failed to calculate USP in accordance with this methodology.

2. The Department intended to correct an adjustment to certain sales that resulted in double counting. *Final Results* at 13832. However, the Department failed to recalculate USP in accordance with this methodology.

3. In the *Final Results* at 13832, the Department stated that it intended to treat Stelco's slitting expenses as further manufacturing costs for purposes of calculating exporter's sales price. Nevertheless, the Department neglected to make these adjustments in the calculations for the final results.

In its redetermination on remand, the Department corrected these ministerial errors in Stelco's margin calculation.

Results of Redetermination on Remand: The Department filed its redetermination with the CIT on January 28, 1998. *See Final Results of Redetermination on Remand, AK Steel Corp. et al.* v. *United States, Court No. 96–05–01312.* On July 23, 1998, the CIT affirmed the Department's remand determination.

As a result of the remand determination, the Department re-calculated the weighted average margins for Dofasco and Stelco. The final dumping margins for the period February 4, 1993, through July 31, 1994 are as follows:

Manufacturer/exporter	Margin (percent)
CCC	1.96
Dofasco	1.72
Stelco	5.62

In its decision in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. section 1516a(e), the Department must publish a notice of a court decision which is not ''in harmony'' with a Department determination, and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's July 23, 1998 decision in *AK Steel* constitutes a decision not in harmony with the Department's final results of review. Publication of this notice fulfills the *Timken* requirement. Accordingly, the Department will continue to suspend liquidation pending the expiration of the period of appeal, or, if appealed, until a ''conclusive'' court decision.

Dated: September 4, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–24599 Filed 9–11–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–703]

Notice of Final Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin From Italy

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

SUMMARY: On May 11, 1998, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on granular polytetrafluoroethylene resin from Italy. This review covers one producer/exporter of subject merchandise. The period of review is August 1, 1996, through July 31, 1997. Based on our analysis of comments received, these final results differ from the preliminary results. The final results are listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: September 14, 1998.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Kris Campbell, Office of AD/CVD Enforcement 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4162 and (202) 482–3813, respectively.

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 Department of Commerce (the Department) regulations are to the regulations provided in 19 CFR Part 351, as published in the **Federal Register** on May 19, 1997 (62 FR 27296).

Background

This review covers sales of granular polytetrafluoroethylene resin (PTFE resin) made during the period of review (POR) by Ausimont SpA/Ausimont USA (Ausimont). On May 11, 1998, the Department published the preliminary results of this review. *See Notice of Preliminary Results of Antidumping Duty Administrative Review: Polytetrafluoroethylene Resin from Italy,* 63 FR 25826 (Preliminary Results). On June 10, 1998, we received a case brief from Ausimont. On June 17, 1998, we received a rebuttal brief from the petitioner, E.I. DuPont de Nemours & Company.

Scope of the Review

The product covered by this review is granular PTFE resin, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. *See Granular Polytetrafluoroethylene Resin from Italy; Final Determination of Circumvention of Antidumping Duty Order,* 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.00 of the Harmonized Tariff Schedule of the United States (HTS). We are providing this HTS number for convenience and Customs purposes only. The written description of the scope remains dispositive.

Fair Value Comparisons

We calculated constructed export price (CEP) and normal value (NV) based on the same methodology used in the preliminary results, except as follows.

1. We made a correction to the calculation of CEP profit. *See* our response to Comment 3, below.

2. We corrected clerical errors regarding home market selling expenses, as detailed in the *Memorandum from Analyst to File: Final Results Analysis Memorandum* (September 8, 1998) (Final Results Analysis Memorandum).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. As noted above, we received comments from Ausimont and rebuttal comments from the petitioner.

