SUPPLEMENTARY INFORMATION:

Background

On August 16, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 43,327) the final results of its fourth administrative review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico. That review covered the period December 1, 1989 through November 30, 1990. Cinsa, the respondent in this review, subsequently appealed the Department's determination before the United States Court of International Trade (CIT) on four issues. The CIT issued a remand with respect to one issue only and directed the Department to determine whether the transfer price for enamel frit provided to the Department in that review constituted an arm's-length transaction as prescribed by the statue and previous practice. *Cinsa, S.A. de C.V.* v. *United States (Cinsa I)* Slip. Op. 97–41 (April 4, 1997). Although the Court agreed with the Department that the burden was on the respondent to ''establish that the transfer price for the purchase of raw material from the related party reflects an arm's-length price,'' it found that Cinsa fulfilled its burden by supplying the Department with the requested explanation of how it determined the transfer price to be representative of a fair market price and of how it determined that transfer prices were above the cost of production. *Id.*, at 12. The Court found that Cinsa effectively shifted the burden to the Department by providing the requested explanations for the discount in the transfer price. *Id.*, at 13.

The Department filed its redetermination on July 2, 1997. Although the Department respectfully disagreed with the Court's conclusion that Cinsa fulfilled its burden of proving the arm's-length nature of the related party transfer price, the Department determined that, for purposes of the remand, it should use Cinsa's reported transfer price for enamel frit from its related supplier to calculate constructed value because, in that review, the Department did not request that Cinsa provide any documentation in support of its claim that the extent of differences between the transfer prices for frit and the prices at which frit was sold to unrelated firms were fully accounted for. Thus, the Department agreed that Cinsa had done all that was asked of it in that review. The CIT affirmed the redetermination on September 16, 1997. *Cinsa, S.A. de C.V.* v. *United States (Cinsa II)*, Slip Op. 97–131 (CIT September 16, 1997).

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. 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'' decision. The CIT's opinion in *Cinsa II*, constitutes a decision not in harmony with the Department's final results of antidumping duty administrative 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 there is a ''conclusive'' court decision.

Dated: November 3, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–29626 Filed 11–7–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–028]

Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan

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

SUMMARY: On May 8, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on roller chain, other than bicycle, from Japan. This review covers six manufacturers/exporters of roller chain in Japan during the period April 1, 1995, through March 31, 1996: Daido Kogyo Co., Ltd., Enuma Chain Mfg. Co., Ltd., Izumi Chain Manufacturing Co., Hitachi Metals Techno Ltd., Pulton Chain Co., Ltd., and R.K. Excel Co., Ltd.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have changed our results from those presented in our preliminary results, as described below in the ''Interested Party Comments'' section of this notice. The final results are listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Jack Dulberger, AD/CVD Enforcement Group II, Office Four, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4793 and (202) 482–5505, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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 regulations codified at 19 CFR Part 353 (April 1, 1997).

Background

On May 8, 1997, the Department published its preliminary results of review, Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Roller Chain, Other than Bicycle, from Japan, 62 FR 25165 (*Preliminary Results*), of the antidumping duty order on roller chain, other than bicycle, from Japan (38 FR 9926, April 12, 1973). Pursuant to the Department's request in its notice of preliminary results, we received comments on the product matching characteristics used in the preliminary results from (1) Daido Kogyo Co., Ltd. (Daido Kogyo); (2) Enuma Chain Mfg. Co., Ltd. (Enuma); (3) Izumi Chain Manufacturing Co., Ltd. (Izumi); (4) Hitachi Metals Techno Ltd. (Hitachi); (5) Pulton Chain Co., Ltd. (Pulton); and (6) R.K. Excel Co., Ltd. (RK) (collectively, the respondents), and the petitioner on May 22, 1997, and rebuttals to these comments on May 29, 1997. As a result of the preliminary results and pursuant to the Department's request, Enuma submitted a revised section C questionnaire response on June 12, 1997. The Department requested additional information related to this response on June 30, 1997 and on July 10, 1997, Enuma submitted a response that addressed our additional questions. On July 14, 1997, and July 21, 1997, we received case and rebuttal briefs from the respondents and the petitioner. At the request of both petitioner and respondents, we held a hearing on August 1, 1997. The Department has now completed this administrative review in accordance with section 751(a) of the Act.

