II. Method of Collection

The Bureau of the Census uses its field representatives to obtain information on the operating procedures of a permit office. The field representative visits the permit office, conducts the interview, and completes the paper form. The Bureau of the Census will change to CAPI for all data collection in July 1997. There will be no change in the burden hours.

III. Data

OMB Number: 0607–0125.

Form Number: SOC–903.

Type of Review: Regular Submission.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 835.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 209 hours.

Estimated Total Annual Cost: The total cost in FY 1996 of the Survey of Construction program, of which this questionnaire is a part, is $3,686,200. Of this amount, $1,765,000 is borne by the Department of Housing and Urban Development, and $1,921,200 is borne by the Bureau of the Census. The cost to the respondents is estimated to be $3,066 based on an average hourly salary of $14.67 [1] for state and local government employees.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

IV. Request for Comments

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

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

[1] Taken from the Census Bureau's Annual Survey of State and Local Government Employment.

Dated: September 27, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–25310 Filed 10–2–96; 8:45 am]

BILLING CODE 3510–07–P

Foreign-Trade Zones Board

[Order No. 846]

Grant of Authority for Subzone Status; Plastic Products Company, Inc. (Plastic In-Line Skates), Lindstrom and Princeton, Minnesota

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Greater Metropolitan Area Foreign Trade Zone Commission, grantee of Foreign-Trade Zone 119 (Minneapolis, Minnesota, area), for authority to establish special-purpose subzone status at the plastic in-line skate manufacturing facilities of the Plastic Products Company, Inc., in Lindstrom and Princeton, Minnesota, was filed by the Board on February 29, 1996, and notice inviting public comment was given in the Federal Register (FTZ Docket 17–96, 61 FR 9676, 3–11–96); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 119E) at the Plastic Products Company, Inc., plants in Lindstrom and Princeton, Minnesota, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 24th day of September 1996.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–25409 Filed 10–2–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

A–201–802

Preliminary Results of Antidumping Duty Administrative Review Gray Portland Cement and Clinker From Mexico

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

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

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers exports of subject merchandise to the United States during the period August 1, 1994, through July 31, 1995, and one firm, CEMEX, S.A. The results of this review indicate the existence of dumping margins for the period.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: October 3, 1996.

FOR FURTHER INFORMATION CONTACT: Steven Presing, Nithya Nagarajan, or Dorothy Woster, Office VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act)

by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On August 1, 1995, the Department of Commerce (the Department) published in the Federal Register (60 FR 39150) a notice of ''Opportunity to Request Administrative Review'' for the August 1, 1994, through July 31, 1995, period of review (POR) of the antidumping duty order on gray portland cement and clinker from Mexico (55 FR 35371, August 29, 1990). In accordance with 19 CFR 353.22, CEMEX, S.A. (CEMEX) and the petitioners, the Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement and the National Cement Co. of California, Inc., requested a review for the aforementioned period. On September 15, 1995, the Department published a notice of ''Initiation of Antidumping Review'' (60 FR 47931). The Department is now conducting a review of this respondent pursuant to section 751 of the Act.

Scope of Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than of being ground into finished cement. Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29, and cement clinker is currently classifiable under number 2523.10. Gray portland cement has also been entered under number 2523.90 as ''other hydraulic cements.'' The HTS subheadings are provided for convenience and U.S. Customs Service (the Customs Service) purposes only. The written description remains dispositive as to the scope of the product coverage.

Verification

As provided in Section 782(i) of the Act, we verified information provided by the respondents, using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in public versions of the verification reports.

Use of Facts Available

Section 776(a) of the Act requires that the Department use the facts otherwise available when necessary information is not on the record, or an interested party withholds requested information, fails to provide such information in a timely manner, significantly impedes a proceeding, or provides information that cannot be verified. Section 776(b) of the Act authorizes the Department to use as facts otherwise available information derived from the petitioner, the final determination, a previous administrative review, or other information placed on the record.