Comment 1: Ordinary Course of Trade

Ausimont argues that its sales of PTFE wet reactor bead in the home market should not be used for comparison to U.S. sales of the subject merchandise because such sales were not made in the ordinary course of trade. Ausimont argues that the factors the Department considered relevant in determining whether a sale is outside the ordinary course of trade in *Thai Pineapple Public Co.* v. *U.S.*, 946 F. Supp. 11, 16 (CIT 1996) (Thai Pineapple), are also relevant

to sales of wet reactor bead. These factors include differences in customers, terms of sales, volume of sales, frequency of sales, sales quantity, sales price, profitability, and market demand. Ausimont maintains that all of these factors are present in the instant review, except that the customer that purchased the PTFE wet reactor bead also purchased granular PTFE resin from Ausimont during the POR. According to Ausimont, the above factors applied to this case establish the non-ordinary-course-of-trade nature of home market reactor bead because: (1) The volume of wet reactor bead sales, in terms of number of transactions, was very low compared with total PTFE resin sales; (2) the profits for the wet reactor bead sales were abnormally high when compared with the average profit for PTFE resin sales; (3) there is virtually no market demand for wet reactor bead (in this respect Ausimont notes that no such sales occurred in the prior review period); (4) sales of wet reactor bead were made at prices that differ significantly from the average gross unit price of granular PTFE resin; (5) the terms of sale differed as well, as evidenced by documents the Department collected during verification; and (6) the mean average quantity of PTFE wet reactor sales is unusual in that it is significantly higher than that of granular PTFE resin sales (Ausimont claims in addition that this fact would permit the exclusion of such sales under the ''usual commercial quantities'' provision of the Act at section 773(a)(1)(B)(i)).

The petitioner responds that the Department should continue to include home market sales of wet reactor bead for the following reasons: (1) The Act contains a clear preference for price-to-price comparisons; (2) Ausimont provided information on such sales throughout the information-gathering stage of this review and at verification without indicating that it believed such sales were made outside the ordinary course of trade; (3) the evidence to which Ausimont cites in its case brief does not meet the burden of proof for disregarding such sales, as set forth in *Koyo Seiko Co., Ltd.* v. *United States*, 932 F. Supp. 1488, 1497–1498 (CIT 1996) (Koyo); and (4) the record shows that Ausimont's home market wet reactor bead sales are in fact similar in many respects to other home market sales, based on the factors cited in Ausimont's case brief (*e.g.*, market demand and customers).

DOC Position: The information on the record before us does not provide a sufficient basis to exclude Ausimont's home market sales of wet reactor bead as outside the ordinary course of trade. While we have given full consideration to the arguments made in Ausimont's case brief, these arguments concern a case record that was compiled in the absence of any claim by Ausimont, prior to the filing of its case brief, that the wet reactor bead sales that it reported in its home market database were made outside the ordinary course of trade. In considering Ausimont's claim in light of this record evidence, we find that the respondent has not met its burden of establishing that such sales are inappropriate for use in our analysis.

Our general preference in determining normal value is to rely upon home market sales of the foreign like product prior to resorting to constructed value. *See* section 773(a)(1)(A) of the Act. While we do not include in our analysis home market sales made outside the ordinary course of trade (per section 773(a)(1)(B)(i) of the Act), the evidentiary burden of establishing the non-ordinary-course-of-trade nature of home market sales is on the party making such a claim. *See, e.g., Murata Mfg. Co.* v. *United States*, 820 F. Supp 603 (CIT 1993) (Murata).[1] With respect to comparisons to merchandise that is further manufactured after importation into the United States, the relevant home market sales to be considered for price-based matches are those of products identical or similar to the subject merchandise as imported into the United States. In this case, U.S. further-manufactured sales involved imported wet reactor bead that was further processed into finished PTFE resin; as such, the relevant home market sales for purposes of price-based matches are those of wet reactor bead.

