness (mm):	0.7
Elongation %:	≥35

- Porcelain enameling sheet, drawing quality, in coils, 0.014 inch in thickness, +0.002, −0.000, meeting ASTM A–424–96 Type 1 specifications, and suitable for two coats.

The merchandise subject to this investigation is typically classified in the HTSUS at subheadings: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000. 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.19.0000, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8085, 7225.99.0090, 7226.19.1000, 7226.19.9000, 7226.92.5000, 7226.92.7050, 7226.92.8050, and 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (''U.S. Customs'') purposes, the written description of the merchandise under investigation is dispositive.

The Department received comments from a number of parties including importers, respondents, consumers, and the petitioners, aimed at clarifying the scope of these investigations. See Memorandum to Joseph A. Spetrini (Scope Memorandum), January 18, 2000, for a list of all persons submitting comments and a discussion of all scope comments including those exclusion requests under consideration at the time of the preliminary determination in these investigations.

Period of Investigation

The period of the investigation (POI) is April 1, 1998, through March 31, 1999.

Facts Available

Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority * * *; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.'' The statute requires that certain conditions be met before the Department may resort to the facts available. Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate. Briefly, section 782(e) 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 the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, and the Department can use the information without undue difficulties, the statute requires it to do so. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as the facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong. 2nd Sess. (1994), at 870. Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' Final Rule: Antidumping Duties; Countervailing Duties:, 62 FR 27296, 27340 (May 19, 1997). The statute notes, in addition, that in selecting from among the facts available the Department may, subject to the corroboration requirements of section 776(c), rely upon information drawn from the petition, a final determination in the investigation, any previous administrative review conducted under section 751 (or section 753 for countervailing duty cases), or any other information on the record.

CSN

We have determined that, in light of CSN's refusal to continue it's participation in this investigation, facts available are warranted with respect to CSN for the final determination. Further, as a result of CSN's refusal to permit verification, adverse inferences are appropriate, pursuant to section 776(b). The Department, for this final determination, has selected as the facts otherwise available with respect to CSN, the highest margin in the petition of 63.32 percent. Please see Comment 3 below for a more detailed explanation of this issue.

USIMINAS/COSIPA

Please see comment section below.

Critical Circumstances

As in the Preliminary Determination, 64 FR 61249, 61261 (November 10, 1999), we continue to find critical circumstances for respondents USIMINAS/COSIPA as well as for ''all others.'' As for CSN, due to its refusal to permit verification of its company-specific shipment data for the base and comparison periods, we no longer have reliable data upon which to base a critical circumstances determination for this respondent. Therefore, we must use facts available in accordance with section 776(a) of the Act. Accordingly, we examined whether U.S. Customs data reasonably preclude an increase in shipments of fifteen percent or more within a relatively short period for CSN. However, these data include products not subject to this investigation and, therefore, we cannot rely on these data in determining whether there were massive shipments of subject merchandise over a relatively short period. Moreover, these data do not permit the Department to ascertain the import volumes for any individual company, including CSN. As a result, in accordance with section 776(b) of the Act, we have used an adverse inference in applying facts available and determine that there were massive imports from CSN over a relatively short period.

With respect to companies in the ''all others'' category, it is the Department's normal practice to base its determination on the experience of investigated companies. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate From Japan, 64 FR 73215, 73218 (December 29, 1999), and Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey , 62 FR 9737, 9741 (March 4, 1997). However, for companies in the ''all others'' category we do not use adverse facts available. Accordingly, we considered the verified shipping data of the other mandatory respondents (USIMINAS/COSIPA). In this case, we found massive imports for USIMINAS/COSIPA, based on an increase in imports of more than 100 percent. We also considered whether U.S. customs data would permit the Department to analyze imports of subject merchandise by other producers (by, for example, backing out shipments by USIMINAS/COSIPA). However, these data include products not subject to this investigation. Therefore, it is not appropriate to base our critical circumstances determination on these data. (See Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Germany, 64 FR 30710, 30728 (June 8, 1999)). We considered that the sole respondent with verified scope-specific shipment data for the base and comparison periods demonstrated massive imports. See Preliminary Determination, 64 FR 61249,61261 (November 10, 1999) Based on these facts, we find that there were massive imports from the uninvestigated companies.

Accordingly, for this final determination we find that critical circumstances exist for USIMINAS/COSIPA, CSN and for the ''all others'' category.

Fair Value Comparisons

To determine whether sales of cold-rolled steel products from Brazil were made at less than fair value, we compared the export price (EP) to the normal value (NV), as described in the Export Price and Normal Value sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by respondents covered by the description in the Scope of Investigation section above and sold in Brazil during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, the Department compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the antidumping questionnaire and reporting instructions.

Affiliated Respondents

In our preliminary determination, we determined that USIMINAS and COSIPA were affiliated parties, and we collapsed these entities. See Collapsing Memorandum to Joseph A. Spetrini from Richard Weible, October 12, 1999 (Collapsing Memo). For the purpose of this investigation, we continue to consider these two respondents as a single entity. Petitioners also argue that all three respondents are affiliated and should be collapsed. For this final determination, the Department determined that there is insufficient evidence on the record to warrant a collapsing of all three respondents. See Comment 1 below for a further discussion of this issue.

Level of Trade

USIMINAS/COSIPA

In our preliminary determination, the Department found that in the home market USIMINAS/COSIPA made sales to end-users, affiliated distributors, and unaffiliated distributors. USIMINAS/COSIPA claims seven ''channels of distribution'' with respect to home market sales: (1) Mill to original equipment manufacturer (OEMs); (2) mill to affiliated distributor; (3) mill to unaffiliated distributor; (4) affiliated distributor to affiliated distributor; (5) affiliated distributor to OEM; (6) affiliated distributor to non-affiliated distributor; and (7) affiliated distributor to retailer. As in the Preliminary Determination, we determine that the selling functions of the affiliates for downstream sales were significantly different than those for mill direct sales, and therefore, we determine that downstream sales by affiliates were made at a different level of trade (LOT) than other HM sales.

In addition, while USIMINAS/COSIPA mill direct sales to end-users (whether or not further processed) and mill direct sales to unaffiliated distributors involve different channels of distribution, these sales do not involve significant differences in selling functions. Therefore, we do not consider these channels to represent different levels of trade. Thus, we determine that downstream sales and mill direct sales represent two different home market LOTs.

In the U.S. market USIMINAS/COSIPA claim that all sales were made at one level of trade, through one channel of distribution. USIMINAS/COSIPA state that all U.S. sales were made to unaffiliated trading companies. As in the Preliminary Determination, the Department finds U.S. sales to be at the same LOT as home market mill direct sales. Therefore, U.S. sales were only compared to home market mill direct sales, and no LOT adjustment was necessary.

Export Price

The Department based its calculations on EP in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer or exporter directly to the first unaffiliated purchaser in the United States prior to importation. The Department calculated EP based on packed prices charged to the first unaffiliated customer in the United States.

We calculated EP for USIMINAS/COSIPA based on the same methodology employed in the Preliminary Determination, except as noted in the comment section below, and in addition, amounts reported as warranty for U.S. sales are treated as movement expenses in the final determination (see Final Analysis Memorandum dated January 18, 2000).

Normal Value

Home Market Viability

As discussed in the Preliminary Determination, we determined that the home market was viable for USIMINAS/COSIPA. Therefore, we based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

Affiliated-Party Transactions and Arm's Length Test

Sales to affiliated customers in the home market not made at arm's length prices (if any) were excluded from our analysis because we consider them to be outside the ordinary course of trade. See 19 CFR 351.102. To test whether these sales were made at arm's length prices, we compared, on a model-specific basis, the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5% or more of the price to unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c) and Preamble to 19 CFR 351.403(c). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that sales to that affiliated customer were made at arm's length prices and, therefore, we excluded them from our LTFV analysis. See, *e.g.,* Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 58 FR 37062, 37077 (July 9, 1993).

Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

Cost of Production Analysis

Petitioners provided reasonable grounds to believe or suspect that USIMINAS/COSIPA's sales of the foreign like product under consideration for determining NV may have been at prices below the cost of production (COP), as provided in section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by the respondents in this investigation.

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP based on the sum of respondents' cost of materials, fabrication, general expenses, and packing costs. We relied on USIMINAS/COSIPA's submitted COP, except in the following specific instances:

1. For USIMINAS we adjusted the transfer price for iron ore obtained from an affiliated supplier in accordance with the major input rule. See Comment 20.

2. Consistent with the preliminary determination we revised its submitted G&A expense ratio to exclude packing expenses from the cost of goods sold used as the denominator in the calculation of the ratio. In addition, for the final determination we revised the G&A expense ratio to include employee profit sharing expenses and write-offs of idled-assets. See Comments 22 and 24.

3. We revised the reported cost of manufacturing (COM) to include idled-asset depreciation expense in COSIPA's costs. See Comment 23.

4. Consistent with the preliminary determination we revised respondents submitted financial expense ratio to include expenses for export financing and exclude foreign exchange losses related to accounts receivable. See Comment 21.

Test of Home Market Prices

We compared the weighted-average COP for each respondent, adjusted where appropriate (see above), to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with sections 773(b)(1)(A) and (B) of the Act. On a product-specific basis, we compared the COP to home market prices (including billing adjustments), less any applicable movement charges, discounts and rebates, and vat taxes (ICMS and IPI).

Results of the COP Test

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

Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, general expenses, U.S. packing costs, and profit. We made adjustments to each respondent's reported cost as indicated above in the COP section. In accordance with section 773(e)(2)(A) of the Act, we based selling, general and administrative expenses and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in Brazil. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

Price-to-Price Comparisons

We performed price-to-price comparisons where there were sales of comparable merchandise in the home market that did not fail the cost test. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 of the Department's regulations. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs (see Comment 8).

As in the Preliminary Determination, we find it is appropriate to use two averaging periods to avoid the possibility of a distortion in the dumping calculation. This methodology is consistent with our policy adopted in Stainless Steel Plate in Coils from Korea, 64 FR 15444, 15452 (March 31, 1999) (SSPC from Korea) and Stainless Steel Sheet and Strip from Korea, 64 FR 30664, 30676 (June 8, 1999) (Stainless Sheet from Korea). Therefore, for all respondents, we have used two averaging periods for this final determination, the beginning of the POI through January 12, 1999, and January 13, 1999, through the end of the POI.

We calculated NV for USIMINAS/COSIPA based on the same methodology employed in the Preliminary Determination except as noted in the comment section below, in addition to minor changes noted in the Final Analysis Memorandum as a result of verification.

Currency Conversion

As in the Preliminary Determination, our analysis of dollar-real exchange rates show that the real declined rapidly in early 1999, losing over 40 percent of its value in January 1999, when the Brazilian government ended its exchange rate restrictions. The decline was, in both speed and magnitude, many times more severe than any change in the dollar-real exchange rate during recent years, and it did not rebound significantly in a short time. As such, we determine that the decline in the real during January 1999 was of such magnitude that the dollar-real exchange rate cannot reasonably be viewed as having simply fluctuated at that time, *i.e.,* as having experienced only a momentary drop in value relative to the normal benchmark. We find that there was a large, precipitous drop in the value of the real in relation to the U.S. dollar in January 1999.

We used daily rates from January 13, 1999 through March 4, 1999 based on the analysis discussed in the preliminary determination. We then resumed the use of our normal methodology through the end of the period of investigation (March 31, 1999), starting with a benchmark based on the average of the 20 reported daily rates on March 5, 1999. See Comment 3 below for further discussion of our methodology.

Analysis of Interested Party Comments

I. Issues Pertaining to All Three Respondents

Comment 1: Whether To Collapse USIMINAS/COSIPA With CSN

Petitioners assert that in addition to collapsing USIMINAS/COSIPA, all of the respondents should be collapsed into a single entity for purposes of this investigation. They argue that CSN and USIMINAS/COSIPA produce the same products, share common directors, and have intertwined operations, all of which create the potential for the manipulation of price or production. Referring to the Letter from Dewey Ballantine LLP to the U.S. Department of Commerce, Case No. A–351–828 (March 11, 1999) (Collapsing Comments) and the November 8, 1999, submission by petitioners in the instant case, petitioners argue that the linkages between all three respondents clearly satisfy the affiliation and collapsing criteria set out in the Department's regulations.

Petitioners cite to the definition of affiliated parties and what constitutes ''control'' of one entity over another in section 771(33)(E) and (G) of the Act and in the Statement of Administrative Action, H.R. Doc. No. 103–316, at 838–30 (1994) (SAA). Petitioners maintain that CSN, in conjunction with Companhia Vale do Rio Doce (CVRD) and other affiliated companies, or the ''CSN/CVRD group,'' is affiliated with USIMINAS/COSIPA as evidenced by (1) the CSN/CVRD group sharing equity and managerial relationships, thereby establishing a single business unity under the control of Benjamin Steinbruch, the chairman of the board of CSN and CVRD; (2) the CSN/CVRD group being the largest single shareholder in USIMINAS. See Memorandum from Case Analysts to the File, Case No. A–351–830 at Exhibit 2, page 1 (December 23, 1999) (USIMINAS Sales Verification Report); and (3) the ''CSN/CVRD group'' sharing board members with USIMINAS.

Petitioners note that the Department's regulations at section 351.401(f)(2) provide that two or more affiliated producers will be collapsed where producers have production facilities for similar and identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and the Secretary concludes there is significant potential for manipulation of price or production. Referring to this same section, which explains that the Department examines the following factors, among others: (i) The level of common ownership; (ii) overlapping board of directors; and (iii) whether operations are intertwined, such as through involvement in production and pricing decisions, petitioners claim that there is a potential for CSN and USIMINAS/COSIPA to manipulate price and production. According to petitioners, CSN and USIMINAS/COSIPA are capable of easily shifting production among themselves, as evidenced by similar production facilities and similar products. Additionally, petitioners point out that the Brazilian government determined that CVRD, the biggest shareholder in USIMINAS and a major shareholder in CSN, should sell off some or all of its steel assets on the basis of ''unacceptable concentration of interests and abuse of economic power.'' See Petitioners' November 8, 1999 submission at 2–3 and Attachment 1 (''CVRD Told to Sell Steel Interests,'' Metal Bulletin, August 19, 1999, at 19). Petitioners also point out that the Brazilian government has been investigating, and recently fined, CSN, USIMINAS, and COSIPA for price-fixing and allegedly operating a cartel. See Petitioners' November 8, 1999 submission at 2–3 and Attachment 2 (''Brazilian Mills Deny Price-Fixing, Face Large Fines,'' Metal Bulletin, November 1, 1999, at 3).