We preliminarily determine, in accordance with section 776(a) of the Act, that the use of partial facts available as the basis for the weighted-average dumping margin is appropriate for CEMEX because despite the Department's attempts to verify certain information provided by CEMEX, the Department could not verify the information as required under section 782(i) of the Act. Where a party provides information requested by the Department but the information cannot be verified, section 776(a)(2)(D) of the Act requires the Department to use facts otherwise available. As more fully described below, we found the following inaccuracies in the information provided by CEMEX which render the responses for these variables unusable for purposes of margin calculations: home market freight for sales of bagged Type I cement; differences in merchandise (DIFMER) adjustments for the comparison of Type I cement sales in the home market to Type II cement sales in the United States; and, the interest rate used to calculate inventory carrying costs and imputed credit in the home market.

First, after repeated requests by the Department, CEMEX refused to provide home market freight expenses for bagged Type I sales on a plant-specific basis. The Department has, therefore, not allowed a deduction for home market freight on sales of bagged Type I cement. Second, despite our repeated requests for DIFMER based solely on physical differences in merchandise, CEMEX was unwilling to isolate the differences in cost solely attributable to physical differences in merchandise. Therefore, we calculated a weighted-average DIFMER adjustment based on the verified data reported by CEMEX's affiliate, Cementos de Chihuahua (CDC), and, as an adverse assumption, a twenty percent upward DIFMER adjustment to normal value (NV) See *CEMEX* v. *United States*, Slip Op. 96–132 at 9 (CIT August 13, 1996) (upholding a twenty percent DIFMER adjustment under similar circumstances) to be applied in connection with our comparisons to all U.S. sales. Third, as facts available the Department is utilizing the interest rate reported by CEMEX's affiliated party, CDC, in lieu of the interest rate provided by CEMEX, in the calculation of NV. At verification it was discovered that CEMEX included long-term loans in the calculation of interest. However, CEMEX chose not to revise the reported interest rate using only short-term loans, therefore we used CDC's interest rate in our calculation.

Transactions Reviewed

In accordance with section 751 of the Act, the Department is required to determine the NV and export price (EP) or constructed export price (CEP) of each entry of subject merchandise during the relevant review period. Because there can be a significant lag between entry date and sale date for CEP sales, it has been the Department's practice to examine U.S. CEP sales during the period of review. See Gray Portland Cement and Clinker from Japan; Final Results of Antidumping Duty Administrative Review, 58 FR 48826 (1993) (Department did not consider ESP (now CEP) entries which were sold after the POR). The Court of International Trade has upheld the Department's practice in this regard. See *The Ad Hoc Committee of Southern California Producers of Gray Portland Cement* v. *United States*, Slip Op. 95–195 (CIT December 1, 1995).

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondent in the home market during the POR, (and covered by the Scope of the Review) to be foreign like products for purposes of product comparisons to U.S. sales. Where there were no sales of identical or similar merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the constructed value of the product sold in the U.S. market during the month of comparison.

Fair Value Comparisons

To determine whether sales of gray portland cement by respondent to the United States were made at less than fair value, we compared the EP or CEP to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared

these to individual U.S. transactions, during the same month at the same level of trade.

Export Price and Constructed Export Price

We used EP, in accordance with subsections 772(a) and (c) of the Act, where the subject merchandise was sold directly or indirectly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts of the record. In addition, we used CEP in accordance with subsections 772(b), (c), and (d) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States.

We made adjustments as follows:

We calculated EP based on delivered prices to unaffiliated customers in the United States. Where appropriate, we made adjustments from the starting price for early payment discounts, foreign inland freight, foreign brokerage and handling, international freight, U.S. inland freight, U.S. brokerage and handling, and U.S. Customs duties. We also adjusted the starting price for billing adjustments to the invoice price.