Verification

In accordance with section 782(i) of the Act, we verified the further manufacturing costs for merchandise produced by Enuma in March 1997. The results of this verification are outlined in the public version of the verification report on file in room B–099 of the main Commerce building. (See April 2, 1997 Memorandum to the File from Jack K. Dulberger and Justin Jee.)

Rescission

In our preliminary results, we determined that during the period of review (POR), Hitachi did not export the subject merchandise to the United States. Therefore, as we confirmed with the United States Customs Service that Hitachi had no shipments of subject merchandise, we rescinded this review with respect to Hitachi in accordance with section 351.213 of the regulations. See *Preliminary Results* at 25165.

Scope of Review

The merchandise subject to this review is roller chain, other than bicycle, from Japan. The term ''roller chain, other than bicycle,'' as used in this review, includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmissions and/or conveyance. This chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain. This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7315.11.00 through 7619.90.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

Changes Since the Preliminary Results

We have made the following changes in these final results:

1. We have returned to the model match methodology of constructing a concordance based on the model code numbering reported by respondents, which we have used in prior segments of this proceeding. See Comment 1 below.

2. We have calculated a dumping margin using Enuma's original HM sales questionnaire response and its June 12, 1997, U.S. sales questionnaire response. See Comment 2 below.

3. With regard to Enuma's and Daido Koyo's unmatched U.S. sales, we have selected an adverse FA of 43.29 percent. See Comment 2 below.

4. We have removed the commission offset adjustment from Daido Koyo's margin calculation program for these final results. See Comment 4 below.

5. With regard to those U.S. sales for which Izumi did not report constructed value (CV) information, we have selected a non-adverse FA rate as described in Comment 2 below.

Interested Party Comment

Comment 1: Model Matching

The petitioner maintains that the Department should consider the extensive model match comments submitted on May 22 and 29, 1997, and articulate objective model matching criteria that will apply to all respondents in this and future roller chain proceedings. The petitioner argues that the respondents should no longer be permitted to provide company-specific codes in lieu of the model match data requested by the Department. Furthermore, the petitioner argues that individual respondents are not allowed to add company-specific model matching criteria absent full opportunity for comment from all other parties. According to the petitioner, any subsequent changes to product matching criteria should be applicable to all respondents.

The petitioner argues that should the Department adopt different model matching criteria than those used in the preliminary results, programming errors, which did not appear in the preliminary results, may occur for the first time. As a result, the petitioner contends that the Department should allow for a ''pre-final'' disclosure for all parties in order to review the revised computer programs and printouts. The petitioner maintains that, in order to do so, the Department could delay publication of the final results, pending analysis by the parties, or the Department could publish a tentative final results which would become final unless modified by a certain date.

The petitioner maintains that it would be appropriate to supplement the three-factor product matching test used in the preliminary results with the following nine factors: Pitch length, roller width, roller diameter, pin diameter, pin length, link height/length, link plate thickness, average strength, and average weight. The petitioner also states that additional computer fields should be added to address attachment chain. However, the petitioner asserts that none of the respondents have met their burden of persuasion with respect to the expansion of the Department's three-part ''most similar'' merchandise test. Therefore, the petitioner contends that we should continue using the three-factor model match test for the final results.

Izumi contends that the Department, in order to identify identical matches, should use actual product model numbers instead of the methodology adopted in the preliminary results. Izumi further argues that in matching non-identical merchandise, the Department should use multiple physical characteristics. Izumi contends that characteristics in addition to the three-factor model match used in the preliminary results, as well as application of the 20 percent difference-in-merchandise (DIFMER) test is required in order to reasonably and accurately identify product matches. Izumi additionally argues that, were the Department to use price-to-price comparisons for purposes of the final results, then the Department's revised product matching methodology would result in erroneously matched merchandise.