Petitioners cite cases (*see FAG Kugelfischer* v. *United States,* 932 F. Supp. 315 (CIT 1996); *Nihon Cement Co., Ltd.* v. *United States,* 17 CIT 400 (1993); *Queen's Flowers de Colombia, et al.,* v. *United States,* 981 F. Supp. 617 (CIT 1997)) in which the U.S. Court of International Trade (the Court) upheld the Department's articulation of these collapsing criteria. Petitioners state that the central issue according to the Court is ''whether parties are sufficiently related to present the possibility of price manipulation.'' Petitioners stress that there is more than a ''possibility'' of price manipulation in the instant investigation, and that evidence confirms that the three companies are extensively intertwined and act collectively to manipulate prices and production.

According to petitioners, CSN's refusal to cooperate in this investigation or to permit verification at its facilities casts doubts on CSN's assertion that it operates independently. Furthermore, petitioners claim that the factors in this investigation are similar to those relied upon in prior determinations such as Final Results of Antidumping Duty Administrative Review: Certain Fresh Cut Flowers from Columbia, 61 FR 42833, 42853 (August 19, 1996) (Fresh Cut Flowers); Final Results of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker from Mexico, 64 FR 13148, 13151 (March 17, 1999); Final Determination of Sales at Less than Fair Value: Stainless Steel Wire Rod from Sweden, 63 FR 40449, 40453–54 (July 29, 1998); and Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, 62 FR 55574, 55587–88 (October 27, 1997), in which the Department collapsed respondents. Petitioners argue that the record in the instant case is even more compelling because of the findings of the Brazilian government. Petitioners concluded that the three companies should be assigned a single rate in this investigation based on the companies meeting the statutory standard for affiliation and collapsing, the documentation of collusive practices by the Brazilian government, CSN's refusal to cooperate, and the Department's previous decisions.

CSN counters that petitioners have not provided any new or convincing arguments or information to support collapsing. CSN stresses that two criteria in section 351.401(f)(1) of the Department's regulations must be met with respect to collapsing: (1) The companies are affiliated, and (2) the companies have similar production facilities that could be used to restructure manufacturing priorities and there is a significant potential for manipulation of price or production. Regarding criterion one, CSN argues that shareholdings and board memberships have not changed since the Hot-Rolled Steel from Brazil investigation, where the Department found an absence of affiliation (see Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil, 64 FR 38756, 38762–63 (July 19, 1999) (Hot-Rolled Steel from Brazil)) nor have they changed since the cold-rolled countervailing verification of CSN and CVRD (CVD Verification Report of CVRD at 1–2 (December 1, 1999); and

CVD Verification Report of CSN at 2 (December 1, 1999).

CSN points out that the Brazilian government findings, which it claims is the only new information proffered by petitioners, does not meet criterion two: the potential for the manipulation of price or production. CSN states that the Brazilian government was merely recommending CVRD sell some or all of its steel assets, and that the government observed the ''possibility'' of limited competition. CSN claims that this does not mean that CVRD controls either CSN or USIMINAS/COSIPA, or that petitioners have produced any new facts. Regarding the charges of price-fixing between CSN and USIMINAS/COSIPA, CSN maintains that these charges are not true. Nonetheless, CSN claims that the Brazilian government's investigation proves that CSN and USIMINAS/COSIPA are not affiliated, since affiliated companies are permitted to discuss and set prices. Furthermore, CSN emphasizes that the Brazilian government claimed that the companies were resembling a cartel not a monopoly; but, in any case, the government has not brought up charges.

CSN concludes that the second criterion of the law cannot be used to prove the first criterion, and that petitioners have failed to present anything new on the issue of affiliation. Although petitioners presented new information on the issue of price manipulation, CSN states that this information, which is being appealed, does not prove that the companies are affiliated.

USIMINAS/COSIPA (hereinafter, referred to as respondents) agree with CSN that the collapsing argument is moot because the Department has already rejected it six times in four consecutive investigations. Respondents assert that, in the Hot-Rolled Steel from Brazil investigation, the Department had rejected the significance of USIMINAS and CSN sharing a board member and the allegations of price fixing. See Hot-Rolled Steel From Brazil, 64 FR 38756, 38762–38763. Additionally, respondents point out that Mr. Gabriel Stoliar, who petitioners claim was a member of the board for both USIMINAS and CSN during the POI, has not served on the USIMINAS board since June 1999. See USIMINAS Sales Verification Report at 9–10.

On the subject of price-fixing, respondents state that USIMINAS/COSIPA and CSN are fierce competitors. See CVD Verification Report of CSN at 3 (December 1, 1999). Respondents argue that the Brazilian authorities' price-fixing allegations, which USIMINAS/COSIPA have denied, support their claim that they have a competitive relationship with CSN and that the companies are not affiliated. Referring to Milton Handler et Al., Trade Regulation ch. 4 (3d ed. 1990) (discussing ''Competitor Collaboration on Price Fixing and Division of Markets,'') respondents argue that price-fixing arises when competitors share price information, not when different arms of the same company share it.

Respondents also agree with CSN that the Brazilian government's recommendation that CVRD divest itself of certain investments was merely an unenforceable policy recommendation. Respondents follow up by stressing that CVRD does not face any sanctions or penalties if it does not act on the Brazilian government's recommendation. See CVD Verification Report of CVRD at 2. Additionally, respondents agree with CSN that this information does not prove that CVRD actually controls both CSN and USIMINAS.

Respondents argue that petitioners documented links between CVRD and CSN, not between CSN and USIMINAS or even CVRD and USIMINAS. In any case, respondents emphasize that neither CSN nor CVRD controls USIMINAS, as noted in the Hot-Rolled Steel From Brazil, 64 FR 38756, 38763 and the CVD Verification Report of CVRD at 2, or COSIPA. Furthermore, respondents claim that CVRD almost sued USIMINAS to withdraw its investment, the two companies are moving toward a more distant relationship, and CVRD refused to assist USIMINAS in responding to the Department's requests for information. See USIMINAS and COSIPA's Section A Response, July 20, 1999, at Exhibit. 9; USIMINAS Verification Report at 7 and 8; CVD Verification Report of CVRD at 2, and Respondents Rebuttal Brief, January 5, 2000 at Exhibit 3.

As to petitioners comments regarding CSN's refusal to cooperate in verification, respondents counter that the Department did verify CSN extensively in the CVD proceeding, but have no opinion as to whether the Department should apply adverse facts available against CSN for not participating further in the instant investigation (see Comment 2). However, respondents strongly disagree with petitioners' argument that the Department apply adverse facts available against USIMINAS/COSIPA because of CSN's withdrawal from the case. Respondents state that applying adverse facts available on one company based on the actions of another unaffiliated company is against WTO agreements, the U.S. ''facts available'' statute, the Department's regulations, and the Department's practice (see Section 773e(b) of the Act). Respondents emphasize that they fully cooperated with the Department on the collapsing issue; therefore the Department cannot render its collapsing decision on the basis of facts available (see 19 U.S.C. section 1677e). Furthermore, respondents contend that applying adverse facts available in the collapsing issue would reward CSN for its non-participation, while penalizing USIMINAS/COSIPA for their full cooperation, because this would result in lower weighted-average rate for CSN and a higher rate for USIMINAS/COSIPA than the rates calculated in the Preliminary Determination.

Respondents conclude that the cases petitioners discussed with respect to the collapsing issue are based on factors that are completely absent from the instant investigation. USIMINAS/COSIPA and CSN should not be collapsed because they are not mutually controlled by a third party, and do not control each other. In addition, respondents note that petitioners have abandoned their argument in the parallel countervailing duty investigation.

Department's Position

We disagree with petitioners. The Department has determined that USIMINAS and COSIPA should be collapsed for margin calculation purposes. To collapse CSN with USIMINAS/COSIPA, as petitioners suggest, requires that we first find that CSN and USIMINAS/COSIPA are affiliated parties within the meaning of section 771(33) of the Act. Because we find that USIMINAS/COSIPA is not affiliated with CSN, we have not collapsed these entities for purposes of this investigation.

The issue of whether CSN is affiliated with USIMINAS/COSIPA is governed by section 771(33) of the Act, which deems the following persons to be affiliated: (A) Members of a family; (B) any officer or director of an organization and such organization; (C) partners; (D) employer and employees; (E) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting stock or shares of any organization and such organization; (F) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) any person who controls any other person and such other person. For purposes of this provision, a person controls another person if the person is in a position to exercise restraint or direction over the other person. Petitioners arguments for finding USIMINAS/COSIPA and CSN affiliated appear to be based on subparagraphs (E) and (G) of section 771(33) of the Act.

Pursuant to section 771(33)(E), the Department examined CSN's ownership interest, direct or indirect, in USIMINAS (USIMINAS/COSIPA does not own or control any shares in CSN). CSN owns a 31% equity interest in Valepar, which owns 27% of CVRD. Throughout the POI, CVRD, in turn, had a 15.48%, 23.14%, or 22.99% interest in USIMINAS, with changes in equity interest taking place in July 1998 and January 1999. Even assuming the highest possible percentages of equity ownership by CSN in Valepar, by Valepar in CVRD, and by CVRD in USIMINAS, CSN would own well under 5% of USIMINAS. Based on this evidence, CSN and USIMINAS/COSIPA are not affiliated within the meaning of section 771(33)(E) of the Act.

With respect to affiliation based on control, petitioners have not clearly identified which entities they believe are in a position to exercise control over CSN and USIMINAS (or USIMINAS/COSIPA) or on which specific subparagraph (F or G) of section 771(33) they are relying in their analysis. Therefore, we have analyzed petitioners comments under both section 771(33)(F) and (G).

In accordance with section 771(33)(F), we first examined whether the record establishes common control over these entities by Mr. Steinbruch, CVRD, or Previ pension fund (which itself holds significant ownership interests in CSN, CVRD, and USIMINAS) as separate entities. Assuming arguendo that we were to conclude that Mr. Steinbruch, as chairman of CSN's board of directors, controls CSN, the record contains no evidence that he controls USIMINAS.

CVRD is affiliated with both CSN and USIMINAS under section 771(33)(E). CVRD directly owns more than 5% of USIMINAS (22.99% of the voting shares at the end of the POI) and indirectly owns, through its holdings in Docenave, more than 5% of CSN (10.3% of the voting shares). However, CVRD does not control both CSN and USIMINAS. Mr. Gabriel Stoliar, the CEO of CVRD, serves on the eight-to-ten-member boards of both CSN and USIMINAS. However, Brazilian law prohibits board members from representing any other company's interests while serving on the board of a different company. See COSIPA's Sales Verification Report at 4. In addition, the record indicates that the USIMINAS board of directors (the ''administrative council'') is responsible for macroeconomic issues such as investment matters and does not control daily operations. See USIMINAS' Sales Verification Report at 9. Finally, CVRD is not a member of the USIMINAS shareholder's agreement, whose members control 50.52% of the voting stock of that company. The Department finds that, under the circumstances of this case, CVRD is not in a position to control USIMINAS within the meaning of section 771(33) of the Act. Because CVRD does not control USIMINAS, it cannot exercise common control over both CSN and USIMINAS within the meaning of subsection (F). Therefore, the issue of whether CVRD controls CSN is moot for purposes of this analysis.

Previ, like CVRD, is affiliated with both CSN and USIMINAS through equity ownership. However, subsection (F) requires a finding of common control, not merely of common affiliation. Previ is not a member of the USIMINAS shareholders' agreement, which controls 50.52% of the voting stock of that company. Nor is there other evidence that Previ is in a position to control USIMINAS. Because the record evidence does not establish that Previ is in a position to control USIMINAS, we find that CSN and USIMINAS are not affiliated by virtue of common control by Previ.

The SAA recognizes that, even in the absence of an equity relationship, control may be established ''through corporate or family groupings'' (see SAA at 838), *i.e.,* a corporate or family group may constitute a ''person'' within the meaning of section 771(33) of the Act. *See Ferro Union* v. *United States,* Slip Op. 99–27 (CIT, March 23, 1999). In such a case, the control factors of individual members of the group (*e.g.,* stock ownership, management positions, board membership) are considered in the aggregate. Accordingly, the Department considered whether USIMINAS and CSN are affiliated by virtue of common control by a corporate or family group.

What constitutes a ''corporate group'' for purposes of the affiliation analysis is not defined; the Department must address the issue on a case-by-case basis. The cases in which the Department has recognized that affiliation exists by virtue of participation in the same corporate or family group involved common control of the firms at issue by members of the same family, the same group of investors, or the same group of corporations. In other words, the ''control group'' language in the SAA does not add a new criterion to the statutory definition of ''affiliation.'' It merely acknowledges that the controlling entity of the ''common control'' provision can be something other than a physical or legal person, and can exercise that common control by means other than equity ownership. It does not allow for treating all affiliation relationships as if they created new ''control groups.'' With respect to USIMINAS and CSN, there is no such pattern of common control. We do not find any definable corporate group that controls both CSN and USIMINAS. Thus, we do not have a basis in the record to find affiliation under section 771(33)(F) of the Act.

With respect to section 771(33)(G) of the Act, petitioners have again failed to clearly identify a basis for finding that CSN controls USIMINAS (or USIMINAS/COSIPA), or vice versa. Petitioners appear to argue that CSN and CVRD are a ''corporate group'' for purposes of the affiliation analysis. While we agree that CSN and CVRD are affiliated, that by itself is not sufficient to consider them a ''corporate group'' for purposes of an affiliation analysis. Moreover, even if the Department were to treat CSN and CVRD as a corporate group, there is no evidence that the alleged ''CSN/CVRD group'' controls USIMINAS within the meaning of section 771(33)(G) of the Act. More to the point, we do not find a sufficient basis in the record to treat CSN, CVRD and Previ as a corporate group for purposes of the affiliation analysis. See Hot-Rolled Steel From Brazil, 64 FR 38756, 38762.

Although petitioners have submitted new information since the Hot-Rolled Steel From Brazil on the investigation by the Brazilian Ministry of Justice of these companies, there is not sufficient evidence on the record to determine that USIMINAS/COSIPA and CSN should be collapsed. As noted by respondents, section 351.401(f)(1) of the Department's regulations indicates that the two criteria must be met with respect to collapsing: (1) the companies are affiliated, and (2) the companies have similar production facilities that could be used to restructure manufacturing priorities and there is a significant potential for manipulation of price or production. While the Brazilian Ministry of Justice investigation may relate to the second criterion, the first threshold requirement, affiliation, has not been met.

Because the record evidence does not support a finding that USIMINAS (or USIMINAS/COSIPA) and CSN are affiliated under any provision of section 771(33), there is no basis to apply the collapsing criteria in section 351.401(f). Therefore, the Department has continued to treat CSN and USIMINAS/

COSIPA as separate entities for the purposes of this investigation.

II. Company Specific Sales Comments

CSN

Comment 2: Use of Total Facts Available for CSN

Petitioners state that CSN's abrupt refusal to cooperate in this investigation warrants the use of total adverse facts available. Petitioners specifically reference CSN's failure to provide a reconciliation of its submitted costs to the amounts in its cost of manufacturing statement. In addition, petitioners point out that CSN refused to provide information regarding its reported commission payments, and on the eve of verification, refused to respond to any requests for further information, and would not permit the Department to verify any information.