Ausimont reported such sales in its initial home market sales listing specifically for the purpose of matching them to sales of wet reactor bead imported into the United States. *See* Ausimont section A–D questionnaire response, Exhibit B–2 (November 6, 1997). In doing so, Ausimont did not claim that such sales were inappropriate for any reason. Subsequently, in addressing the general matching methodology in our supplemental questionnaire, we indicated our intent to use the reported home market sales of wet reactor bead in our analysis, providing additional matching instructions regarding sales of wet reactor bead as follows:

> Please note that the above-referenced data [concerning general product matching variables] is also required in the U.S. and comparison market sales listings for wet reactor bead products in both markets. Ensure that you have provided home market sales of all products that can be matched to reactor bead that is further manufactured in the United States and provide a complete description of the home market products and sales that you believe are the most appropriate comparisons to wet reactor bead imported into the United States.

See section A–C supplemental questionnaire at 3–4 (February 23, 1998) (emphasis added).

In response, Ausimont stated that it had ''provided home market sales of all products that can be matched to the reactor bead that is further-manufactured in the United States. * * * The appropriate home market reactor bead code is provided with each individual further-manufactured sales transaction in Ausimont's U.S. sales listing.'' *See* Ausimont section A–D supplemental response at 9–10 (March 16, 1998) (emphasis added). As in its initial response, Ausimont made no claim that such home market sales were inappropriate for use in our analysis for any reason, much less that such sales were inappropriate specifically because they were made outside the ordinary course of trade. In fact, the plain language of Ausimont's response to our supplemental questionnaire clearly indicated the company's expectation that such sales would be used, and were appropriate for use, as price-based matches for U.S. further-processed sales of imported wet reactor bead. Thus, at no time during the information-gathering stage of this review did Ausimont provide any evidence, or make any claim, regarding the exclusion of such sales as outside the ordinary course of trade.

Prior to and during verification, we again indicated our intent to use home market sales of wet reactor bead in our analysis, selecting certain such sales for detailed examination. *See* DOC verification outline, Appendix 1 (March 25, 1998). At verification, Ausimont officials discussed these sales in depth without making any claim that they were made outside the ordinary course of trade.

Accordingly, given the statutory preference for price-to-price matches, and in the absence of information indicating that the relevant home market sales were inappropriate for use in our analysis, we determined in the preliminary results that home market sales of wet reactor bead are the most appropriate basis for establishing normal value with respect to U.S. sales

[1] In this case, the CIT stated that ''Plaintiff must bear its burden by proving that the sales used in Commerce's calculation are outside the ordinary course of trade and it must satisfy this burden by providing the information to Commerce in a timely fashion in accordance with 19 CFR 353.31(a)(1)(ii) (1992).'' Murata at 607.

involving imported wet reactor bead that was further processed prior to sale.

For these final results, we have given full consideration to the record evidence that Ausimont cites in support of its contention that home market sales of wet reactor bead were made outside the ordinary course of trade. However, as shown below, this evidence is insufficient to establish a basis for the respondent's claim. While we agree with certain of the facts presented by Ausimont (*e.g.*, that the number of sales transactions involving wet reactor bead is low relative to the total number of transactions involving finished PTFE resin), on balance we find that the facts surrounding these sales do not establish that they were made outside the ordinary course of trade. *See* Koyo at 1497–1498 (''Commerce cannot exclude sales allegedly outside the ordinary course of trade unless there is a complete explanation of the facts which establish the extraordinary circumstances rendering particular sales outside the ordinary course of trade.''). Our examination of the record evidence as it applies to the ordinary-course-of-trade issue is detailed below.

We agree with Ausimont that the frequency of wet reactor bead sales, in terms of the number of transactions, and the volume of such sales, in terms of total quantity sold, represent small percentages of total home market sales. However, while sales of PTFE wet reactor bead may represent a small portion of the overall sales, the absolute amount of such sales is not insignificant. As Ausimont itself has noted, and as further discussed below, the quantities involved in these sales are in fact larger on average than for other sales. Further, we note that the number of sales or volume sold are not in and of themselves definitive factors in determining whether the sales in question are in the ordinary course of trade. *See, e.g., Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Standard Pipes and Tubes from India,* 56 FR 64,753 (1991), and *Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon from Chile,* 63 FR 31,411, 31,423 (June 9, 1998).