Daido Kogyo argues that the Department's revised product matching methodology employed in the preliminary results significantly distorts the dumping margin calculations for Daido Kogyo. Daido Kogyo points out, for example, that this methodology groups physically diverse chain together as a unique product.

Daido Kogyo argues that the Department, in revising the product matching methodology, violated the antidumping statute and the Department's past practice. First, Daido Kogyo argues that the Department changed its longstanding product matching methodology at a point in the current proceeding where Daido Kogyo had no opportunity to comment on, or comply with, this policy change. Second, Daido Kogyo asserts that the Department made this matching methodology change without providing Daido Kogyo an opportunity to remedy or explain its deficiency, in violation of 19 U.S.C. 1677m (d). Third, Daido

Kogyo argues that the Department's matching methodology change constituted a new policy, rule, or practice requiring notice and hearing in order to provide all respondents with an opportunity to comment early on in the proceeding, under the Administrative Procedure Act (APA)(5 U.S.C. 533(b)).

RK states that the model match methodology adopted by the Department in its preliminary results is a radical departure from the longstanding and consistent method that the Department has used for nearly a decade in this proceeding. RK argues that this new method for defining identical merchandise is a fatally imprecise means of comparing motorcycle chains. According to RK, the Department's new model match methodology fails to consider the uniqueness of each motorcycle chain sold by RK, and it ignores many product characteristics that are essential for defining identical merchandise. Moreover, RK contends that applying the new methodology to comparisons of similar merchandise also radically departs from the Department's ''traditional method'' of defining the most similar product, as exemplified by the method followed in the 1989–1990 POR, which took into account numerous criteria beyond the three used in the preliminary results. See, e.g., Antidumping Questionnaire, POR April 1, 1989 through March 31, 1990, Appendix I; Appendix V, (July 27, 1990) (*Questionnaire 1989–1990*). RK maintains that under the Department's proposed method, essentially there can be no ''similar'' motorcycle chains; they are virtually all one identical match.

In short, RK asserts that the Department's proposed model match methodology changes are not reasonable. According to RK, these proposed changes penalize RK and other respondents by creating margins where none exist. RK submits that the Department must abandon its newly proposed model matching methodology and, for this review, continue to use the previously unquestioned, longstanding model matching methodology for defining identical and similar merchandise that it has always used in prior segments of this proceeding.

DOC Position

We agree in part with all parties regarding the issue of additional model match criteria. For purposes of calculating normal value (NV), section 771(16) of the Act defines ''foreign like product'' as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. See section 771(16); see also 19 CFR 351.411(a). In cases where we do not find that the identical products were sold in the home or other foreign market, we will then identify, using a product matching methodology, the product sold in the foreign market that is most similar to the product sold in the United States. See section 773 (a)(6)(C)(ii) of the Act.

In identifying which physical characteristics should be given the most weight in our determination of appropriate product comparisons, we consider comments from all parties. We then develop a product matching methodology based on the physical characteristics of the merchandise. This process is designed to give the parties a predictable and accurate basis for determining possible product matches in current as well as future administrative reviews. (See, e.g., Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Japan, (52 FR 30700, 30703, August 17, 1987) (Tapered Roller Bearings)). Further, for those non-identical or most similar products which are identified based on the Department's product matching criteria, we make a DIFMER adjustment to the home market (HM) sales price to account for the actual physical differences between the products sold in the United States and the home market. *See id.*

As background to our position in the present review, we note that prior to the 1992–1993 POR, the Department used a model match methodology based on multiple matching criteria. (*See, e.g., Questionnaire 1989–1990*) (using thirteen-factor model match). Commencing in the 1992–1993 POR, we shifted to a different methodology based on only three characteristics, allowing each respondent to provide its own product concordance (*See, e.g., Notice of Final Results of Antidumping Administrative Review, and Determination not to Revoke in Part: Roller Chain, other than Bicycle, from Japan* 62 FR 64322, (December 4, 1996) (*Final Results 1994–1995*) (using three-factor model match).

The respondents have, in their comments in the present review, characterized our post-1992–1993 approach as a ''traditional method.'' We disagree and note that there have been two model match methodologies used in previous segments of this proceeding.