Citing section 782(i)(1) of the Act, petitioners state that the Department must verify information before making a final determination or must use facts available if the information cannot be verified. Petitioners further assert that it is the Department's longstanding practice, which the courts have upheld, to use total facts available, including information and comments on the record, when a party prevents the Department from verifying its data and withdraws from participation in an investigation. Petitioners maintain that CSN stands to benefit from its lack of cooperation and its withdrawal from this proceeding; therefore, using total adverse facts available is justified.

Petitioners note that the statute permits the Department, in relying on facts available, to draw an adverse inference where a respondent has failed to cooperate by not acting to the best of its ability. Petitioners argue that this is the case here, since CSN has withdrawn from the proceeding, refuses further participation, and would not permit verification of its information. Petitioners note that the Department's well-established practice in such cases is to employ total adverse facts available. Petitioners further note that when a company refuses to cooperate or otherwise significantly impedes an investigation, the Department uses as adverse facts available the highest of: (1) The highest margin in the petition (or initiation); (2) the highest margin calculated for another respondent within the same country for the same class or kind of merchandise, or (3) the estimated margin found in the Preliminary Determination.

With respect to adverse facts available, petitioners cite Notice of Final Determination of Sales at Less Than Fair Value of Foam Extruded PVC and Polystyrene Framing Stock from the United Kingdom, 61 FR at 51411, 51412 (October 2, 1996), where the respondent withdrew from the proceeding and the Department used the respondent's own information to calculate the margin because it was higher than the highest margin alleged in the petition or the highest calculated rate of any respondent in the investigation. Petitioners conclude that the instant investigation requires the Department to use a margin of 63.32 percent, which is the highest margin provided in the Petition, as adverse facts available.

CSN responds by referring to its November 2, 1999 letter to the Department, where it announced that it was pulling out of the investigation because any results of the investigation ''would have no basis in reality.'' CSN states that the verified dumping margin would have been close to, and just as commercially prohibitive as, the facts available rate. While CSN expected to be painted as uncooperative, CSN claims it did not want the Department to invest its resources in verifying data that would have still resulted in a market-prohibitive rate reflective of a time when the Brazilian real was overvalued.

In sum, CSN expects the Department to use facts available to determine CSN's deposit rate, and denies that it has ever ''frustrated the Department's inquiry.'' CSN claims that it submitted the cost reconciliations cited by petitioners. Additionally, CSN stresses that it has not prevented the Department from investigating the affiliation issue. According to CSN, these issues were verified in the instant countervailing duty investigation, as well as in the hot-rolled steel investigation.

Department's Position

We agree with petitioners that the application of adverse facts available is warranted. Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information by the deadlines for the submission of information or in the form and manner requested, significantly impedes a proceeding under the antidumping statute, or provides such information but the information cannot be verified, the Department shall, subject to subsections 782 (c)(1) and (e) of the Act, use facts otherwise available in reaching the applicable determination. Because the respondent CSN withdrew from the proceeding following the Preliminary Determination, CSN's questionnaire response on the record is unverifiable. See ''Letter to the Secretary of Commerce from Counsel for CSN'', November 2, 1999. In addition, CSN failed to respond to a second supplemental questionnaire of October 15, 1999. Therefore, under sections 776 (a)(2)(B), (C), and (D) of the Act, the Department must use facts otherwise available in making its determination.

In addition, as required by section 782(d), CSN was warned that failure to participate in the investigation or permit verification constituted a deficiency which could result in the use of the facts available. Moreover, section 782(e) is not applicable as CSN did not permit verification, the information CSN submitted cannot serve as a reliable basis for making the final determination, and CSN has not demonstrated that it has acted to the best of its ability to provide the information requested and to meet other requirements (*e.g.* verification) established by the Department with respect to the information. Thus, the use of facts available is also warranted under section 782.

Section 776(b) provides that, where facts available are otherwise appropriate, an adverse inference may be used when a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. (See also SAA at 198.) Such adverse inference may include reliance on information derived from the petition. To determine whether the respondent cooperated by acting to the best of its ability under 776(b), the Department considers, among other facts, the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. See, *e.g,* Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes from Thailand;, 62 FR 53808, 53819–53820, (October 16, 1997) (Certain Welded Carbon Steel from Thailand); Final Results of Antidumping Duty Administrative Review: Brass Sheet and Strip from Germany; 63 FR 42823, 42824 (August 11, 1998).

CSN's failure to participate following the Preliminary Determination and refusal to permit verification of its information on the record demonstrate the CSN has failed to cooperate to the best of its ability in this investigation. Thus, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted with regard to CSN. The Department's well-established practice in such cases is to employ total adverse facts available. Consistent with Department practice in cases in which a respondent fails to cooperate to the best of its ability by withdrawing from the investigation and refusing to respond to the supplemental questionnaires, and pursuant to section 776(b)(1) of the Act, we have applied, as facts available, a margin based on the highest margin alleged in the petition. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey, 62 FR 9737–9738 (March 4, 1997).

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is described in the SAA at 870 as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.''

The SAA further provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. Thus, to corroborate secondary information, to the extent practicable, the Department will examine the reliability and relevance of the information used.

During the Department's pre-initiation analysis of the petition, we reviewed the adequacy and accuracy of the information in the petition, to the extent appropriate information was available for this purpose (*e.g.,* import statistics, foreign market research reports, and data from U.S. producers). See Initiation of Antidumping Duty Investigations; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Argentina, Brazil, the People's Republic of China, Indonesia, Japan, the Russian Federation, Slovakia, South Africa, Taiwan, Thailand, Turkey and Venezuela, 64 FR 34194 (June 25, 1999) (Notice of Initiation) and ''Import Administration AD Investigation Initiation Checklist,'' (June 21, 1999). The estimated dumping margins of the petitioners were based on two different methods. First, EP was determined based on the import average unit value (AUV) for the three ten-digit categories of the HTSUS accounting for 90 percent of in-scope imports from Brazil during the fourth quarter of 1998. Petitioners presumed that the customs values used to calculate the AUV for each HTSUS category reflect the actual ''transaction value'' of the merchandise being shipped by Brazilian mills. Second, EP was determined based on Brazilian producers' offers for sale of CR flat products in the United States. Petitioners obtained this information from industry sources in the United States. The Department determined the adequacy and accuracy of the information from which the petition margin was calculated by reviewing all of the data presented and by requesting clarification and confirmation from petitioners and their sources as needed. See Attachment B to the Initiation Checklist and Memorandum to the File: Telephone Conversation with Market Research Firm Regarding the Petition for the Imposition of Antidumping Duties (June 21, 1999).

We noted that the U.S. price quote of the per unit values of the subject merchandise derived by petitioners were well within the range of the average unit values reported by U.S. Customs. U.S. official import statistics are sources which we consider to require no further corroboration by the Department. See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China, 62 FR 5140, 51412 (October 1, 1997). To further corroborate the home market prices in the petition, for the final determination, we reexamined the highest margin in the petition in light of information obtained during the investigation to the extent it is practicable, and determined it has probative value. Specifically, we compared the ex works home market prices in the petition to the verified home market prices for similar steel products (*i.e.*, of the same quality, dimensions, *etc.*) reported by USIMINAS/COSIPA, net of all movement expenses, discounts and billing adjustments, and direct selling expenses. We found that the petition prices were well within the range of prices reported by respondents for similar products; in fact, these prices were quite conservative compared to the actual prices reported by respondents. Based on the above, we find that the estimated margins set forth in the petition have probative value. Therefore, we are assigning to CSN the highest margin in the petition of 63.32 percent.

Comment 3: Currency Conversion Methodology

Petitioners do not agree with how the Department handled its currency conversion methodology for the Preliminary Determination. Citing sections 773A(a) of the Act and 351.415(c) of the Department's regulations, petitioners stress that the Department is to employ daily exchange rates for currency conversion purposes, but that fluctuations in exchange rates shall be ignored. Petitioners note that this language is mandatory and provides no exceptions. Petitioners assert that no mention is made in the statute of special treatment for large and precipitous drops. Petitioners do acknowledge that the Change in Policy Regarding Currency Conversion, 61 FR 9434 (March 8, 1996) (Policy Bulletin 96–1) calls for the use of actual daily rates when declines in the value of foreign currency are so ''precipitous and large'' as to reasonably preclude the possibility that it is only fluctuating. However, they argue that while the Department has the discretion to establish the definition ''fluctuation in exchange rates,'' that definition must be reasonable. See *Chevron U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837, 842–43 (1984) (Chevron). Petitioners assert that the Department's exception to its stated definition is unreasonably pro-respondent and has no basis in law or logic. Petitioners further argue that Policy Bulletin 96–1, in effect, allows countries to dump during times of financial crisis.

In conclusion, petitioners state that in accordance with the statute, the Department must ignore fluctuations in all exchange rates, regardless of their size or speed. Moreover, petitioners emphasize that the Department should apply the normal 40-day benchmark standard in this investigation. Otherwise, petitioners recommend that if the Department should persist in adhering to its policy in dealing with large and precipitous declines, certain legal and methodological defects must be rectified. Petitioners note the Department's methodology does not adequately indicate when a precipitous decline occurs, and the methodology fails to adhere to the underlying rationale as to why currency fluctuations are ignored, namely because they provide an inaccurate representation of reality. Therefore, petitioners recommend the Department find that a ''precipitous decline'' occurs whenever the daily exchange rate is more than 25 percent below the preceding 40-day average. In addition, petitioners suggest that if the Department finds a 40-day benchmark is too long to reflect the volatility of exchange rates in a period of decline, then it could instead use a 10-day benchmark during periods when daily exchange rates deviated from the 40-day benchmark figure by more than 25 percent.

Respondents disagree with petitioners and request that the Department continue applying its well-established currency conversion methodology. Respondents maintain that 773A(a) of the Act ''ensure[s] that the process of currency conversion does not distort dumping margins.'' (see also SAA at 841). According to respondents, Policy Bulletin 96–1 recognizes that there can be precipitous and large declines, precluding the possibility that a currency is only fluctuating. Respondents argue that the Department has applied this aspect of its currency-conversion methodology in other cases involving precipitous currency changes. (See Preliminary Determination 64 FR 61249, 61258 (November 10, 1999).

Respondents argue that the currency conversion methodology employed by the Department is necessary to ensure its calculations are consistent with the objectives of the antidumping law. Respondents point out that the Department has the discretion to interpret antidumping laws. Furthermore, respondents argue that cases that petitioners cite do not support their proposition that the Department's currency conversion methodology should be changed. To ensure a fair comparison, respondents state that the Department must ensure that its calculation methodology continually reflects all changes in the commercial circumstances of a particular producer that effect the analysis of comparative revenue, such as dramatic declines in the exchange rate. Citing Stainless Steel Plate in Coils from the Republic of Korea, 64 FR 15444, 15451 (March 31, 1999). Respondents argue that ''[d]umping margins should not be 'artificially' created simply due to unforeseen changes in the exchange rate.''

Respondents further assert that the Department's currency conversion methodology ensures that calculations accurately measure the existence or absence of dumping on a sale-by-sale basis. Respondents claim that U.S. law and the WTO Antidumping Agreement mandate that the Department focus on whether calculations accurately compare the per unit revenue received by a producer for a particular export sale with the per unit revenue received for a contemporaneous home market sale, rather than the results of the calculations. Respondents maintain that the purpose of the trade laws is not to punish companies for whom dramatic currency drops in short periods of time—which are utterly beyond their control—distort their home market sales prices once they are converted to U.S. dollars.

Respondents cite Stainless Sheet from Korea, SSPC from Korea and Certain Welded Carbon Steel from Thailand, stating that the Department's methodology is not ''pro-respondent'' because it often leads to a more favorable result for petitioners. Furthermore, respondents argue that there is no bias in acknowledging that a precipitous drop in a currency's value presents different methodological problems than a routine fluctuation. According to respondents, petitioners' proposed alternative to the Department's established methodology would produce inaccurate results. Respondents further assert that petitioners did not provide any evidence or support for their proposition. In addition, respondents point out that petitioners' proposed methodology would overstate the actual exchange rate, causing unjustifiable rises and falls during particular periods. Respondents conclude that the Department should continue to use the currency-conversion methodology it has used for almost four years.

Department's Position

We disagree with petitioners that our exchange rate methodology has no basis in law or logic. As stated in the preliminary results, we made currency conversions into U.S. dollars in accordance with section 773A of the Act. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. See Policy Bulletin 96.1; see also Preliminary Results of Antidumping Duty Administrative Review; Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands, 64 FR 36841, 36843 (July 8, 1999); Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Canned Pineapple Fruit From Thailand, 64 FR 30476, 30480 (June 8, 1999). (An exception to this rule is described below.)

Further, section 773A(b) of the Act directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement occurs when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method see Policy Bulletin 96–1: such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar.) However, because the current case involves a decrease rather than an increase in the value of a foreign currency, this provision does not apply. See SAA at 842.

In adopting its currency conversion policy, the Department recognized that a sudden large decrease in the value of a currency without any significant rebound could meet the technical definition of a fluctuation. To avoid this unintended result, in Policy Bulletin 96.1 the Department explained that we would apply the average benchmark rate in the case of an exchange rate ''fluctuation'' but also stated that we would use daily rates when ''the decline in the value of a foreign currency is so precipitous and large as to reasonably preclude the possibility that it is merely fluctuating.'' We recognize the Policy Bulletin did not define a ''precipitous and large'' decline in the value of a foreign currency, because the Department had not yet faced the situation, but properly left this determination to be made in future cases. In Notice of Final Determination of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber From The Republic of Korea, 64 FR 14865,14867 (March 29, 1999) (Rubber from Korea) and other Korean cases, the Department found that a decline of more than 40 percent within a two-month period was sufficiently large and precipitous that use of daily rates was warranted during this two-month period. In contrast, in Notice of Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Indonesia, 64 FR 14690, 14693 (March 26, 1999) (Extruded Rubber Thread from Indonesia), the Department found that a decline of some 50 percent spread over five months was not precipitous and large and continued to employ its normal exchange rate methodology. See 64 FR 14690, 14693 (March 26, 1999). See Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes from Thailand, 64 FR 56759, 56763 (October 21, 1999) (Pipe and Tube from Thailand). See also, DRAMS from Korea: Final Results of Antidumping Duty Administrative Review, 64 FR 69694, 69703–04 (December 14, 1999).

Our analysis of dollar-real exchange rates show that the real declined rapidly in early 1999, losing over 40 percent of its value in January 1999, when the Brazilian government ended its exchange rate restrictions. The decline was, in both speed and magnitude, many times more severe than any change in the dollar-real exchange rate during recent years, and it did not rebound significantly in a short time. Indeed, the decline in value of the real was as large and more rapid than the decline in the value of the Korean won in 1997, which we have found to be precipitous and large in numerous recent cases. As such, we continue to determine that the decline in the real during January 1999 was of such magnitude that the dollar-real exchange rate cannot reasonably be viewed as having simply fluctuated at that time, *i.e.,* as having experienced only a momentary drop in value relative to the normal benchmark. We find that there was a large, precipitous drop in the value of the real in relation to the U.S. dollar in January 1999, warranting application of daily exchange rates.