Regarding Ausimont's claim that the average quantity of such sales is higher than that of other sales, we agree that the average quantity sold of wet reactor bead is generally higher than the average quantity sold of granular PTFE resin. However, the information on the record provides an insufficient basis for determining whether this difference in the average quantity between the sales of PTFE wet reactor bead and granular PTFE resin is in fact attributable to circumstances rendering the sales in question extraordinary or unrepresentative of normal sales. Further, while the average quantity of wet reactor bead sales is generally higher than that of finished PTFE resin, our examination of the range of quantities involved in individual sales of both wet reactor bead and finished PTFE resin does not indicate that the quantities involved in wet reactor bead sales were so unusual as to render such sales inappropriate for our analysis. Finally, the fact that home market sales of wet reactor bead were made in quantities higher than average does not support a conclusion that a normal value based on the price of such sales would be unreasonably high. For these reasons, we also reject Ausimont's claim that its home market wet reactor bead may be excluded pursuant to the ''usual commercial quantities'' provision of the Act. *See* section 773(a)(1)(B)(i) of the Act and *Nachi-Fujikoshi Corp.* v. *United States,* 798 F. Supp. 716, 718 (CIT 1992) (as with the ''ordinary course of trade'' provision, the party seeking exclusion of sales based on the ''usual commercial quantities'' provision has the burden of proving such exclusion is warranted, and the Department's inclusion of a home market sample sale was appropriate where the respondent did not demonstrate that the quantity involved in this sale was unusual).

We also disagree with Ausimont that the remaining factors we considered in Thai Pineapple are supported by the information on the record of this review with respect to home market sales of wet reactor bead. Ausimont's contention that PTFE wet reactor bead was sold at aberrational prices is not persuasive because the comparison it makes—the average selling price of wet reactor bead versus that of finished PTFE resin—does not take into account the fact that these are different products for which there is no reasonable expectation of similar selling prices; wet reactor bead is sold as an intermediate product, at prices that we would expect to differ from those of finished PTFE resin.

With respect to the profit earned on wet reactor bead sales, Ausimont's comparison of the profit related to wet reactor bead sales and that for granular PTFE resin sales does not take into account the fact that profits made on the sales of certain models of resin were in fact higher than that of the wet reactor bead sales. Further, the identification of sales as having high profits does not necessarily render such sales outside the ordinary course of trade. *See Final Results of Antidumping Duty Administrative Reviews: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.,* 62 FR 54043, 54066 (October 17, 1997).

With respect to market demand, Ausimont's claim regarding the absence of past home market sales of this merchandise focuses entirely on the immediately prior review, without addressing the fact that the respondent has in fact sold wet reactor bead in the home market in previous segments of this proceeding. *See, e.g.,* public version of Ausimont's February 13, 1995 questionnaire response (submitted in conjunction with the 1993–94 review and included in relevant part as Attachment 2 to the Final Results Analysis Memorandum in this review) at A–5 (''Ausimont SpA produces and sells PTFE wet reactor bead to home-market customers in Italy'') and at B–3 (indicating that Ausimont's response contained a sale-by-sale listing of ''all virgin granular and filled PTFE resin and wet reactor bead sold in Italy'').

Regarding terms of sale, while we agree with Ausimont that selected verification exhibits we collected during our verification show that the terms of certain wet reactor bead sales were different from those of certain sales of finished PTFE resin, we did not examine or collect these exhibits for this purpose and Ausimont officials did not discuss such differences at verification. As such, we are unable to conclude from these documents that the terms of sale involving wet reactor bead generally differed significantly from those of other sales of finished PTFE resin products or that different terms of sale are not generally applicable to all sales.