We calculated CEP sales based on delivered prices to unaffiliated customers. Where appropriate, we made adjustments for early payment discounts, credit expenses, and direct selling expenses. We deducted those indirect selling expenses, including inventory carrying costs, that related to commercial activity in the United States. We also made deductions for foreign brokerage and handling, foreign inland freight, international freight, U.S. inland freight, U.S. brokerage and handling, and U.S. duty. We also adjusted the starting price for billing adjustments to the invoice price. Finally we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

Further Manufacturing

With respect to subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers (*e.g.*, cement that was imported and further processed into finished concrete by U.S. affiliates of foreign exporters), we determined that the special rule for merchandise with value added after importation under section 772(e) of the Act was applicable.

Section 772(e) of the Act provides that, where the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated person. Based on this analysis, we estimated that the value added was at least 60 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. Therefore, we determined that the value added is likely to exceed substantially the value of the subject merchandise. Accordingly, for purposes of determining dumping margins for these sales, we have used the weighted-average CEP calculated on sales of identical or other subject merchandise sold to unaffiliated persons.

No other adjustments to EP or CEP were claimed or allowed.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1)(C) of the Act. Since respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

Where appropriate, we adjusted for discounts, credit expenses, warranty expenses, inland freight, and inland insurance. We also adjusted the starting price for billing adjustments to the invoice price.

We made adjustments, where appropriate, for physical differences in merchandise in accordance with section 773 (a)(6)(C)(ii) of the Act. A weighted-average upward DIFMER adjustment was calculated using the methodology described in the section on *Use of Facts Available*. In addition, in accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Arm's-Length Sales

Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct and indirect selling expenses, discounts and packing. Where the price to the affiliated party was 99.5 percent or more of the price to the unaffiliated party, we determined that the sales made to the affiliated party were at arm's length.

Cost of Production Analysis

Petitioners alleged, on February 12, 1996, that CEMEX and its affiliate CDC sold gray portland cement and clinker in the home market at prices below COP. Based on these allegations, the Department determined, on February 27, 1996, that it had reasonable grounds to believe or suspect that CEMEX had sold the subject merchandise in the home market at prices below the COP. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation in order to determine whether CEMEX made home market sales during the POR at prices below its COP.

In accordance with section 773(b)(3) of the Act, we calculated an average monthly COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus selling, general and administrative (SG&A) expenses and all costs and expenses incidental to placing the foreign like product in condition ready for shipment. In our COP analysis, we used the home market sales and COP information provided by the respondent in its questionnaire responses.

After calculating an average monthly COP, we tested whether home market sales of cement were made at prices below COP within an extended period of time in substantial quantities and whether such prices permit recovery of all costs within a reasonable period of time. We compared model-specific average monthly COPs to the reported home market prices less any applicable movement charges, discounts, and rebates. In determining whether to disregard home market sales made at prices below the average COP, we examined (1) whether, within an extended period of time, such sales were made in substantial quantities, and

(2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade.

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 COP, we did not disregard any below-cost sales of the product because the below-cost sales were not made in substantial quantities.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York pursuant to section 773(a) of the Act.

Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, ignoring any ''fluctuations.'' We determine that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent or more. The benchmark rate is defined as the rolling average of the rates for the past 40 business days as reported by the Federal Reserve Bank of New York. When we determined that a fluctuation existed, we substituted the benchmark rate for the daily rate. For a complete discussion of the Department's exchange rate methodology, see ''Change in Policy Regarding Currency Conversions'' (61 FR 9434, March 8, 1996).

Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Mexican peso did not appreciate against the U.S. dollar.

Ordinary Course of Trade

Section 773(a)(1)(B) of the Act states that the NV of the subject merchandise is ''the price at which the foreign like product is first sold (or in the absence of sales, offered for sale) for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.'' Section 771(15) defines ordinary course of trade as ''the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise have been normal in the trade under consideration with respect to merchandise of the same class or kind.''