We recognize that, following a large and precipitous decline in the value of a currency, a period may exist during which exchange rate expectations are revised and thus it is unclear whether further declines are a continuation of the large and precipitous decline or merely fluctuations. Under the circumstances of this case, such uncertainty may have existed following the large, precipitous drop in January 1999. Thus, we devised a methodology for identifying the point following a precipitous drop at which it is reasonable to presume the rates were merely fluctuating. Beginning on January 13, 1999, we used only actual daily rates until the daily rates were not more than 2.25 percent below the average of the 20 previous daily rates for five consecutive days. At that point, we determined that the pattern of daily rates no longer reasonably precluded the possibility that they were merely ''fluctuating.'' Using a 20-day average for this purpose provides a reasonable indication that it is no longer necessary to refrain from using the normal methodology, while avoiding the use of daily rates exclusively for an excessive period of time. Accordingly, from the first of these five days, we resumed classifying daily rates as ''fluctuating'' or ''normal'' in accordance with our standard practice, except that we began with a 20-day benchmark and on each succeeding day added a daily rate to the average until the normal 40-day average was restored as the benchmark. See Pipe and Tube from Thailand.

Applying this methodology in the instant case, we used daily rates from January 13, 1999, through March 4, 1999. We then resumed the use of our normal methodology through the end of the period of investigation (March 31, 1999), starting with a benchmark based on the average of the 20 reported daily rates on March 5, 1999.

While petitioners have suggested a 10-day benchmark (instead of a 20 or 40-day benchmark), they have not submitted any information to indicate that a 10-day average would be any more appropriate or produce more accurate results than a 20-day average, which day-by-day builds back up to a 40-day benchmark.

Comment 4: Home Market Sales With Warranty Expenses

Petitioners request that the Department reclassify all of USIMINAS' home market sales with home market warranty (WARRH) amounts as sales of non-prime merchandise, and exclude all of these particular sales from the calculation of normal values. Petitioners note that WARRH equals the amount of credit notes provided to customers for product quality problems, and that warranty expenses are sale-specific.

Respondents counter that petitioners' request must be rejected for several reasons. First, early in this investigation, respondents note that the Department rejected the petitioners' request for blanket reclassification of respondent's sales of prime product into non-prime product; in its supplemental questionnaire, the Department redirected respondents to classify all sales as prime or non-prime on a ''sold as'' basis. Second, respondents state that there have been no developments since the Department originally rejected the petitioners' identical request. Although the petitioners cite the Department's verification report finding that USIMINAS' warranties relate to quality problems, respondents argue that this statement only confirms that the Department verified that respondents' warranty expenses are based on customer claims of product quality problems after a sale is made. Third, respondents state that warranty expenses are based on customer claims of product quality problems, and are in a separate field from the prime/non-prime field. Respondents argue that the significance of this designation at the time of sale is important because it is fair to assume that a seller will price prime products differently than non-prime products. Respondents further state that the prime/non-prime fields allows the Department to segregate sales based on information that was known to the buyer and seller at the time of sale.

Respondents argue that the objective of the warranty field is entirely different. Respondents state that all purchasers of prime material assume that they are in fact buying a prime product that meets the specifications requested. Respondents explain that it is inevitable, in the course of doing business, that some customers will claim, after receipt of the product, that the product does not meet its expectations, due to defects, shipping damages or a number of other reasons. Respondents note that in all of these circumstances, the underlying ''problem'' with the steel occurs after the sale.

Respondents explain that when a company reimburses the customer for a warranty claim, because it warrants that its products will always meet the customer's expectations, the company incurs a warranty cost. Respondents state that the entire purpose of the Department's field is to isolate these costs either on a sale-specific or a product line-specific basis. Respondents continue to state that there is no Department practice whereby sale-specific warranty expenses are used as a key to then reclassify all sales for which warranty expenses were incurred from prime to non-prime sales.

Respondents, citing Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Italy, 64 FR 30750, 30753 (June 8, 1999), also noted that for most companies, there are never any warranty costs for non-prime sales, which are sales where a buyer forfeits his right to a warranty claim. Therefore, respondents maintain that all sales with warranty claims should not be reclassified as non-prime merchandise because it would make the Department's warranty field meaningless. Respondents conclude that the warranty expense field presumes that the product was purchased and sold as a prime product.

Department's Position

We agree with the petitioners in part and with respondents in part. The Department has reclassified USIMINAS' home market sales as non-prime sales when no quantity adjustment was reported but there is a warranty claim. When the Department examined two invoices from a list of invoices with warranty reported during verification, the company noted that the material was not returned, but was reclassified as scrap or irregular blank scrap. Since all sales examined with warranties (and no returned quantity) were for sales of merchandise that ended up being non-prime, we have assumed all sales with warranties (and no returned quantities) are non-prime. This is appropriate since the net price reported (gross unit price less warranties) is representative of non-prime merchandise, which is what the customer ended up receiving.

In addition, as noted on page 39 of the USIMINAS' Sales Verification Report, we have found (and at verification USIMINAS agreed) that where a warranty adjustment was reported and a partial quantity adjustment was also reported, these sales are actually partial returns and warranty is not applicable. Therefore, we have set the warranty field (WARRH) to zero where there was a partial return of merchandise.

Comment 5: Home Market Discounts

Petitioners argue that the Department should deny adjustments for USIMINAS' reported home market discounts. Petitioners state that the Court of Appeals for the Federal Circuit (Federal Circuit) recently held that price adjustments must relate exclusively to merchandise within the scope of the proceeding, unless the same rebate percentage is uniformly applied to both subject and non-subject merchandise. See *SKF USA Inc.* v. *United States,* 180 F.3d 1370 (Fed. Cir. 1999) (SKF) and SKF, 180 F.3d 1376, citing *Smith-Corona Group, Consumer Products Div.* v. *United States,* 713 F.2d 1568, 1580–81 (Fed. Cir. 1983). Petitioners argue that USIMINAS used both subject and non-subject merchandise to calculate the rebate percentage for discounts, and did not provide the Department with documentation regarding the ''unusually high'' discount in the other discount category, reported in the field OTHDISH. Therefore, petitioners conclude that the Department should deny USIMINAS' claimed home market discounts (quantity discounts (QTYDISH) and OTHDISH) to customers.

Respondents counter that the Department should allow this adjustment to NV. Respondents explain that USIMINAS was not able to report discounts on a sale-by-sale basis given the difficulties in tracing these adjustments to the actual sale. Respondents note the allocation methodology used by USIMINAS is the same as the Department accepted in Hot-Rolled Steel from Brazil which was based on the same facts. Respondents further state that USIMINAS' allocation methodology is consistent with the Department's regulations and the SAA. Respondents note that while petitioners imply SKF breaks new ground, the Federal Circuit emphasized its decision was consistent with its past decisions and those of the Court that accepted reasonable apportionment of adjustments. Respondents note that the Department was able to verify all information from USIMINAS, with a single exception. Respondent argue that although USIMINAS was unable to provide a requested document because of the many demands placed on it during verification, this single omission cannot serve as a reasonable basis to deny USIMINAS' home market discount adjustment as requested by petitioners.

Department's Position

We agree in part with both petitioners and respondents. Two types of discounts were reported by USIMINAS: (1) Quantity discounts, which were reported on a customer specific basis; and (2) other discounts, which were reported based on an aggregate amount for the POI. Both types of discounts involved dividing all discounts granted in the period (by customer in the case of quantity discounts) for subject and non-subject merchandise, by the total sales in the period (by customer in the case of quantity discounts) for subject and non-subject merchandise.

Section 351.401(g) of the Department's regulations state that the Secretary may consider allocated expenses when transaction-specific reporting is not feasible, provided the Secretary is satisfied that the allocation method used does not cause inaccuracies or distortions. In addition, any party seeking to report an expense or price adjustment on an allocated basis must demonstrate to the Secretary's satisfaction that the allocation is calculated on as specific a basis as is feasible. Also, the Secretary will not reject an allocation method solely because the method includes expenses incurred, or price adjustments made, with respect to sales of merchandise that does not constitute subject merchandise or a foreign like product (whichever is applicable). We note that the cases cited by petitioner relate to the Department's practice prior to changes made by the URAA and adoption of the Department's new regulations.

For quantity discounts, we find that USIMINAS has reported this discount in the most specific basis that is feasible. Moreover, having examined the information provided by USIMINAS regarding the products it manufactures, we find no reason to conclude that discounts would be granted disproportionately on its out-of-scope steel products as opposed to its in-scope steel products as this merchandise is broadly similar in value, physical characteristics and the manner in which it is sold. Therefore, this adjustment meets the criteria of section 351.401(g) of the Department's regulations, and we are continuing to allow an adjustment to NV for quantity discounts.

For other discounts, we were unable to verify one large item (composing the vast majority of this expense). In addition, the allocation on this expense was done in the aggregate, for various types of discounts. In other words, several discounts were lumped together for sales of all products to all customers; thus, the allocation was not customer-, product-, or even discount-specific. Therefore, we are not satisfied that USIMINAS submitted this adjustment in the most specific basis that is feasible. Therefore, we are disallowing the adjustment to NV for other discounts.

Comment 6: Home Market Interest Revenue

Petitioners point out that USIMINAS' late payment interest plus fines charges (INTREVH) are applied to all sales on a global basis rather than to specific sales. Referring to SKF, petitioners argue that the interest revenue is not uniformly applied. Furthermore, they contend that the interest revenue adjustment for USIMINAS' home market sales is calculated based on both subject and non-subject merchandise. In the instant investigation, according to petitioners, the amount of interest revenue that USIMINAS receives from the customer is not the same for each sale let alone for each product, as it depends on factors that vary from sale-to-sale, such as the number of days after the due date that interest is charged. Petitioners request the Department to deny USIMINAS' calculation of the adjustment for home market interest revenue, and, as facts available, instead add the highest reported amount for INTREVH to the price of all home market sales.

Respondents argue that it is well established that a company may allocate price adjustments when transaction-specific reporting is not feasible. Respondents indicate that the Department allowed USIMINAS to report home market interest revenue in this manner in Hot-Rolled Steel From Brazil investigation, and granted the same adjustment. Respondents state that petitioners miss the point with their argument in that of course, the amount that USIMINAS receives in interest will vary from sale to sale, because there is no reasonable basis for the Department to expect every delinquent customer to withhold payment the exact same number of days. Moreover, respondents note, when the customer has an acceptable reason for late payment then USIMINAS may decide to extend the due date without charging interest revenue as stated in the Section B response. Respondents maintain that USIMINAS reported interest revenue amounts to the best of its ability, and that its methodology was reasonable and not distortive. Further, Respondents argue that the Department verified the accuracy of USIMINAS' reported home market interest revenue.

Department's Position

We agree with respondents that it is reasonable for USIMINAS to allocate price adjustments when transaction-specific reporting is not feasible, and that the price adjustment methodology used was appropriate. In Hot-Rolled Steel from Brazil, 64 FR 38756, 38790–38791 (July 19, 1999) we accepted a similar allocation methodology for USIMINAS' interest revenue. Section 351.401(g) of the Department's regulations state that the Secretary may consider allocated expenses when transaction-specific reporting is not feasible, provided the Secretary is satisfied that the allocation method used does not cause inaccuracies or distortions. In addition, any party seeking to report an expense or price adjustment on an allocated basis must demonstrate to the Secretary's satisfaction that the allocation is calculated on as specific a basis as is feasible. Also, the Secretary will not reject an allocation method solely because the method includes expenses incurred, or price adjustments made, with respect to sales of merchandise that does not constitute subject merchandise or a foreign like product (whichever is applicable). Therefore, this adjustment meets the criteria of section 351.401(g) of the Department's regulations, and we are continuing to accept USIMINAS' calculation of the adjustment for home market interest revenue.

Comment 7: Indirect Selling Expenses/ Warehousing Expenses

Petitioners argue that the Department should reclassify all of USIMINAS' U.S. indirect selling expenses as movement expenses. Petitioners point out that USIMINAS includes warehousing expenses incurred at the port of export in its indirect selling expenses. Petitioners note that at verification, when asked to break out warehousing expenses from its indirect selling expenses, USIMINAS stated it had no means of precisely ascertaining these costs. Petitioners insist that the Department has established a clear practice of treating post-shipment warehousing expenses as movement expenses, as prescribed in section 351.401(e)(2) of the Department's Regulations. Respondents state that USIMINAS' warehousing expenses are properly treated as indirect selling expenses based on verification and the Department's determination in past investigations. Respondents note that USIMINAS has consistently classified its port warehouse expenses as indirect selling expenses because it is unable to isolate all of its warehouse costs from other indirect selling expenses, *i.e.* these expenses are fixed expenses and are aggregated with other fixed selling expenses in USIMINAS' accounting system. Respondents argue that the Department has consistently accepted USIMINAS's treatment of its port expenses as indirect selling expenses, including in Hot-Rolled Steel from Brazil and the facts surrounding these expenses have not changed. It is further claimed that there is nothing inequitable in USIMINAS' treatment of its warehouse expense as indirect selling expenses, because USIMINAS treated all warehouse expenses the same, regardless of whether they were related to home market sales, export sales, or both.

Department's Position

We disagree with petitioners. Respondents consistently informed the Department that USIMINAS was unable to segregate warehousing expenses from its indirect selling expenses and that it had reported all warehousing as part of these expenses. See respondents' Section B response at B–50 (August 30, 1999). The Department did not uncover any information at verification to indicate that USIMINAS was able to segregate warehousing from indirect expense. Therefore, we have accepted USIMINAS' data, as reported, and are not reclassifying USIMINAS' indirect selling expenses as movement expenses for this final determination.

Comment 8: Home Market Packing

Petitioners request that the Department exclude COSIPA's home market packing expenses from its home market sales analysis because the Department was unable to examine and confirm these costs during verification. Petitioners assert that at verification, COSIPA explained it had selected a month as representative of POI-wide packing costs, but that the Department was unable to examine and confirm the validity of the underlying presumption that one month was, in fact, representative.

Respondents state that the Department should deny the petitioners' request. Respondents note that Section B of COSIPA's response made it clear that the adjustment for packing materials was based on two components: valuation of per unit cost and a quantification of types of materials used for each packing type. Respondents argue that with respect to the valuation of the per unit costs for each type of packing, COSIPA explained at verification that it used the value of material inputs in the month of September 1998 as a representative month for per unit packing materials costs. Respondents note that COSIPA used the same methodology for the packing adjustment for home market sales and export sales, so the methodology was market-neutral.

Respondents point out that the Department verified that the material cost valuations were based on its September 1998 inventory values after viewing similar records for purchases from other months to see if September was distortive.