Regarding the present review, as we explained in our preliminary results, where we found no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product, based on the three product characteristics stated in the antidumping questionnaire, listed in order of importance: (1) type of roller chain (*e.g.*, industrial, leaf, or motorcycle); (2) number of strands (*e.g.*, single, etc.); and (3) finish (*e.g.*, carbon steel, etc.), (*i.e.*, the three-factor model match test). *See Antidumping Questionnaire, POR April 1, 1995 through March 31, 1996, Sections B and C* (June 20, 1996) (*Questionnaire 1995–1996*).

Our questionnaire instructed the respondents to provide data regarding the three product characteristics specified above for all reported U.S. and HM sales, and informed the respondents that they could report additional product characteristics which they believed the Department should consider in performing product comparisons. The questionnaire further instructed any respondent that chose to report additional product characteristics to describe why it believed the Department should consider the additional characteristics in defining identical and similar merchandise. (*See Questionnaire 1995–1996* at B–6 and C–6).

As we explained in our preliminary results, it was apparent to us from the model match databases submitted by all respondents that they had considered product characteristics beyond the three in the Department's questionnaire. However, based on their questionnaire responses, no additional product characteristics were specifically identified by Daido Kogyo, Enuma, or Izumi. *See Preliminary Results* at 25167. Thus, we were unable to determine what additional characteristics these respondents relied upon in identifying unique products. Although RK identified additional product characteristics in its questionnaire response, it did not explain why it believed the Department should consider these additional characteristics in identifying identical and similar merchandise in this review. *See id.*

Consequently, we rejected the parties' model match databases based on our determination that it was appropriate to make the analysis in this proceeding consistent with the Department's current practice of defining identical and similar merchandise based only on the product characteristics outlined in the antidumping questionnaire. *Id.*

In our preliminary results, we also requested interested parties to comment on the matching criteria enumerated in the questionnaire and to provide comments on whether we should consider additional criteria beyond the three used in the preliminary results. We further requested that the comments include explanations as to why a

proposed characteristic is essential in defining identical and similar merchandise, how the product characteristics relate to both the cost of manufacturing and the selling price of the merchandise, and how the product characteristic has been captured in the respondent's reported product control numbers. *See Preliminary Results* at 25167–68.

Based on the written comments submitted, the hearing, and previous segments of this proceeding, we believe that additional product characteristics should be considered beyond the three-factor model match test in order to properly identify identical and similar merchandise. To continue to rely on the three-factor model match methodology used in our preliminary results would in some cases yield absurd results in terms of product matching, as it would group physically diverse chain together as identical or similar merchandise.

For these reasons, for these final results, we return to the model match methodology of constructing a concordance based on the model code numbering originally reported by respondents, which we have used in prior segments of this proceeding. This is consistent with the model match methodology used in the last three reviews. *See, e.g., Final Results 1994–1995 at 64327.*

With respect to Izumi's comment that the Department's possible use of price-to-price comparisons for these final results would cause erroneous results, we note that our decision to use constructed value (CV) as the basis for NV for Izumi in these final results renders Izumi's comment moot. *See* ''DOC Position'' to ''Comment 2: Izumi,'' below.

Further, with respect to the petitioner's request that we provide a ''pre-final'' disclosure for all parties in this review in order to review the computer programs and printouts, we note that it is our practice after issuing the final results to afford disclosure to any party to the proceeding who files such a request within five business days of the date of publication of the relevant final results. *See* 19 CFR §§ 353.22 (c)(9) and 353.28. Parties receiving disclosure are required to submit comments concerning ministerial errors within five business days of either the date of release of disclosure documents or the date of any disclosure meeting, whichever is earlier. *See id.* However, since we are reverting to the model-match methodology that we used in the three prior reviews, we are using programming language that has already been reviewed for accuracy by all parties. Therefore, we are not persuaded that we should depart from our normal practice.

Finally, we intend to use the model match comments we have received in this proceeding as a starting point for determining the appropriate model match methodology to be employed in future reviews. In particular, we intend to carefully revisit the three-factor model match with a view toward supplementing it with additional relevant factors in order to arrive at a proper methodology for use in future reviews.