Finally, as Ausimont notes, Ausimont's sales of PTFE wet reactor bead were made to the same customer who also purchased finished PTFE resin products.

As shown above, Ausimont has failed to explain the facts that establish the extraordinary circumstances rendering the claimed sales outside the ordinary course of trade, as required by Koyo. *Compare Granular Polytetrafluoroethylene Resin From Japan; Final Results of Antidumping Duty Administrative Review,* 58 FR 50343, 50345 (September 27, 1993) (where home market sales were excluded as outside the course of trade where such sales involved sample merchandise sold to testing labs in ''extremely small quantities'' at ''prices substantially higher than the prices of the vast majority of the sales reported,'' and where such sales were not for consumption but for evaluation and were not made to the respondent's

ordinary customers). In light of this analysis, we find that the circumstances that would render home market wet reactor bead sales outside the ordinary course of trade are not present in this review. Therefore, we have continued to use these sales as a basis for comparison with U.S. sales for purposes of these final results.

Comment 2: Level-of-Trade Adjustment

Ausimont argues that, if the Department determines that sales of PTFE wet reactor bead in the home market are made in the ordinary course of trade and in the usual commercial quantities, it should make a level-of-trade adjustment for comparisons involving such sales. First, Ausimont contends that its home market sales of wet reactor bead are made at a more advanced level of trade than that involved in sales of this product to its U.S. affiliate, noting the following selling activities and expenses involved in home market sales but not on sales to Ausimont USA: rebates, early payment discounts, inventory maintenance, warranty expenses, and technical service expenses. With respect to the calculation of the proposed adjustment, Ausimont acknowledges that it does not sell to unaffiliated home market customers at two levels of trade, but claims that it technically sells in Italy at two levels: (1) sales of wet reactor bead to unaffiliated home market customers, and (2) sales to Ausimont USA, which Ausimont claims are made in Italy based on the terms of sale involved. Ausimont requests that the Department make a level-of-trade adjustment based on the price differences at these two levels; for the prices charged at level 2, Ausimont suggests that the Department use the transfer price charged to Ausimont USA. In the alternative, Ausimont proposes that the Department calculate a level-of-trade adjustment based on the difference between the prices charged at level 1 and the constructed value of wet reactor bead. Finally, Ausimont requests a CEP-offset adjustment to normal value in the event that no level-of-trade adjustment is made.

The petitioner responds that: (1) Ausimont's level-of-trade adjustment claim was not made at any point prior to the filing of its case brief; (2) Ausimont's response clearly indicates that there is a single level of trade in each of the home and U.S. markets; (3) Ausimont's proposed calculations are incorrect because they rely on transfer prices and constructed value, neither of which the Department takes into account in the level-of-trade analysis; and (4) Ausimont's request for a CEP offset in the event that no level-of-trade adjustment is made ignores the fact that the Department did in fact calculate such an offset for the preliminary results.

DOC Position: As in the preliminary results, we find that there is no basis for calculating a level-of-trade adjustment and that a CEP offset is appropriate for all sales comparisons, including those involving wet reactor bead. While we agree with Ausimont that its home market sales of wet reactor bead (and all other reported home market sales) are made at a more advanced level of trade than that involved in the sale from Ausimont to Ausimont USA, we disagree that a level-of-trade adjustment may be calculated based on the difference between home market sales prices and either: (1) the transfer price involved in the sale to Ausimont USA, or (2) the constructed value of wet reactor bead. Both the Act and the Department's regulations (at sections 773(a)(7) and 19 CFR 351.412, respectively) require that any such adjustment be based on the price differences between different levels of trade in the country in which normal value is determined. It would be inappropriate to use transfer price or constructed value in lieu of home market sales prices where there is no home market level of trade that is equivalent to the CEP level of trade. Under these circumstances, our practice is to make a CEP-offset adjustment when comparisons are made to home market sales at a level of trade more advanced than that of the CEP. *See* Preliminary Results, 63 FR 25826, 25827; *see also* 19 CFR 351.412(f). We have followed that practice and have granted a CEP offset for all comparisons.