In the second administrative review of this order CEMEX reported home market sales of Type I, Type II, and Type V cement. Following their receipt of this information, petitioners alleged that CEMEX's home market sales of Type II and Type V cement were outside the ordinary course of trade. See Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review, 58 FR 47253, 47254 (Sept. 8, 1993). Pursuant to this allegation, we compared CEMEX's home market sales of Type II and Type V cement with sales of similar merchandise (namely, Type I cement) in order to analyze certain factors regarding the nature of the sales of the different types of cement, including freight expenses and profit levels. *Id.* at 47255–56. Based on this comparison, and on other factors explained in our final determination, we concluded in the second review that CEMEX's home market sales of Type II and Type V cement were not made in the ordinary course of trade. Thus, we did not use these sales in the calculation of foreign market value.

In the third and fourth administrative reviews, the Department again required CEMEX to report sales of subject merchandise in the home market, including Type I cement. We determined that it was necessary to compare Type II and Type V cement sales in the home market with Type I cement sales in the home market in order to make the ordinary-course-of-trade determination. We also determined that the Department needed the data on home market sales of Type I cement in the event CEMEX'S home market sales of Type II and Type V cement were found to be outside the ordinary course of trade. As the Department explained in the final results of the third review:

> even if the Department had been able, using the information supplied by CEMEX in this review, to determine that the Types II and V cement sales were outside the ordinary course of trade, we would still have needed the Type I data to conduct our antidumping duty analysis.

Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review, 60 FR 26869 (May 19, 1995). When CEMEX failed to provide the information on Type I sales in the third and fourth reviews, the Department was required by the statute to base its determination upon the ''best information available'' (BIA). 19 U.S.C. 1677e(b); 19 CFR 353.37 (a)(1). It should be noted that the factors relied upon by the Department in making the BIA determination in the third administrative review, and subsequently on a preliminary basis in the fourth review, were upheld by the CIT. Slip Op. 95–72 at 6–14.

Given the Department's determination that CEMEX's sales of Type II and Type V cement in the home market were outside the ordinary course of trade during the second administrative review, we believe that it is necessary (as was the case in the third and fourth administrative reviews) to address the same issue in the fifth administrative review. In the present administrative review, the Department sent CEMEX a questionnaire on November 1, 1995, instructing CEMEX to report home market sales of Type II and Type I cement. CEMEX submitted these sales on January 30, 1996 and February 23, 1996, respectively.

We have considered the totality of circumstances surrounding CEMEX's Type II sales. A full discussion of our conclusions, necessitating reference to proprietary information, is contained in a Departmental memorandum in the official file for this case (a public version of this memorandum is on file in room B–099 of the Department's main building). Generally, however, we have observed the following. First, in Mexico, Type II cement is a speciality cement sold to a ''niche'' market. These sales represent a minuscule percentage of CEMEX's total sales of cement. Second, shipping arrangements for home market sales of Type II cement are abnormal. More than 95 percent of cement shipments in Mexico are within a radius of 150 miles, yet during the POR, CEMEX shipped Type II cement for the domestic market over considerably greater distances and absorbed much of the freight costs for these longer shipments. Third, CEMEX's profit on Type II cement sales in the POR is abnormal in comparison to the company's profits on sales of all types of cement. Finally, there are two items, historical sales trends and the ''promotional quality'' of Type II cement sales, which were cited previously as factors in the second review ordinary course of trade analysis, but which are not discussed in the instant review. On July 9, 1996, the Department issued a questionnaire which requested CEMEX to support its position that home market Type II cement sales are in the ordinary course of trade by addressing, among other things, ''historical sales trends'' and ''marketing reasons for sales other than profit.'' CEMEX's response

addressed all items in the questionnaire except these two items. Thus, the Department makes the adverse assumption that the facts regarding these items have not changed since the second review and that: (a) CEMEX did not sell Type II until it began production for export in the mid-eighties, despite the fact that a small domestic demand for such existed prior to that time; and (b) sales of Type II cement continue to exhibit a promotional quality that is not evidenced in CEMEX's ordinary sales of cement (see memorandum from Holly A. Kuga to Joseph A. Spetrini, dated August 31, 1993).