According to respondents, although there were minor variations in per unit packing for some other packing materials, the variations did not undermine COSIPA's methodology of using prevailing inventory valuations in September as a surrogate for per unit values during the POI. Respondents point out that there was a decision to defer additional verification of the packing adjustment to the cost verification to give COSIPA time to prepare similar documents for additional months. Respondents note that during the cost verification, COSIPA presented the additional information requested at the sales verification but the cost verifiers did not dedicate time in the cost verification to COSIPA's packing adjustment.

Respondents note that the Department will accept a Respondent's packing adjustment if reasonable and not distortive. Respondents state the Department should reject the petitioners' request to apply adverse inferences and to reject the petitioners home market packing costs, and that COSIPA provided details of its packing adjustment in its Section B/C responses, as well as explained and prepared additional documentation of all aspects of packing adjustment at verification.

Department's Position

We agree with petitioners that COSIPA's home market packing expenses should be excluded from the final determination. The COSIPA verification report notes that COSIPA based its packing costs solely on company records for September 1998. While the verification team attempted to establish that these mid-POI costs were representative by comparing the reported figures to those for other periods at the beginning and end of the POI, we were unable to do so, because COSIPA did not provide the appropriate data from its microfiched records. Although COSIPA had been specifically advised in the verification outline that the Department would be looking into its home market packing claim, COSIPA only produced worksheets purporting to reflect packing material costs throughout the POI at the very end of verification. These data, however, were untimely and, in any case, unverifiable, given that they arrived when there was no longer time to look into their accuracy. Thus, we have not reviewed this data for the final determination.

We also note that COSIPA used the same methodology for its U.S. packing expense which, as on the home market side, could not be verified. Because of this verification failure for U.S. and home market packing expenses, we are, as an adverse inference, using the reported packing figures for export sales while denying them for normal value as the facts otherwise available, in accordance with sections 776(a) and (b) of the Act. Section 776 (a)(2)(D) requires the use of facts available where information can not be verified. Section 776(b) calls for the Department to use an adverse inference where it finds, as here, that a party failed to act to the best of its ability to respond to the Department's requests for information. As was made abundantly clear at verification, the necessary documentation to calculate accurate packing costs for both markets based on a POI-wide sampling of costs, was readily at hand for COSIPA. In spite of this, COSIPA elected to base its claim for adjustments for packing costs solely on a single month's inventory cost reports, without making any effort to establish the validity of this assumption. Accordingly, we find that COSIPA did not act to the best of its ability to report these costs, indeed, disregarding readily-available cost data for this adjustment. Therefore, as an adverse inference, we are denying the home market packing adjustment, while using the reported U.S. packing costs, based on verified data for September, for calculating EP. This approach is fully consistent with the intent of section 776(b) of the Act, as well as the Court's holding in *Timken Company* v. *United States*, 673 F. Supp. 495, 512 (CIT 1987).

Comment 9: COSIPA's Home Market Billing Adjustments

Petitioners request that the Department deny COSIPA's claimed home market billing adjustments in their entirety because those adjustments could not be verified or, alternatively, revise the adjustments to the amounts that the Department identified during verification. Petitioners claim that COSIPA's billing adjustment methodology is questionable because the Department disagreed with some of COSIPA's amounts during verification.

Respondents state the Department should reject petitioners' argument and continue to grant COSIPA's home market billing adjustment, as corrected. Respondents state the billing adjustment for the first home-market sales trace was properly verified. Respondents argue that the petitioners base their claim on a corrected billing adjustment and an ambiguous sentence in the verification report regarding an apparent overstatement of the billing adjustment because the supplemental nota fiscal on its face indicated a different corrected billing adjustment than that presented by COSIPA. Respondents note that the "difference" identified on the supplementary nota fiscal does not reflect the Department's prescribed calculation (total credit divided by tons shipped) but the calculator tape (in COSIPA Sales Verification Exhibit 26) divides the value of the supplemental nota fiscal by the total quantity shipped to arrive at the corrected billing adjustment.

Respondents point out that on all other home market pre-select and surprise sales traces, the Department noted no discrepancies. Therefore, respondents see no reason to reject all home market billing adjustments, as petitioners suggest.

In their rebuttal briefs, petitioners state that the Department should treat billing adjustments (BILLADJH) not as a deduction to gross unit price (GRSUPRH), but as an addition to the gross unit price. Petitioners state that a careful analysis of COSIPA's data indicates that the company's reported billing adjustments represent increases to gross unit price (as opposed to deductions). Petitioners state that in the Preliminary Determination, the Department subtracted billing adjustments (BILLADJH) from gross unit price (GRSUPRH) for all of COSIPA's home market sales. Petitioners urge the Department to correct this alleged error by adding billing adjustments to gross unit price, or alternatively, by employing a second variable (GRSUPRH2) which represents the fully-adjusted gross unit price amounts (*i.e.*, the prices after all billing adjustments have been taken into account). Also in their rebuttal, petitioners withdraw their original argument that these adjustments were improperly reported as they believe it would be inappropriate for the Department to reward COSIPA for any errors that may have been found at verification.

Department's Position

The Department reviewed the per-ton calculation of COSIPA's billing adjustments at verification and, minor mathematical corrections aside, had no reason to question the underlying methodology. The correct adjustment was calculated on a transaction-specific basis as the adjustment's total value, inclusive of taxes, divided by the applicable tonnage. After reviewing the respondents' clarifications on the proper treatment of these billing adjustments the Department does not find error with the methodology used for calculating the corrected billing adjustment for this sale. Therefore, we agree with the respondents that billing adjustment values were properly calculated.

We also agree with the argument raised by petitioners in their rebuttal brief. After careful analysis of the information on the record, we agree that COSIPA's billing adjustments represent increases to gross unit price, rather than deductions from gross unit price. See Memorandum to the File, dated January 7, 2000. The Department has corrected this error in the final determination by employing GRSUPRH2, which represents the fully-adjusted gross unit price amounts (*i.e.*, the prices after all billing adjustments have been taken into account).

Comment 10: COSIPA's Home Market Resales

Petitioners point out that COSIPA has certain resales that were not linked to their original production records. Instead, petitioners state, COSIPA relied on product characteristics as described on the billing invoice to generate CONNUMs, making COSIPA's reported material specifications questionable. Petitioners note that the specifications reported by COSIPA for such resales are not specifications of the material actually sold, since the material was originally produced to a different order. Petitioners further assert that COSIPA made no attempt to link the material involved in such resales to production records even though it said it was possible to do so. Petitioners recommend that the Department exclude all sales of such resales, but since the resales cannot be separately identified, as facts available, the Department should exclude all home market sales below a specific price.

Respondents state that the Department should use COSIPA's databases as submitted and verified by the Department. Respondents stress that petitioners argument that the

Department should exclude all of COSIPA's home market sales with no production records from its home market database demonstrates a wholesale misunderstanding of the products sold.

Respondents point out that COSIPA's initial Section B response indicated that for some isolated product characteristic fields, in limited circumstances, COSIPA believed it was helpful to reference its production records to confirm the correct product characteristic code. Respondents note that for a limited category of grades, COSIPA referenced production records if there was differing yield strength information (*i.e.,* whereas some grades specified a minimum yield strength, some grades only identified a maximum.) In addition, respondents note that reference to production records and customer orders was also helpful in coding the thickness tolerance field. Respondents state that reference to production records was entirely unnecessary as COSIPA's invoices provided all of the necessary information.

Respondents note that in the event COSIPA was unable to link a particular invoice with a particular production record, COSIPA used alternative methodology for these sales for certain product characteristic fields. Respondents point out that in the case of a customer returning and COSIPA then reselling this product to another customer, COSIPA would lose the link between the final sale and the original production records. Respondents note that COSIPA used the information in the invoice or customer order or other resource as a basis to decide the product characteristic of the product sold. Respondents claim that the use of alternative information such as the invoice is not distortive, and that it is fair to presume a company would not mischaracterize its product characteristics on an invoice.

Respondents claim that petitioners logic is twisted because they assert affirmatively that the specifications reported by COSIPA for resales are not the specifications of the material actually sold. Respondents point out that at the time of invoicing when the product is resold, COSIPA is able to ascertain the product characteristics of the product to be sold. Respondents note that in rare cases, COSIPA was not in a position to confirm the product characteristic on the invoice with the information for a particular production run. Respondents state that in many dumping investigations, respondents are not able to access production information for each individual invoice.

Respondents argue that petitioners wrongly claim that COSIPA ''made no attempt'' to link the material invoiced and sold to underlying production records. Respondents note that COSIPA explored several methods to attempt to correlate production records with invoices for resales; however, at verification, for any given resale COSIPA was not always able to find the production records, invoice or order related to the original sale. Respondents note that this is not the same as COSIPA not attempting to make the link at all.

Department's Position

We agree with respondents that sales with no production records should not be excluded. Respondents have consistently acknowledged COSIPA's inability to link production records to a limited amount of sales. However, COSIPA used alternative methodologies, such as referencing the invoice and customer order, to confirm the product characteristics of the products sold. At verification, for each home market and U.S. sales traced, we compared product characteristics as recorded on COSIPA's nota fiscal with underlying production records and did not find a single instance where these characteristics differed between the two sources. Therefore, we conclude that the nota-fiscal is a valid substitute for the missing production records in this case, and we find no evidence which would cast doubt on the reported specifications and characteristics of COSIPA's sales. Accordingly, we have accepted the reported product specifications and characteristics for this group of sales.

Comment 11: Date of Sale for COSIPA's U.S. Sales

According to petitioners, per section 351.401(i) of the Department's regulations, the essential terms of COSIPA's U.S. sales were established by export contract before the commercial invoice was issued because sales price did not change after the export contract date. Petitioners urge the Department to use COSIPA's contract date in lieu of the commercial invoice date as the official U.S. date of sale. Since contract dates are not reported, petitioners suggest that, as facts available, the Department revise sales dates by subtracting an average number of days between the export contract and commercial invoice from the reported sale dates, excluding any sales whose revised dates of sales fall outside of the POI.

Respondents state that the Department should continue to use the date of sale as identified by COSIPA *i.e.*, the earlier of the commercial invoice or the not a fiscal date, as the date of sale, not the petitioner's proposed use of a surrogate export contract date as the date of sale. Respondents note that the Department presumptively used the invoice date as date of sale, although it may use another date only if satisfied that a different date better reflects the date on which the exporter or producer established the material terms of sales.

Respondents argue that use of the export contract date would be unlawful and unreasonable. Respondents point out the export contract date does not establish the critical term of sale: actual quantity produced and sold. According to respondents, quantity is not known until, at the earliest, the steel is actually produced and leaves the factory. Respondents further note that COSIPA's date of sale methodology was based on its entire universe of sales during the POI, not a limited sample of 4 or 5 sales. Therefore, that the Department's sales traces at verification found no instance of the price or quantity changing is of little moment. Additionally, the Department addressed this very issue in Hot-Rolled Steel from Brazil, rejecting petitioners' arguments regarding COSIPA's date of sale.

Further, respondents state that petitioners' allegations are untimely since the Department's practice is to address the date of sale issue in the early stages of an investigation in the Section A response. Respondents argue that during this proceeding neither the petitioners nor the Department ever suggested COSIPA's export contract date would be a more appropriate date of sale at the supplemental Section A or C stages nor at verification, nor did the Department request that COSIPA alter its date of sale methodology. This eleventh-hour challenge must be rejected, COSIPA insists, as it raised at a stage in the proceeding which precludes any correction.

Department's Position

We agree with the respondents that the evidence on the record does not establish that the contract date best represents the date of sale for COSIPA's U.S. sales. Thus, for date of sale, we have continued to use the earlier of the commercial invoice date or the nota fiscal date. Petitioners make reference to page 9 of the COSIPA verification report, which states that the export contract ''for U.S. sales shows the total tonnage, price and product quality. It also specifies the estimated delivery time, sales conditions, payment terms, and has the date of issuance.'' This statement is accurate; however, this statement only relates to the tiny number of COSIPA's sales examines, and does not establish that the sales conditions and payment terms do not change after the contract date. With no evidentiary basis for disregarding the presumptive date of sale identified in our regulations, we have continued to use COSIPA's reported sale dates, consistent with our approach in Hot-Rolled Steel from Brazil 64 FR 38756, 38780 (July 19, 1996).

Comment 12: Direct Selling Expense Related to U.S. Sales

Petitioners point out that COSIPA sells to the United States via COSIPA Overseas, located in the Cayman Islands. Petitioners argue that activities conducted on behalf of COSIPA Overseas' and the expenditures associated with them relate exclusively to export transactions. (The precise nature of these expenses necessitates extensive reference to business proprietary information. For a complete discussion of this issue, and our position thereon, please see the Final Analysis Memorandum, January 18, 2000, a public version of which is on file in room B–099 of the main Commerce building.) Petitioners go on to indicate that COSIPA funds these expenditures by paying an amount to COSIPA Overseas on sales from COSIPA to COSIPA Overseas. Petitioners assert that the Department found this should have been a direct expense. Therefore, petitioners state that the Department should deduct this amount from the U.S. price.

Respondents assert that while COSIPA's accounting books refer to these amounts as a specific type of expense, this label is not entirely accurate, thus explaining the ''confusion'' engendered by statements referenced in the Department's COSIPA Sales Verification Report. In fact, respondents conclude, there is no basis in fact or law for concluding that these amounts represent direct selling expenses or for deducting these amounts from COSIPA's U.S. sales prices.

Department's Position

We disagree with petitioners. After careful review of the record, the Department has determined that the foreign sales expense identified by petitioners cannot be considered a direct expense, since the accounting entries do not represent an ''expense'' at all. Therefore, despite the ambiguity engendered by statements recounted in the COSIPA verification report on this subject, the Department cannot treat these accounting entries between COSIPA Overseas and COSIPA as direct selling expenses because they do not invoice ''expenses'' of any kind. See Final Analysis Memorandum for an additional discussion of this issue.

Comment 13: Imputed Interest Revenue

Respondents argue that the Department should not impute interest revenue on sales for which COSIPA has never been paid and therefore never collected such revenue. Respondents note that for COSIPA's home market sales that remained unpaid as of October 1, 1999 (the date of its first supplemental response), the Department selected October 1, 1999, as a surrogate payment date and used that date to calculate an imputed interest revenue. Respondents state that in the Preliminary Determination, the Department's decision to impute interest revenue is based upon an incorrect assumption that COSIPA will inevitably be paid for these sales and will collect interest and penalties. Respondents acknowledge that it receives interest revenue from customers who pay late, but states it has reported these receipts appropriately. However, respondents state that the record does not support the Department's decision to impute interest revenue receipts on sales for which no payment at all has been received, and that COSIPA cannot predict with certainty when, or if, certain customers will pay the invoiced amount (including late payment charges). Respondents state that the Department's reference in the Preliminary Determination to Section 776(b) of the Act, which authorizes the use of adverse inferences against parties who fail to cooperate, is unwarranted with regard to home market interest revenue on unpaid sales. Respondents reference *Olympic Adhesives Inc.* v. *United States*, 899 F2nd 1565, 1573 (Fed. Cir. 1990) and state that a company's inability to provide information is not the same as a refusal to provide that information.