Comment 2: Facts Available

Izumi

The petitioner disagrees with the Department's characterization that Izumi acted to the best of its ability to comply with the Department's information requests regarding its downstream HM sales. The petitioner argues that the Department should have applied adverse facts available (FA) to Izumi because Izumi's affiliated home market reseller's refusal to supply relevant data must be treated as a refusal by Izumi itself, given that this reseller is affiliated with Izumi. Moreover, the petitioner argues that accepting Izumi as cooperative could allow foreign manufacturers to ''screen out'' high-priced HM sales from the calculation of NV simply by telling affiliated resellers not to respond, as there would be no penalty to the respondent. Therefore, the petitioner maintains that the Department erred in using CV to calculate Izumi's margin given that Izumi had sought to have its margin based on CV comparisons.

Further, the petitioner argues that if the roller chain sold to the affiliated reseller was ultimately resold to U.S. customers, those sales must be reported and used in the calculation of Izumi's margin. The petitioner maintains that the Department should require the affiliated reseller to certify whether or not it resold Izumi chain to the United States. If there were such sales, they must be reported. If the affiliated reseller refuses to provide the information, petitioner states that this should be taken into account when determining whether it is appropriate to assign adverse FA to Izumi. In this case, given the nature of the affiliation between Izumi and the reseller and the significance of the data to the overall calculation of Izumi's margin, the petitioner argues that an adverse inference is fully warranted. Specifically, as adverse FA, the petitioner contends that the Department should assign Izumi a margin of 43.29 percent, the highest rate ever calculated for a party subject to the roller chain finding.

In addition, the petitioner expresses its concern that a portion of the Izumi chain sold to the affiliated reseller has been resold to the United States. Therefore, the petitioner requests the Department to seek confirmation from the affiliated reseller that it did not resell Izumi roller chain to the United States during the POR. The petitioner contends that a non-response from the affiliated reseller should be taken into account when determining whether to assign an adverse FA margin to Izumi. In addition, the petitioner advocates that the Department apply the highest possible margin, 43.29 percent, as adverse FA in these final results.

Izumi contends that the Department's decision to use FA was neither reasonable nor necessary since Izumi neither possessed the data nor could compel the affiliated customer to provide it to the Department. Izumi contends that it lacks control over this customer whose actions cannot be legally attributed to Izumi. Izumi asserts that this refusal to provide the sales data cannot be interpreted as a refusal by Izumi itself. Further, Izumi argues that since the petitioner's request for review for the period of review 1996–1997 expressly designated this affiliated customer as a reseller, this precludes the Department from considering Izumi to be the actual seller.

If the Department persists in using FA for Izumi's sales, Izumi contends that it cooperated to the best of its ability and that no adverse inference is warranted. Izumi points to the Department's final determination in the 1994–1995 POR, where the Department found, in light of similar facts, that Izumi had acted to the best of its ability with respect in its attempts to obtain this sales data. (*See Final Results 1994–1995* at 64324).

Assuming that the Department continues to use non-adverse FA, Izumi contends that the Department should continue to use CV or to select an alternative rate based on sales to its unaffiliated customers.

Izumi argues that the petitioner's claim that Izumi sold merchandise to the affiliated customer destined for the United States, or with knowledge that it was so destined, has no basis in the current record and amounts to speculation. Izumi asserts that no record evidence exists that it had knowledge of the ultimate destination of any of its HM sales. Izumi points to the Department's previous final determinations where, based on similar facts, we found the same allegations by petitioner to be unsupported. (*See Notice of Final Results of Antidumping Duty*

Administrative Review: Roller Chain, other than Bicycle, from Japan 58 FR 52264, October 7, 1993; and *Final Results 1994–1995*). Izumi further argues that its sales of merchandise to the affiliated customer, contrary to the petitioner's contention, do not constitute constructed export price (CEP) or export price (EP) sales based on the current record.