These observations lead us to conclude that CEMEX's home market sales of Type II are not in the ordinary course of trade, and thus should not be used for purposes of calculating NV. In this review, CEMEX has provided the Department with extensive information concerning the decision to produce Type II exclusively in the northwest corner of Mexico. It claims that the decision to service the entire Mexican market for Type II cement from this region was based on sound business judgement. According to CEMEX, sales which are based on sound business judgement must necessarily be in the ordinary course of trade. We disagree. The purpose of the ordinary course of trade provision is ''to prevent dumping margins from being based on sales which are not representative'' of the home market. See *Monsanto Co.* v. *United States*, 698 F. Supp. 275, 278 (CIT 1988). Thus, the issue is not whether such sales are based on sound business judgement, but whether sales of the particular product at issue ''are normal in the trade under consideration.'' See 19 U.S.C. 1677(15).

The statute expresses a preference for matching identical merchandise. However, in situations where identical product types cannot be matched, the statute expresses a preference for basing NV on similar merchandise (see section 773(a)(1)(A) of the Act and section 353.46(a) of the Department's regulations). Therefore, we have based NV on sales of Type I cement, since they are representative of CEMEX's sales of similar merchandise adjusted for ''differences in merchandise'' (DIFMER) based on the methodology discussed above. If, over time, the facts pertaining to sales of Type II cement in the home market change from those contained in the record of this review, we will reconsider whether such sales can be used as the basis for NV.

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act at 829–831, to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the U.S. sale. When the Department is unable to find sale(s) in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at a different level of trade. See Final Determination of Sales at Less than Fair Value; Certain Pasta from Italy, 61 FR 30326 (June 14, 1996).

In accordance with section 773(a)(7)(A) of the Act, if we compare U.S. sales at one level of trade to NV sales at a different level of trade, the Department will adjust the NV to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling functions performed by the seller at the level of trade of the U.S. sales and the level of trade of the NV sale. Second, the difference must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which NV is determined.

When CEP is applicable, section 773(a)(7)(B) of the Act establishes the procedures for making a CEP offset when (1) NV is at a more advanced level of trade, and (2) the data available does not provide an appropriate basis for a level of trade adjustment.

In order to determine that there is a difference in level of trade, the Department must find that two sales have been made at different stages of marketing, or the equivalent. Different stages of marketing necessarily involve differences in selling functions, but differences in selling functions (even substantial ones) are not alone sufficient to establish a difference in the level of trade. Similarly, seller and customer descriptions (such as ''distributor'' and ''wholesaler'') are useful in identifying different levels of trade, but are insufficient to establish that there is a difference in the level of trade.

Therefore, in addition to the questions related to level of trade in our November 1, 1995, questionnaire, on February 14, 1996, we sent respondent supplemental questions related to level of trade comparisons and adjustments. We asked respondent to explain and document any claimed levels of trade adjustment on the basis of complete information about its system of distribution, including selling functions and services offered to each customer or class of customers. The information provided by respondent in response to this request was not sufficient to establish that the home market sales used to determine normal value were at a different level of trade than its sales in the United States.

CEMEX reported two levels of trade in the home market (bulk sales to end-users, distributors, and ready-mixers; and bagged sales to end-users, distributors, and ready-mixers). We examined the selling functions performed for each alleged level of trade and found that the selling functions provided by CEMEX were the same for both. Therefore, we determined that the two types of sales did not constitute different levels of trade.

CEMEX also claimed that its further manufactured sales of concrete by its subsidiary Sunward Materials Inc. were sold at a different level of trade (to end-users) than sales of cement in the home market (to end-users). Although these sales were not used for comparison purposes, we examined and verified the selling functions performed for U.S. sales of concrete to end-users and determined that the cement that is a portion of the concrete is at the same level of trade, as adjusted, as home market sales of cement to end-users. We then examined and verified that the selling functions performed by CEMEX to end-users in the home market and by Sunward Materials Inc., in the U.S., as adjusted, were sufficiently similar to consider them to be at the same level of trade.