Petitioners state that if it is in fact the case, as respondents claim, that there is ample reason to believe that the sales with missing payments within COSIPA's home market dataset are sales for which full payment is not expected by COSIPA, then the Department should classify all of those sales as being made outside of the ordinary course of business, and should exclude those sales from its margin analysis. Petitioners state that companies such as COSIPA will not ordinarily sell merchandise to customers from whom they do not expect payment in full for the merchandise. Petitioners emphasize that while non-payment of some portion of bills is a possibility, it is not the normal practice for any company within a market economy desiring to stay in business for very long.

Department's Position

We disagree with the respondents' argument, and agree, in part, with the petitioners' argument. We agree with the general principle of the petitioners' argument that it is not the normal practice for a company operating within a market economy to continue operating for any length of time under conditions of non-payment for a significant portion of its invoices. At minimum, if a company over time does not receive a significant portion of payments, the company would certainly try to minimize this loss by discontinuing selling to, or altering the level of business conducted with these customers. Although COSIPA may indeed not receive full payment (with interest and penalties) for a certain number of sales, the Department cannot assume non-payment for all sales with missing payments reported to the Department. Without any additional evidence supporting the respondent's claim on this matter, the Department is not in a position to assume non-payment of interest revenue for all of these sales. Stating this, the Department likewise cannot assume the petitioners' argument that these sales are sales outside the ordinary course of trade is accurate, absent additional record evidence. Therefore, for sales with unreported payment dates, we are continuing as we did in the Preliminary Determination, 64 FR 61249, 61259 (November 10, 1999) to calculate an imputed interest revenue expense for COSIPA. See Final Analysis Memorandum.

Comment 14: Home Market Freight Adjusted by ICMS Tax

Respondents argue that the Department should not make a downward adjustment to the reported home market freight adjustments for ICMS. Respondents note that in the Preliminary Determination, the Department excluded from home market inland freight costs the associate ICMS taxes. Respondents state that the Department is obligated to make deductions from normal value for all inland freight expenses associated with home market sales. See 19 U.S.C. 1677b(a)(6)(B). Respondents state that neither the Department is obligated to make deductions from normal value for all inland freight expenses associated with home market sales. See 19 U.S.C. 1677b(a)(6)(B). Respondents state that neither the Department nor the petitioners have suggested that the respondents are receiving some form of tax credit as they do in connection with the ICMS paid on raw materials purchases; nor can this inference be gathered from any other Brazilian proceeding. Respondents conclude that the Department should find that taxes paid on freight expenses are part of movement expenses, and deduct the ICMS incurred on freight from normal value (in addition to the expense for the freight service itself), as it has done in all previous investigations and administrative reviews involving Respondents. See Final Results of Antidumping Duty Administrative Review: Silicon Metal from Brazil, 63 FR 6899, 6908 (February 11, 1998).

Petitioners argue that the Department correctly subtracted ICMS taxes from the respondents' home market inland freight amounts. Petitioners state that the ICMS tax is unquestionably a VAT tax and that the Department's adjustment is consistent with its current methodology (petitioners cite to Hot Rolled Steel from Brazil). Petitioners claim that the respondents' assertion that the Department has included ICMS taxes in home market freight expenses in ''all previous investigations and administrative reviews'' involving respondents is not accurate, and that there is no basis on the record in this investigation to deviate from the Department's stated practice.

Department's Position

We agree with petitioners. For USIMINAS' U.S. sales examined at verification, respondents did not include ICMS tax within home market inland freight for U.S. sales, but did include ICMS taxes in inland freight for home market sales. Likewise, COSIPA did not include ICMS taxes within home market inland freight for U.S. sales. For COSIPA's home market sales, the evidence is unclear. The vast majority of sales examined at verification were within Sao Paulo state and, thus, freight charges would not be subject to ICMS taxes; the freight invoice for one remaining home market observation indicated no ICMS taxes were included. However, COSIPA has stated affirmatively that ''freight charges are based on the services plus any applicable taxes (*i.e.,* ICMS tax). In this scenario, the freight provider then remits the taxes collected from * * * COSIPA and USIMINAS to the state.'' USIMINAS/COSIPA Case Brief at 5 (original emphasis); see also Respondents' Supplemental Questionnaire Response, October 29, 1999, at 9. Thus, we conclude that the preponderance of record evidence indicates that for USIMINAS/COSIPA, home market freight carriers on interstate runs include ICMS in their freight charges. This is similar to the reporting of ICMS taxes on sales of the merchandise under investigation (ICMS taxes are paid on home market sales and not on U.S. sales; we deduct ICMS taxes from reported gross unit price). If ICMS taxes are included within movement expenses, which are deducted from the gross unit price, and we calculate gross unit price net of ICMS taxes, then the movement expenses should similarly be a net of the ICMS taxes. ICMS taxes must be concurrently deducted from movement expenses, as well as gross unit price to make the entire calculation tax-neutral.

In the Second Supplemental Questionnaire, we asked respondents to report, for each individual sale, the ICMS taxes paid on inland freight on the sales tape. Respondents replied: ''[w]hether or not the ICMS is included in the transport expense paid by Respondents depends on the destination of the shipment. For example, for shipments by COSIPA to destinations within the state of Sao Paulo, COSIPA pays the transporter its fee for the transport services, and then COSIPA pays the ICMS directly to the state. For shipments outside the state of Sao Paulo, it is the transporter's responsibility to pay ICMS.'' See Respondents' Supplemental Response at 9 (October 29, 1999). Respondents stated that the Department should deduct any ICMS paid by respondents directly to the state, but if they could not identify these ICMS taxes, it would only prejudice them. Respondents claimed that they were unable to *perfectly isolate* ICMS related to freight in the time permitted (see Id. at 10). Therefore, they did not report it separately. Printouts in USIMINAS'' sales verification exhibits indicate that they are indeed able to break out ICMS paid to the freight provider. Because respondents have failed to provide information by the deadline for submission, the Department is required to apply facts available under section 776(a)(2)(A). Moreover, because respondents has not acted to the best of its ability to identify the amount ICMS an adverse inference is appropriate under 776(b). Consequently, as facts available, we have deducted ICMS tax from movement expenses (for all home market sales with inland freight reported, by USIMINAS/COSIPA and their affiliated resellers) based on the highest rate applicable to respondents, 18 percent. See Respondents' Section B Response at B–42 (August 30, 1999). While COSIPA may not have paid taxes on some of those sales, we are deducting ICMS taxes nonetheless since we have no way of distinguishing which sales had ICMS tax since respondents did not break out the taxes as requested.

Comment 15: Non-Rectangular Blanks

Respondents argue that the Department should exclude all non-rectangular blanks from the scope of the investigation. Respondents submit a brief historical overview:(1) Respondents submitted on July 12, 1999 a letter requesting the Department to exclude all non-rectangular blanks from the scope of the investigation; (2) the Department's November 1, 1999, Memorandum from Case Analyst to Joseph A. Spetrini (Scope Memorandum) did not identify or address the respondent's scope request; and (3) since the Preliminary Determination, petitioners have requested the Department to exclude most non-rectangular blanks from the scope of the investigation.

Respondents emphasize that there is a subset of non-rectangular blanks that is covered by the respondents exclusion request which is not covered by petitioners' request. The petitioners' exclusion request proposes to limit the exclusion only to non-rectangular blanks that are in the ''approximate shape or outline of a finished article.''

Respondents argue that the Department should revise petitioners' proposed exclusion definition for several reasons: (1) It would be difficult for U.S. Customs officials to determine, on an entry-by-entry basis, whether a particular non-rectangular blank approximates the shape or outline of a finished article; (2) the petitioners' exclusion request does not consider the fact that consumers of non-rectangular blanks normally require the manufacturer to stamp the product into a shape that is similar to the shape of the final finished product; for the customer to do otherwise would not be economical; (3) an application of the Diversified Products criteria demonstrates that all non-rectangular blanks should be excluded. In particular, there are significant and meaningful differences in the physical characteristics of the product, the expectations of the ultimate purchasers, the ultimate use of the product, and the channels of trade in which the product is sold, from the primary cold-rolled steel products subject to this investigation. See *Diversified Products* v. *United States,* 572 F. Supp 883 (CIT 1983). Respondents refer to their July 12, 1999, analysis of the Diversified Products criteria and state that the application of the Diversified Products criteria is identical whether or not the non-rectangular blank conform with the petitioners' proposed definition of the non-rectangular blanks excluded from the investigation.

Petitioners initially point out although parties agree on the term ''blanks,'' petitioners did not exclude *all* cold-rolled steel of non-rectangular shape. See Scope Exclusion Letter at 2. Petitioners maintain that if cold-rolled steel imports are within the scope definition, then they are covered by the investigation, regardless of their shape. Referring to Chapter 72, Note 1.(k) of the HTSUS (already set up), petitioners state that non-rectangular shapes are properly classified as ''flat-rolled products.'' Petitioners stress that products that should not be classified as ''flat-rolled products'' are those that assume the character of products of other headings.

Petitioners argue that if the Department were to revise the scope of the investigation, it would be an invitation to circumvent this proceeding, an abuse of its discretion, and a direct contradiction to recent pronouncements by the Administration that the law will be vigorously enforced. According to petitioners, respondents' argument that there is ''no commercial incentive'' for a customer to insert an additional step into its production process is false. Petitioners maintain that if respondents can avoid a duty cost with a less expensive change—*i.e.,* cutting a corner of a steel sheet—then there is, in fact, a ''commercial incentive,'' and such imported products would compete for sales with products made by the domestic industry.

With regard to respondents' argument that the definition provided in Petitioners' Scope Clarification Letter would be ''unmanageable'' by the U.S. Customs Service, petitioners maintain that the letter makes clear that products that assume the character and parts or finished articles are not intended to be covered. Petitioners also disagree with respondents' contention that application of Diversified Products criteria suggests that all non-rectangular blanks should be excluded. According to petitioners, their letter reveals that the products not included are those that are actually dedicated components of other items or complete articles themselves. Petitioners note that there is a real difference between a steel sheet that has been cut to a shape that is technically non-rectangular and a piece of steel that can only be used as part of some other article.

Petitioners submitted a clarification to the scope exclusion, which replaces petitioners' November 3, 1999 submission. Petitioners agree that the following product should be excluded from the scope of the instant investigation: ''Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.'' See Petitioners' Draft of Scope Exclusion/Clarification Letter (January 12, 2000). Petitioners emphasize that any product that does not meet these specifications is included within the scope of the investigation.

Department's Position

We agree with petitioners, who have revised the scope, carefully articulating the ''non-rectangular'' products that are excluded. It has been determined that the HTSUS will be the governing factor for classifying these products. In this case, products that are no longer commercially recognized as basic steel mill products—*i.e.,* advanced products which have assumed the character of articles or products classified outside Chapter 72 of the HTSUS—will not be included in the scope. See ''Scope of the Investigation,'' above.

Comment 16: Thickness Tolerance

The respondents contend that the Department should recognize COSIPA's ¾ mill thickness tolerance code distinctions. Respondents note that the Department's antidumping questionnaire identifies codes for thickness tolerance to include ¼ mil tolerance, ½ mil tolerance, and standard mil tolerance. Respondents further state that the questionnaire also allows respondents to specify and explain any other codes for thickness tolerances which they consider applicable to the subject merchandise. In response to the questionnaire, respondents note that they provided a code which represents subject merchandise with a ¾ mil thickness tolerance.

Respondents note that in the Preliminary Determination, the Department treated ¾ mil tolerance as standard mill tolerance. The respondents state that the Department has not provided an explanation why it recognized some tolerance distinctions while at the same time it has ignored other tolerance distinctions of the same magnitude. Respondents believe that the Department should revise its computer programs so that ¾ mil thickness tolerance sales are kept distinct from standard tolerance sales.

Petitioners disagree with the respondents' argument that ¾ mil thickness tolerance sales should be kept distinct from standard tolerance sales. Petitioners believe the Department should reject this argument since respondents were offered an opportunity to propose a ¾ mil thickness tolerance in their response to the Department's model-matching criteria, and did not. Petitioners make reference to respondents' August 30, 1999, questionnaire response, which states that sales are categorized as standard tolerance sales which meet the following conditions: (1) Customer did not specify a thickness tolerance; (2) sales which cannot be linked to a customer order; (3) sales from inventory.

Petitioners state that the burden is on the respondents to justify the need for an additional tolerance category, and that the respondents' case brief has offered nothing more than the unsupported assertion that the ¾ mil thickness tolerance is a ''fairly common customer specification'' for COSIPA sales. Petitioners believe that the Department's decision to place these ¾ mil tolerance sales into the standard mil category is consistent with respondents' own practice of assigning various categories of sales to the standard category, which in effect uses that category as a ''catchall''.

Department's Position

We agree with petitioners. The respondents were given every opportunity to propose a ¾ mil thickness tolerance in their response to the Department's model-match criteria, and did not. In fact, the antidumping questionnaire explicitly states that if the respondents need to add subcategories to the thickness tolerances, the respondents should contact the Department immediately and describe why the Department should use this information to define identical and similar merchandise. Respondents did not contact the Department as requested, nor did the Respondents place any information on the record to indicate that ¾ mil tolerance is a industry-wide recognized mil tolerance category. In their questionnaire response, the respondents simply stated that they were adding this additional thickness tolerance to the mil thickness tolerances categories provided by the Department. However, respondents failed to submit any information or documentation which would indicate that the steel industry recognizes ''¾ mil'' tolerances as a production standard, as it does ¼ mil and mil tolerances. Therefore, for the Final Determination, we continued to treat the limited number of ¾ mil tolerance sales as standard mil tolerance.

Comment 17: Credit Cost Calculations

The respondents note that in the Preliminary Determination the Department adjusted the credit cost calculation for USIMINAS because USIMINAS had calculated credit costs based on a gross price. The Department adjusted the credit cost calculation by deducting taxes from gross price. Respondents state that in the event the Department continues to deduct taxes from gross price prior to calculating credit costs, the Department may now use USIMINAS' reported credit costs, since the adjustment was already made to the respondent's data in the October 29, 1999, submission.

Petitioners do not address this issue in their rebuttal briefs.

Department's Position

The Department concludes that it is appropriate to deduct taxes from gross unit price for the calculation of credit costs in the Final Determination. We accept the respondents' adjusted credit costs, which were calculated using prices net of taxes.