Comment 3: CEP Profit

Ausimont argues that the Department erred in calculating CEP profit because it improperly included imputed credit and inventory carrying expenses in the pool of U.S. selling expenses to which the CEP-profit rate was applied. According to Ausimont, in order to make a fair allocation of profits to U.S. sales, the Department must either exclude imputed credit and inventory carrying expenses from the pool of U.S. selling expenses to which the CEP-profit rate is applied or include such expenses in the total selling expenses it uses to calculate the CEP-profit rate.

The petitioner did not comment on this issue.

DOC Position: Ausimont's claim involves two aspects of the CEP-profit calculation: (1) whether to include imputed expenses in the total expenses we use to calculate the CEP-profit rate, and (2) whether to include imputed expenses in the pool of U.S. selling expenses to which we apply this rate. As explained below, our established practice, in accordance with sections 772(d) and 772(f) of the Act, is to calculate the profit rate based on actual costs (without regard to imputed expenses) and to apply this rate to U.S. selling expenses inclusive of imputed expenses.

The preamble to *Antidumping Duties; Countervailing Duties; Final rule, 19 CFR Part 351,* published at 62 FR 27295 (May 19, 1997) (Preamble), address the first issue (the calculation of the CEP-profit rate based on actual costs, without regard to imputed expenses) directly. In response to a comment that we should include imputed expenses in the total selling expenses used to derive total profit, we stated: ''We have not adopted this suggestion, because the Department does not take imputed expenses into account in calculating cost. Moreover, normal accounting principles permit the deduction of only actual booked expenses, not imputed expenses, in calculating profit.'' Preamble at 27354. This policy is also described in a recent policy bulletin. *See* Import Administration Policy Bulletin number 97/1, issued on September 4, 1997, concerning the *Calculation of Profit for Constructed Export Price Transactions,* at 3 and note 5.

Our practice of excluding imputed expenses from the CEP-profit rate calculation is explained further in *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews,* 62 FR 2081, 2127 (January 15, 1997) (AFBs):

> Sections 772(f)(1) and 772(f)(2)(D) of the Tariff Act state that the per-unit profit amount shall be an amount determined by multiplying the total actual profit by the applicable percentage (ratio of total U.S. expenses to total expenses) and that the total actual profit means the total profit earned by the foreign producer, exporter, and affiliated parties. In accordance with the statute, we base the calculation of the total actual profit used in calculating the per-unit profit amount for CEP sales on actual revenues and expenses recognized by the company. In calculating the per-unit cost of the U.S. sales, we have included net interest expense. Therefore, we do not need to include imputed interest expenses in the ''total actual profit'' calculation since we have already accounted for actual interest in computing this amount under section 772(f)(1).

Regarding the second issue (the inclusion of imputed expenses in the U.S. selling expense pool to which the

profit rate is applied), as we explained in AFBs:

> When we allocated a portion of the actual profit to each CEP sale, we have included imputed credit and inventory carrying costs as part of the total U.S. expense allocation factor. This methodology is consistent with section 772(f)(1) of the statute which defines ''total United States Expense'' as the total expenses described under section 772(d)(1) and (2). Such expenses included both imputed credit and inventory carrying costs.

Id. See also Canned Pineapple Fruit from Thailand: Final Results of Antidumping Duty Administrative Review, 63 FR 7392, 7395 (February 13, 1998).

Accordingly, we have followed this practice in these final results by calculating a CEP-profit rate based on actual costs (without regard to imputed expenses) and applying this rate to a U.S. selling expense pool inclusive of such expenses. We note that, while Ausimont's comment suggests that we followed this practice in the preliminary results, we in fact calculated the CEP-profit rate incorrectly by including imputed credit expenses in the total expenses we used to calculate this rate. We have corrected this error for these final results.