CEMEX's affiliated party, CDC, reported one level of trade in the home market (to end-users, distributors, and ready-mixers). For the U.S. market, CDC claimed that it sold to the same level of trade (end-users and ready-mixers), but claimed a CEP offset based on significant differences in the selling functions performed by its subsidiary Rio Grande Portland Cement Company. We examined and verified that the selling functions performed by CDC to end-users in the home market and by Rio Grande Portland Cement Company in the U.S., after the CEP deductions, were sufficiently similar to consider them to be at the same level of trade.

To the extent practicable, we compared normal value at the same level of trade as the U.S. sale. The level of trade methodology employed by the Department in these preliminary results of review is based on the facts particular to this review. The Department will continue to examine its policy for making level of trade comparisons and adjustments for its final results of review.

Hyperinflation

Due to the currency crisis that occurred during the POR, we requested respondents to submit information on the rates of inflation in our original questionnaire on November 1, 1995 and in our supplemental questionnaire on February 14, 1996. The data submitted by CEMEX indicated that the annual inflation rate in Mexico during the POR exceeded 35 percent. The portion of the POR from August, 1994–December, 1994 was not considered hyperinflationary as the annualized inflation rate did not exceed 50 percent. However, the portion of the POR from January, 1995–July, 1995 was considered hyperinflationary due to the fact that annualized inflation rate exceeded 50 percent see Certain Fresh Cut Flowers from Mexico, 52 FR 6361 (March 3, 1987). Therefore, consistent with our prior practice, we determined that a possible hyperinflationary situation existed during the POR.

For purposes of our comparison we calculated a NV for each month of the POR, converting the foreign currency using the methodology discussed in the ''Currency Conversion'' section above, and comparing the NV to each individual U.S. sale during the same month of the POR as the comparison NV.

By using this methodology we have accounted for the effects of hyperinflation that were present during the POR. The hyperinflationary methodology employed by the Department in these preliminary results of review is based on the facts particular to this review. The Department will continue to examine its policy for its final results of review.

Preliminary Results of Review

Thus, as a result of our review, we preliminarily determine the dumping margin for CEMEX for the period August 1, 1994, through July 31, 1995, to be 107.756 percent.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish its final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 180 days after the date of publication of this notice.

Upon completion of this review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries.

The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate determined in the final results of review; (2) for previously reviewed or investigated companies not mentioned above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 59.91 percent, as explained below.

On May 25, 1993, the CIT in *Floral Trade Council* v. *United States,* 822 F. Supp. 766 (CIT 1993), and *Federal-Mogul* v. *United States,* 839 F. Supp 864 (CIT 1993), determined that once an ''all others'' rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the original ''all others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping duty order, the ''all others'' rate for this order will be 59.91 percent, which was the ''all others'' rate established in the final notice of the LTFV investigation by the Department (55 FR 29244, July 18, 1990).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: September 25, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–25408 Filed 10–2–96; 8:45 am]

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[C–351–406]

Certain Agricultural Tillage Tools From Brazil; Final Results of Countervailing Duty Administrative Review

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

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

SUMMARY: On July 31, 1996, the Department of Commerce (''the Department'') published in the Federal Register its preliminary results of administrative review of the countervailing duty order on certain agricultural tillage tools from Brazil for the period January 1, 1994 through December 31, 1994 (61 FR 39949). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. We determine the net subsidy to be zero for Marchesan Implementos Agricolas, S.A. (Marchesan). The Department will instruct the U.S. Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from Marchesan exported on or after January 1, 1994 and on or before December 31, 1994.

EFFECTIVE DATE: October 3, 1996.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of CVD/AD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.