Comment 18: Theoretical Weight Sales

Respondents state that the Department adjusted all home market sales with a conversion factor, which was used by the Department in a recent administrative review involving cold-rolled steel. Respondents note that on October 29, 1999, USIMINAS provided the Department with a conversion factor based on its historical sales experience. Respondents assert that the Department verified the conversion factor and that the Department verified that USIMINAS sells sheet in the home market based on both theoretical weight and adjusted theoretical weight. Respondents note that all USIMINAS'' U.S. sheet sales are on adjusted theoretical basis. Therefore, respondents contend that in matching these U.S. sales of sheet to home market sales, it is necessary to adjust the home market sheet sales sold on a theoretical weight basis to an adjusted theoretical weight basis.

Respondents contend that in light of USIMINAS' submissions, the Department can now adjust price and charges for USIMINAS' home market theoretical weight sales. They note that the adjusted theoretical weight is always greater than the theoretical weight. Respondents note that when the Department adjusts prices and charges, the Department must divide by the conversion factor. Respondents note that this applies to all adjustments except freight and other adjustments not dependent on invoice weight. Respondents contend that freight costs are invoiced by freight providers on a gross weight basis. Respondents note this also applies to packing costs which were calculated on an actual weight basis.

Petitioners argue that Department should reject the conversion factor provided by USIMINAS, and as facts available, continue to convert all of USIMINAS' home market theoretical weight sales to an actual weight basis by multiplying the reported quantities for these sales by 0.96 and dividing the reported prices for these sales by that factor.

Petitioners state that the conversion factor provided by USIMINAS at verification relates exclusively to conversions from a theoretical weight basis to an adjusted theoretical weight basis, meaning that the company still has never provided a conversion factor that might be used to convert actual weight to a theoretical weight basis (or vice versa). Petitioners argue that the conversion factor provided by USIMINAS is suspect, and state that the respondents have not put forward any arguments which provides the Department with any reason to alter its use of facts available for the final determination. Petitioners also refer to the verification report which states that the USIMINAS conversion factor was based on a study done a long time ago. Petitioners argue that this statement provides reason to doubt whether the figure provided by USIMINAS represents the relationship between the company's theoretical weight quantities and adjusted theoretical weight sales quantities during the period of investigation.

Department's Position

In the Preliminary Determination we treated all USIMINAS' U.S. sales as actual weight sales, and we treated all USIMINAS' home market sales of sheet as theoretical weight sales. USIMINAS later clarified that its U.S. sales of sheet are in adjusted theoretical weight and its home market sales are in adjusted theoretical and theoretical weight, and it provided a conversion factor between theoretical and adjusted theoretical weight.USIMINAS claimed that adjusted theoretical weight approximates actual weight.

While we verified the relationship between theoretical and adjusted theoretical weight using this factor, we find that USIMINAS did not submit convincing evidence that adjusted theoretical weight approximates actual. Therefore, for the final determination, we are using the factor submitted by USIMINAS to convert its U.S. and home market adjusted theoretical weight sales to theoretical weight (including conversion of all prices and adjustments, excepting packing). We then converted the U.S. and home market theoretical weight to actual weight (including conversion of all prices and adjustments, excepting packing) using the factor used in the Preliminary Determination 64 FR 61249, 61259 (November 10, 1999).

Comment 19: PIS/COFINS Taxes

Respondents argue that the Department incorrectly declined to deduct PIS and COFINS taxes from home market prices. Respondents note that the tax adjustment provision of section 773(a)(6)(B)(iii) of the Act ensures that the Department makes a tax-neutral comparison when comparing normal value to export price by requiring the Department to adjust normal value by the amount of any indirect taxes imposed on home market sales, but not on export sales. Respondents state that, until recently, the Department considered Brazil's Programa de Integracao Social (PIS) and Contribuicao do FinSocial (COFINS) taxes to be indirect taxes that fall within the meaning of the tax adjustment provision. The Department's change in its treatment of these taxes, according to respondents, is based on a factually incorrect assumption that these taxes apply to total gross revenues and on a legally improper understanding of what indirect taxes are.

Respondents point out that the statute and prior case law make clear that three circumstances must exist for the tax adjustment provision to apply to a particular tax. First, the tax must be ''directly'' imposed on the home market product. Second, it must be rebated or not collected on export sales. Third, it must be added to or included in the price of the home market sale. Respondents argue that the fact that these taxes are not imposed on exports has never been an issue. Thus, respondents state that the only requirements of significance in this review are the first and third requirements.

With the Department failing to adjust respondents' home market price for Brazil's PIS/COFINS taxes in the Preliminary Determination, respondents argue that the Department incorrectly determined that ''these taxes are levied on total revenues.'' Respondents state that until recently, the Department consistently held that PIS/COFINS fall within the meaning of the tax adjustment provision. Respondents cite numerous antidumping cases from Brazil in support of their position that PIS and COFINS should be deducted from home market price. See respondents' Case Brief at 17.

Respondents contend that in the Final Administrative Review of Silicon Metal from Brazil, 62 FR 1970 (January 14, 1997) (Silicon Metal from Brazil, 1997), the Department erroneously determined that PIS/COFINS are analogous to two Argentine taxes previously determined not to be indirect taxes within the meaning of the tax adjustment provision. Respondents state that in the Final Determination of the Less-Than-Fair Value Investigation of Silicon Metal from Argentina, 56 FR 37891 (August 9, 1991) (Silicon Metal from Argentina), the Department refused to make an upward adjustment to U.S. price for two Argentine taxes because these taxes were based on non-sales revenue as well as sales revenue. Respondents argue that the Department concluded that these taxes were not ''directly'' imposed on Argentine sales within the meaning of section 773(a)(6)(B)(iii) of the Act.

According to respondents, petitioners in Silicon Metal from Brazil, 1997 glossed over the fact that Brazilian and Argentine taxes are, in fact, vastly different by asserting that PIS/COFINS are ''almost identical'' to the two Argentine taxes. Respondents state that, contrary to the Argentine taxes, PIS/COFINS are imposed only on a company's sales revenue.

In addition, respondents claim that the Department's decision not to make an adjustment for PIS and COFINS is unsupported by any accounting or economic analysis. Respondents contend that the fact that PIS and COFINS sales taxes are calculated on an aggregate basis as opposed to an invoice-specific basis is irrelevant—the tax liability is the same. In respondents' view, no basis exists to conclude that the manner of calculating a tax disqualifies a tax from an adjustment under section 773(a)(6)(B)(iii) of the Act.

Respondents state that the Department has not, in any of its decisions relating to this issue, identified any support for its classification of a sales tax as a ''gross revenue tax'' simply because it is calculated on an aggregate basis. As a result, respondents reiterate that the taxes are based exclusively on home market sales and for this reason the Department for almost two decades found these taxes to qualify for a circumstance of sale adjustment.

Respondents state that the third prong, inclusion of the taxes in the home market price, is satisfied in the instant case; the Department has never based its denial of the PIS/COFINS adjustment on a specific or explained finding that the taxes were not included in the price and passed through to the home market customer. Respondents note that in the Final Administrative Review of Color Television Receivers from Korea, 49 FR 50420 (December 28, 1984), the Department made an adjustment for home market taxes based on the conclusion that the taxes were fully passed through to the home market customers. Respondents assert that the Department determined that it was authorized to make an adjustment under section 772(d)(1)(C) of the Act. Therefore, respondents urge the Department to determine that PIS and COFINS are included in the home market price, and passed through to home market customers. In addition, respondents assert that in the Preliminary Determination, the Department did not cite to any record evidence that there is no pass-through, nor did it prepare any questions related to the pass-through aspect of these taxes in its questionnaires or at verification. Since the Department never asked respondents to rebut any newfound presumption that these taxes were not included in the home market price to the customers, respondents believe the Department is not justified in finding no pass-through in this investigation.

If the Department were to argue that PIS and COFINS are not included in the price because they are not itemized on the invoice (like the IPI and ICMS taxes), respondents maintain that it would be wrong for two reasons: (1) PIS and COFINS were not itemized on the Brazilian invoices in all the Department's previous investigations which allowed adjustments to normal value for these taxes, yet it always found that these taxes were included in the home market price, and qualified for an adjustment; (2) whether or not the tax is itemized on the invoice is irrelevant to a pass-through finding. Respondents note that if the tax is not itemized, it is simply included in the gross unit price. According to respondents, itemization on the invoice only indicates how the tax is calculated in the accounting records of the company.

Respondents conclude that there is no justification for the Department's preliminary decision to ignore the necessary deduction for PIS and COFINS. Respondents argue that the PIS/COFINS adjustment is consistent with Department findings (except for recent ''erroneous'' decisions), and decisions by the Courts. Moreover, according to respondents, there is no evidence on the record to support a Department presumption that PIS/COFINS are not included in the home market price. Respondents state that the PIS/COFINS adjustment is required to ensure that the Department's LTFV comparisons are tax neutral, as contemplated by the U.S. dumping law and Article 2.4 of the WTO Antidumping Agreement.

Petitioners argue that PIS/COFINS taxes should not be deducted from normal value. Petitioners state that the statute and the SAA clearly state that downward adjustments to normal value may only be made for tax amounts directly imposed upon sales of the foreign like product. See section 773(a)(6)(B)(iii) of the Act and SAA at 827 and 828. Petitioners refer to the COSIPA verification report at 22, which states that PIS and COFINS taxes use the same base of calculation. Petitioners claim that the base of calculation is the total gross revenue of the corporation, and that neither the PIS nor the COFINS tax is directly imposed on sales of the foreign like product. Petitioners maintain that these taxes are imposed on *all* of the company's domestic sales revenue, including service revenue, on an aggregate basis. Accordingly, petitioners argue, these taxes are not imposed directly upon the foreign like product or components thereof, and there is no statutory basis for their deduction from normal value.

Contrary to respondents' suggestion that the Department lacks an understanding of indirect taxes, petitioners state that the Department is intimately familiar with the way the PIS/COFINS taxes are imposed and collected, and the Department has painstakingly reviewed this issue in several recent cases. Petitioners make special note of the Final Results of Antidumping Duty Administrative review of Certain Cut-to-Length Carbon Steel Plate from Brazil, 63 FR 6889, 6911 (February 11, 1998) and add that the respondents simply seek to overturn the Department's practice based on no new facts or new arguments.

Department's Position

Since 1997, the Department has consistently disallowed claimed adjustments to normal value for PIS/COFINS taxes. According to section 773(a)(6)(B)(iii) of the Act, normal value of the merchandise will be reduced by the amount of any taxes imposed directly upon the foreign-like product or components thereof which have been rebated, or which have not been collected, on the subject merchandise, but only to the extent that such taxes are added to or included in the price of the foreign-like product.

PIS/COFINS taxes do not appear to be imposed on subject merchandise or components thereof, leading to no statutory basis to deduct them from NV.

See page 29 of USIMINAS' Sales Verification Report and Verification Exhibit 24. Citing to Silicon Metal from Brazil: Notice of Final Results of Antidumping Duty Administrative Review, 64 FR 6305, 6318 (February 9, 1999) (Silicon Metal from Brazil), the Department determined that ''a deduction of the PIS and COFINS taxes is not correct in the calculation of NV because these taxes are levied on total revenues (except for export revenues), and thus the taxes are direct, similar to taxes on profit or wages.'' See Hot-Rolled Steel from Brazil at 38765. Therefore, the Department will not deduct the PIS/COFINS taxes from the NV in the Final Determination.

III. Cost Issues

Comment 20: Major Inputs

USIMINAS and COSIPA argue that the Department does not have evidence on the record to support disregarding the transfer price of iron ore from its affiliate CVRD or demonstrating that the transfer price is below CVRD's cost of production. Respondents assert that the Department has confirmed that the iron ore prices charged by CVRD are above the prices charged by unaffiliated suppliers. Further, respondents maintain that, even though they could not compel CVRD to provide its COP for iron ore, the evidence on the record shows that CVRD made a profit during the POI in its ore and metals division; therefore, the Department has no reasonable grounds to believe that iron ore was being supplied at less than its COP and the use of facts available for this issue is not warranted. As support respondents cite article 2.2.1.1 of the international antidumping agreement which states that ''costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration.''

Moreover, respondents claim that the cost of iron ore does not represent a significant portion of the cost of the merchandise under investigation as the regulations suggest. COSIPA argues that not only is iron ore a minor input, but its relationship with CVRD is indirect and does not permit influence or control over the company, and thus does not constitute affiliation. COSIPA points to the fact that the relationship exists strictly because of CVRD's minority stock ownership in USIMINAS.

Additionally, COSIPA asserts that in the preliminary determination the Department violated the statute by using adverse inferences (*i.e.,* petition rate) in the application of facts available relating to the major input rule. Both USIMINAS/COSIPA note that they were unable to compel CVRD to provide cost of production information. However, they maintain that under section 776(b) of the Act, the Department must find that ''the respondent failed to cooperate to the best of its ability,'' in order to resort to adverse inferences in applying facts available. Respondents state that the record shows that they attempted in every way to obtain the cost of production from CVRD, but CVRD refused. Thus, if the Department decides to use information other than the invoice price from CVRD to determine iron ore costs, it should use corroborated information from independent sources.

Petitioners contend that the Department's use of adverse facts available in valuing the iron ore acquired by respondents' from CVRD is appropriate. According to petitioners, the record clearly indicates that (1) iron ore is a major input to the production of subject merchandise, (2) CVRD is affiliated with both USIMINAS and COSIPA, (3) respondents refused to provide the Department with CVRD's cost of producing iron ore, thereby failing to act to the best of their ability to provide requisite information, and (4) the statute mandates valuing the purchase of a major input from an affiliated party at the highest of the transfer price, the market price, or the cost of production. Thus, in lieu of CVRD's actual production cost information, the Department had no choice but to resort to facts available.

Departments Position

We have applied the major input rule in accordance with section 773(f)(3) of the Act in valuing the iron ore received from CVRD. In doing so, we have used, as non-adverse facts available, the COP information provided in the June 2, 1999 petition as the COP of iron ore from CVRD since respondents' did not provide the COP information as requested by the Department.

We consider iron ore to be a major input in accordance with section 773(f)(3) of the Act. In determining whether an input is considered major, among other factors, the Department considers both the percentage of the input obtained from affiliated suppliers (versus unaffiliated suppliers) and the percentage the individual element represents of the product's COM. We determined in this case that iron ore represents a significant percentage of the total cost of manufacturing and that USIMINAS receives a significant portion of its iron ore from its affiliate CVRD. The combination of the significant amounts of the inputs obtained from CVRD and the relatively large percentage the iron ore represents of the product's COM increases the risk of misstatement of the subject merchandise's costs to such a degree that we have determined that section 773(f)(3) of the Act applies to this input.