Comment 4: Rebates

Ausimont argues that the Department erred in excluding from its margin calculation all rebate expenses reported for one of its home market customers. Ausimont maintains that the Department's verification report states incorrectly that the rebates for that customer were reported erroneously based on a finding that the customer did not meet the minimum purchasing requirements to qualify for rebates during the POR. According to Ausimont, the sales transactions selected for examination by the Department during verification show that the customer in question qualified for two types of rebates: one that is based on purchasing a certain quantity on a quarterly basis, and another that is based on purchasing a certain quantity on a yearly basis. Ausimont states that the verification documentation collected by the Department at verification includes the quarterly and yearly rebate agreements for that customer, as well as internally generated documents showing that the customer met the quarterly and yearly minimum purchasing requirements reflected in the rebate agreements. Ausimont maintains that the verification documents accepted by the Department are proof of the legitimacy of the rebates reported for the customer. Therefore, Ausimont argues that the Department's deletion in the database of all rebates reported for that customer is an error that should be corrected. Ausimont acknowledges, however, that it was unable to locate the quarterly rebate agreement for one of the sales transactions the Department examined during verification. According to Ausimont, the Department could consider this particular rebate as unverified.

The petitioner responds that Ausimont's claim conflicts with the Department's verification report, which states explicitly that this customer did not qualify for the rebate. Petitioner also states that, while the verification exhibits to which Ausimont referred in support of its claim contain copies of rebate agreements, such agreements do not show that the customer qualified for the rebates under the agreement or that the rebates were actually paid.

DOC Position: We agree with Ausimont that certain exhibits we collected at verification contain rebate agreements for the customer in question, as well as internally generated documents indicating that the customer qualified for the rebates. However, during the Department's verification, Ausimont was unable to provide any evidence showing that the customer in fact received rebate payments for meeting the minimum quantity stipulated in the quarterly and/or yearly rebate agreements.[2] The only information we have on the record with respect to the quantity sold to that customer is Ausimont's reported home market sales database, which does not support Ausimont's contention that the customer met the minimum purchasing requirements to qualify for either the quarterly or yearly rebates. Therefore, we have continued to exclude Ausimont's reported rebates for that customer from the margin calculation for purposes of these final results.

Final Results of Review

As a result of our review, we determine that the following percentage weighted-average margin exists for the period August 1, 1996, through July 31, 1997:

Manufacturer/exporter	Period	Margin (percent)
Ausimont S.p.A	8/1/96–7/31/97	45.72

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212 (b)(1), we have calculated importer-specific assessment rates by dividing the dumping margin found on the subject merchandise examined by the entered value of such merchandise. We will direct the Customs Service to assess antidumping duties by applying the assessment rate to the entered value of the merchandise.

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 these final results of administrative review, as provided by section 751(a) of the Act: (1) For Ausimont, the cash deposit rate will be the rate listed above; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in these final results of review or in the most recent final results in which that manufacturer participated; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 46.46 percent, the ''all others'' rate established in the less-than-fair-value investigation (50 FR 26019, June 24, 1985). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility 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 in the subsequent assessment of double antidumping duties.

This notice also is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance

[2] *See Memorandum to Office Director from Case Analysts: Verification of the Responses of Ausimont SpA and Ausimont U.S.A. in the 1996/97 Administrative Review of Polytetrafluoroethylene (PTFE) Resin from Italy* at 8–9 (May 4, 1998).

with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 4, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–24601 Filed 9–11–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–009]

Industrial Nitrocellulose From France: Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On May 11, 1998, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on industrial nitrocellulose from France. The review covers Bergerac, N.C. (formerly identified by the name of its parent company, Societe Nationale des Poudres et Explosifs), and its affiliates for the period August 1, 1996, through July 31, 1997.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of comments received, we have made a change in the margin calculations and corrected a ministerial error. Therefore, the final results differ from the preliminary results.