Section 773(f)(2) allows the Department to test whether transactions between affiliated parties involving any element of value (*i.e.,* major or minor inputs) are at prices that ''fairly reflect the market under consideration.'' Section 773(f)(3) allows the Department to test whether, for transactions between affiliated parties involving a major input, the value of the major input is less than the affiliated supplier's COP where there is reasonable cause to believe or suspect the price of iron ore is below COP. In other words, if an understatement in the value of an input would have a significant impact on the reported cost of the subject merchandise, the law allows the Department to ensure that the transfer price or market price is not below cost. We consider the initiation of a sales-below-cost investigation reasonable grounds to believe or suspect that major inputs to the foreign like product may also have been sold at prices below the COP within the meaning of section 773(f)(3) of the Act. See, *e.g.,* Final Results of Antidumping Administrative Review: Silicomanganese from Brazil, 62 FR 37871 (July 15, 1997).

Because we have determined that iron ore purchased from an affiliate is a major input in production of cold-rolled steel, the statute requires that, for the dumping analysis, the major input should be valued at the higher of transfer price, market price or COP. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire from Canada, 64 FR 17324, 17335 (April 9, 1999). In accordance with sections 773(f)(2) and (3) of the Act, we attempted to compare the transfer price for iron ore purchased from USIMINAS/COISPA's affiliated supplier to the supplier's COP and a market price. As noted above, even though the Department requested that USIMINAS/COSIPA provide its affiliated supplier's actual COP for iron ore in the original section D questionnaire, the supplemental questionnaires and at verification, USIMINAS failed to do so. Contrary to USIMINAS/COSIPA's assertion, the fact that CVRD's metals division may be profitable does not demonstrate that the prices it charged to USIMINAS and COSIPA were above its COP.

Section 776(a) of the Act provides for the use of facts available where necessary information is not available on the record. As a result of USIMINAS' and COSIPA's failure to provide the requested information, we have used partial facts available to ensure the COP of the major input is taken into consideration in applying the major input rule. As a gap filling facts available, we included the iron ore cost from the petition as the COP of iron ore to preform the major input rule test. We note that we have not made an adverse inference in selecting the facts available as respondents claim. Rather, it is a gap filling facts available based on the only information on the record related to the COP of iron ore.

Comment 21: Financial Expense

USIMINAS/COSIPA argue that in the Preliminary Determination the Department improperly included interest expenses and foreign exchange losses related to export sale-specific financing and improperly excluded foreign exchange gains related to accounts receivable. According to respondents, Brazilian law permits banks to provide advance financing to companies, based on a letter of credit obtained from customers for export sales. Respondents state that under the financing agreement they pay the bank interest and assume the risk of exchange rate gains or losses until the merchandise is shipped. The bank assumes the risk of the exchange rate gains or losses from the date of shipment to the date of payment from the customer. Because the financing costs are incurred exclusively on export sales, the respondent asserts that the costs should not be included in the COP calculation. As support respondents cite *AK Steel Corp.* v. *United States,* Slip Op. 97–152, at 12 n. 2 (CIT November 14, 1997) which states "when referring to the cost of producing the merchandise the statute plainly means the merchandise in question sold in the home market."

Further, respondents contend that the petitioners argument that money is fungible does not justify the inclusion of these expenses in the COP and CV calculations. According to respondents, the Department does not recognize that all money is fungible, because it does not permit income from long-term assets or non-operating income to reduce financial costs. If all money was fungible such income would be used to reduce financial costs of production. In addition, respondents argue that if money is fungible there is no justification for including all financial expenses while including only some financial income, as in the instant case where income generated by foreign exchange gains related to accounts receivable has been excluded.

Petitioners contend that the Department properly included the financing costs under the fungibility principle. Petitioners claim that it's the Department's longstanding policy to treat interest expense as financial expenses not selling expenses. Petitioners assert that funds obtained from export sales financing could be used in producing the merchandise sold in the home market. Therefore, the Department appropriately included these costs in the calculation of COP and CV because they do relate to production of merchandise for all markets.

Further, petitioners argue that the Department properly excluded foreign exchange gains related to accounts receivable from the calculation of the financial expense ratio. According to petitioners, only foreign exchange gains and losses related to debt are relevant to the financial expense calculation. Thus, the foreign exchange gains generated from accounts receivable relate to sales transactions and were properly excluded from the financial expense ratio calculation.

Department's Position

We agree with petitioners that interest expense and foreign exchange losses incurred on advance financing for export sales should be included in the financial expense ratio calculation. The Department's longstanding practice recognizes the fungible nature of a company's invested capital resources (*i.e.,* debt and equity). This practice was upheld in *Camargo Correa Meais, S.A.* v. *United States,* 17 C.I.T. 897, 902 (August 13, 1993), where the court approved the Department's policy of recognizing the fungible nature of invested capital resources. In this case, we determined that the interest expense and foreign exchange losses incurred on the export financing represent financing activities of the entity. As noted by the petitioners, the funds received from using the accounts receivable as collateral may be used in any capacity the company decides, such as, in producing subject merchandise. Accordingly, the interest expense and foreign exchange losses incurred on these types of agreements are related to the companies' debt. Therefore, we have included both the expense and losses in the calculation of the financial expense ratio.

We disagree with respondents' argument that we should include foreign exchange gains related to accounts receivable as an offset to interest expense in the calculation of financial expenses. The Department typically includes in its calculation of COP and CV foreign exchange gains and losses resulting from transactions related to a company's manufacturing activities (*e.g.,* purchases of inputs). See Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Trinidad and Tobago, 63 FR 9177, 9181 (February 24, 1998). We do not consider exchange gains and losses resulting from sales transactions to be related to the manufacturing activities of the company. Thus, for the final determination we have disallowed foreign exchange gains related to accounts receivable as an offset to financial expenses.

Comment 22: Including Employee Profit Sharing Expenses in the G&A Expense Ratio

For the final determination, petitioners assert that the Department should recalculate USIMINAS/COSIPA's combined G&A expense ratio to include employee profit-sharing expenses. According to petitioners, the Department typically includes these expenses in the calculation of the COP. For example, petitioners cite the Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Sheet and Strip in Coils from France, 64 FR 30820, 30823 (June 8, 1999), in which the Department included similar profit-sharing costs in the calculation of COP.

USIMINAS/COSIPA did not comment on this issue.

Department's Position

We agree with petitioners that respondents' employee profit sharing expense should be included in the calculation of COP and CV. It is the Department's established practice to include this type of expense in the calculation of COP and CV. Because employee profit sharing is a cost of labor and it is an expense recognized within the POI it should be included in the reported cost in accordance with full absorption costing principle. See, e.g., Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta from Turkey, 63 FR 68429 (December 11, 1998). For the final determination we included USIMINAS' employee profit sharing expenses in the combined G&A expense rate calculation.

Comment 23: Idled-Assets

Petitioners argue that COSIPA did not include idled-asset depreciation expense as an element of its production costs. Petitioners assert that the Department has a longstanding practice of including depreciation on idled-assets in the reported costs, citing Final Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan, 63 FR 20585, 20609 (April 27, 1998) (TRBs from Japan). As further support, petitioners cite, Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part; Silicon Metal From Brazil, 62 FR 1954, 1958 (January 14, 1997) where the Department adjusted the respondents depreciation expense stating ''fully absorbed costs, including idle-equipment depreciation expense for producing the subject merchandise should be included in the COP and CV.'' Thus, petitioners contend that in the final determination the Department should include the depreciation expense related to COSIPA's idled-assets in the reported costs.

COSIPA did not comment on this issue.

Department's Position

We agree with the petitioners that depreciation expense of idled-assets should be included in the COP and CV. It is the Department's practice to include in fully absorbed factory overhead the depreciation of equipment not in use or temporarily idled, notwithstanding home market accounting standards which may allow companies to refrain from doing so. See, TRBs from Japan. See also *NTN Bearing Corp. of America, et al., plaintiffs,* v. *United States,* Slip Op. 93–129 (CIT August 4, 1993), where the court upheld the Department's decision to include depreciation expenses for idled equipment. Accordingly, in the final determination we included the idled-asset depreciation expense in COSIPA's costs.

Comment 24: Write-Offs of Idled-Assets

During the POI, COSIPA wrote off certain production assets, but excluded the loss from write-offs from the reported COP and CV. Petitioners maintain that it is the Department's standard practice to include the costs related to write-offs of production assets in the reported costs, citing *Final Results of Antidumping Duty Administrative Review: Extruded Rubber Thread From Malaysia,* 61 FR 54767, 54772 (October 22, 1996) (Extruded Rubber Thread). Accordingly, Petitioners contend that in the final determination the Department should include the costs related to COSIPA's write-offs of production assets in the reported costs.

COSIPA argues that the Department should not include the costs related to write-offs of production assets in the reported costs because these assets were idled before and after the POI and are classified as ''non-operating costs'' under Brazilian GAAP. Respondent maintains that in Final Determination of Sales at Less Than Fair Value; Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Italy, 60 FR 31981, 31990 (June 19, 1995), the Department refused to include as a cost of production the cost of idled assets which ''relate clearly to discontinued operations from a prior period and are no longer productive assets.'' According to the respondent, the Department normally uses the last completed fiscal year of the POI to calculate the G&A expense ratio. Therefore, since a large portion of the written-off assets were idled before the POI and the remaining amount relates to assets idled in the first two months of the 1999 fiscal year these costs should not be included in the G&A expense ratio, which is calculated based on the 1998 fiscal year. As support, respondent cites the Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From Thailand, 60 FR 22557, 22560 (May 8, 1995). Further, the respondent asserts that if the Department decides to include the expense for the assets written-off in the numerator for calculating the G&A expense rate, then the Department should also include this amount in the denominator.

Department's Position

We disagree with the respondent. In accordance with past practice, the Department has included write-offs of the permanently idled assets in COP and CV. See, *e.g.,* Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Spain, 63 FR 40391, 40403 (July 29, 1998), wherein the Department included write-offs of permanently idled assets and related spare parts in the COP and CV. We do not consider write-offs of idled assets to be the type of expense we would exclude from the COP and CV. This equipment was related to the production operations of the company, the undepreciated value has never been charged against income, and it was expensed during the period of review. The loss realized from the assets written off is an actual expense to the company. Accordingly, the Department normally includes this type of equipment write-off in the calculation of COP and CV. See Extruded Rubber Thread., Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe from Italy, 60 FR 31981, 31990 (June 19, 1995); Final Results of Antidumping Duty Administrative Review: Certain Cut-To-Length Carbon Steel Plate from Germany, 61 FR 13834, 13836 (March 28, 1996); and Final Results of Antidumping Duty Administrative Review: High-Tenacity Rayon Filament Yarn from Germany, 59 FR 15897, 15899 (March 28, 1995).

The Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe case cited by the respondent is not controlling because during that investigation a gain or loss on the discontinued operations had yet to be recognized in the company's normal books and records. However, the notice did state that ''upon disposal of the assets, the gain or loss on the sales will be included on the respondent's income statement and we will include the gain or loss in COP/CV.'' In this case, we are including write-offs of equipment which were being recognized by the company during the POI.

Regarding respondent's argument concerning including the write-offs in both the numerator and denominator in calculating the G&A rate, we disagree. If the Department calculated the G&A expense ratio as respondent suggest, the result would distort the dumping analysis because we would be applying a ratio which includes write-offs in the denominator to a base (*i.e.,* COM) which does not include write-offs. In order to correctly reflect the G&A expenses incurred by respondents, the G&A ratio must be calculated using a COS figure that excludes write-offs and applied to a COM that excludes write-offs. This is consistent with the methodology used in the Notice of Final Results of Antidumping Duty Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, 63 FR 32833, 32837 (June 16, 1998) and the Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan, 63 FR 8910, 8933 (February 23, 1998).

Comment 25: Weighted-Average Cost by CONNUM

USIMINAS and COSIPA contend that for collapsing purposes the Department should use a single cost of manufacture and general expense ratio for each company, calculate a dumping margin for each company, then weight-average the two margins to obtain a single dumping margin. Respondents make this assertion because the two companies: (1) Have separate production facilities, (2) are located in two different regions of Brazil, (3) are separately run on a day-to-day basis, (4) have different production costs, (5) possess different machinery and processes, and (6) maintain different cost accounting systems. Thus, given these differences it is unreasonable for the Department to expect either company to price its products above the other company's COP.

Further, respondents claim that the first court decision approving the Department's collapsing policy makes clear that it is limited to ''calculating a single dumping margin.'' According to respondents, the purpose for the policy was to protect against price manipulation. However, in the present case, the Department has allegedly extended the collapsing policy beyond the intended purpose of the policy for no reason.

Petitioners maintain that the Department has properly calculated a combined cost of manufacture and a combined G&A rate for USIMINAS and COSIPA. Petitioners contend that it is the Department's stated policy to treat collapsed companies as divisions of the same corporate entity, rather than as affiliated parties, for cost reporting purposes. See Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 63 FR 13170, 13185 (March 18, 1998). Petitioners counter respondent's argument against the use of a combined cost of manufacture by stating that USIMINAS is COSIPA's parent company and that the costs of the two companies are combined in the preparation of USIMINAS' consolidated financial statements. USIMINAS and COSIPA also produce essentially the same products and therefore the potential for cost and price manipulation exists.

Department's Position

We agree with the petitioners that it is the Department's standard practice to weight-average the collapsed entity's separate costs into a single COP. Section 351.401(f) of the regulations provides for special treatment of affiliated producers where the potential for manipulation of prices or production in an effort to evade antidumping duties imposed on the sale of subject merchandise exists. In accordance with this section of the regulations, we collapse all sales prices and production costs of the affiliated entities as if they were a single company with different production facilities. See, *e.g.,* Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy, 64 FR 6615, 6622 (February 10, 1999). See also Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 63 FR 13170, 13185 (March 18, 1998), wherein the Department weight-averaged the cost across all collapsed entities. Accordingly, in the final determination we calculated a combined cost of manufacture and a combined G&A rate for USIMINAS and COSIPA.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing Customs to continue to suspend liquidation of all entries of cold-rolled flat-rolled, carbon-quality steel products from Brazil that are entered, or withdrawn from warehouse, for consumption on or after August 12, 1999 (90 days prior to the date of publication of the Preliminary Determination in the **Federal Register**). The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price shown below. The suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter manufacturer	Weighted-average margin (percent)
CSN	63.32
USIMINAS/COSIPA	46.68
All Others	46.68

ITC Notification

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

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

Dated: January 18, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1850 Filed 2–3–00; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–852]

Notice of Antidumping Duty Order: Creatine Monohydrate From the People's Republic of China

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

EFFECTIVE DATE: February 4, 2000.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv, Rosa Jeong, or Ryan Langan, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4207, (202) 482–3853, and (202) 482–1279, respectively.

The Applicable Statute

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

Scope of the Order

For purposes of this investigation, the product covered is creatine monohydrate, which is commonly referred to as ''creatine.'' The chemical name for creatine monohydrate is N-(aminoiminomethyl)-N-methylglycine monohydrate. The Chemical Abstracts Service (''CAS'') registry number for this product is 6020–87–7. Creatine monohydrate in its pure form is a white, tasteless, odorless powder, that is a naturally occurring metabolite found in muscle tissue. Creatine monohydrate is provided for in subheading 2925.20.90 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although