EFFECTIVE DATE: September 14, 1998.

FOR FURTHER INFORMATION CONTACT: William Zapf or Lyn Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff 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 (62 FR 27295 (May 19, 1997)).

Background

On May 11, 1998, the Department of Commerce (the Department) published in the **Federal Register** (63 FR 25828) the preliminary results of review of the antidumping duty order on industrial nitrocellulose (INC) from France. The period of review (the POR) is August 1, 1996, through July 31, 1997. We invited parties to comment on our preliminary results of review. On June 10, 1998, and June 15, 1998, we received case and rebuttal briefs from the respondent, Bergerac, N.C. (Bergerac), and the petitioner, Hercules Incorporated (Hercules). A public hearing was held on June 18, 1998. Subsequently, we requested that Bergerac revise its case brief which contained new and untimely information. We also requested that Bergerac provide additional information. Bergerac filed responses to our requests on July 13, 1998, and July 20, 1998, respectively. The Department has conducted this administrative review in accordance with Section 751 of the Tariff Act.

Scope of Review

The product covered by this review is INC containing between 10.8 and 12.2 percent nitrogen. INC is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. The product comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing inks. Imports of this product are classified under the HTS subheadings 3912.20.00 and 3912.90.00. The HTS item numbers are provided for convenience and customs purposes. The written descriptions of the scope of this proceeding remain dispositive.

Analysis of Comments Received

Comment 1: Bergerac argues that, in applying the ''special rule'' for merchandise with value added after importation under Section 772(e) of the Tariff Act, the Department should use as a proxy for these sales the margin calculated for sales to an unaffiliated customer which purchased identical merchandise, rather than the margin the Department calculated on all sales of subject merchandise. To support its argument, Bergerac cites Section 772(e) of the Tariff Act which provides that, for further-manufactured merchandise in which the value added in the United States is likely to exceed substantially the value of the subject merchandise, the Department shall use either the price of identical merchandise sold to an unaffiliated person or the price of other subject merchandise sold to an unaffiliated person to determine constructed export price (CEP). While recognizing that the statute does not express a clear preference for either of these options, Bergerac notes that, in the preamble to the new regulations, the Department has stated ''whether merchandise is identical may be a factor to consider in selecting the sales to be substituted for the value added sales,'' citing Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27296 (May 19, 1997) (*Final Rule*). Bergerac also cites to 19 CFR 351.402 which states that, for the purposes of determining dumping margins under the special rule above, ''the Secretary may use the weighted-average dumping margins calculated on sales of identical or other subject merchandise sold to unaffiliated persons.''

Furthermore, Bergerac insists, the use of the term ''unaffiliated person'' in the statute requires the use of a margin calculated on sales to the first purchaser of subject merchandise in the United States. However, Bergerac contends, by including the margin calculated for its sales through SNPE N.A., an affiliated company, in its calculation of the proxy margin, the Department is using a margin calculated on resales by an affiliated distributor. To interpret ''unaffiliated person'' to mean unaffiliated customers of SNPE, Bergerac continues, would render the term ''unaffiliated person'' superfluous in the statute since all margins are based on sales to unaffiliated persons.

Hercules responds that, in the preamble to the Department's new regulations to which Bergerac refers, the Department merely restates the content of Section 772(e) of the Tariff Act, citing *Final Rule* at 27353. Hercules notes that, in this same discussion, the Department stated that it had little experience with this new statutory provision and, therefore, was not in a position to provide a great deal of guidance at that time. Nevertheless, Hercules notes that the Department subsequently enunciated a preference for using both identical and other merchandise in 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, Preliminary Results of Antidumping Duty Administrative Reviews, 62 FR 47452 (September 9, 1997).

Moreover, Hercules argues that, had the Department looked only to sales to one unaffiliated customer, as suggested by Bergerac, the Department would have