Izumi argues that the petitioner's request that Izumi's affiliated customer certify that it did not sell merchandise purchased from Izumi to the United States is, contrary to the petitioner's contention, neither legally supported nor required by the Department's previous practice.

DOC Position

We disagree with both the petitioner and Izumi. Although in the preliminary results we characterized our use of CV as FA, it is more appropriate to characterize the use of CV as merely a sequential step in the choice of the appropriate basis for NV. Section 773(a)(5) of the Act authorizes the Department to determine NV by using the prices at which foreign like products are sold by an affiliated party to unaffiliated customers (*i.e.*, the prices of downstream sales). As we explained in the preliminary results, the total quantity of Izumi's sales to unaffiliated parties during the POR was extremely small, a significant portion of Izumi's total HM sales was to an affiliated reseller, and certain models were sold only to this affiliated customer, resulting in an insufficient number of unaffiliated party sales to provide a meaningful comparison to affiliated party sales. *See Preliminary Results* at 25170. In other words, we concluded that the small number of Izumi's remaining HM sales to unaffiliated customers did not provide a sufficient basis on which to test whether sales to the affiliated reseller were made at arm's-length prices. As explained below, we next attempted to obtain downstream sales. Only after concluding that Izumi was unable to compel its affiliated customer to provide this information, we excluded all HM sales from the calculation of NV and calculated NV based on CV in accordance with section 773(a)(4) of the Act. *See id*.

Section 776(b) of the Act requires that if an interested party fails to cooperate by not acting to the best of its ability to comply with the Department's request for information, the Department may use an adverse inference in selecting from the facts otherwise available. Here, however, upon examining the circumstances surrounding Izumi's failure to provide HM downstream sales information, we disagree with the petitioner's characterization of Izumi as non-cooperative. In the preliminary results, we noted that Izumi did make attempts to obtain this sales information from its affiliated customer and otherwise complied with all of the Department's information requests. *Id*. In our view, the record supports Izumi's claim that, despite its efforts, it was not in a position to compel the affiliated customer to produce the information requested by the Department. *See* the April 30, 1997 Memorandum from Holly A. Kuga to Jeffrey P. Bialos, regarding the application of FA. As a result, for these final results we are satisfied that Izumi acted to the best of its ability to comply with the Department's requests for information.

Finally, there is no evidence on the record to indicate that merchandise Izumi sold to its affiliated customer was subsequently resold to the United States, or that Izumi had knowledge that such merchandise was destined for export to the United States. However, we are putting Izumi on notice that we intend to review this issue, as well as Izumi's affiliations, more closely in the next administrative review, if additional information comes to light.

In conducting our margin calculations for Izumi for these final results, we discovered a number of sales to the United States for which there was no matching CV model information. Since Izumi did not provide this CV information, we are unable to calculate a margin for Izumi's unmatched U.S. sales and must use the facts available, in accordance with section 776(a) of the Act. We received no comments from interested parties on this issue. We did not alert Izumi to the deficiency in its response pursuant to section 782(d) and we therefore have not applied an adverse inference as FA. As FA for the unmatched U.S. sales at issue, we have applied the weighted-average margin calculated for Izumi's U.S. sales for which CV data was reported (*i.e.*, 2.66 percent).

Pulton

The petitioner argues that due to Pulton's continued refusal to provide requested DIFMER information and because Pulton's own model match test was deficient, the Department was fully justified in concluding that Pulton's response was so incomplete that it could not serve as a reliable basis for the Pulton margin determination. Therefore, the petitioner argues that the Department should continue to assign Pulton a margin of 43.29 percent. In addition, regarding corroboration of this margin, the petitioner states that the Department need only satisfy itself that the margin has probative value. The petitioner contends that Pulton's assertion that the 43.29 percent margin is not a final properly calculated rate is a reiteration of arguments raised and rejected in the 1993–1994 administrative review.

Pulton states that the Department should use the information submitted in its questionnaire response to perform margin calculations. According to Pulton, if the five factors listed in Section 782(e) of the Act are satisfied, the Department may not decline to consider the information submitted by a respondent which is in some way deficient. Pulton submits that as these conditions were met in this case, the Department was not justified in disregarding its questionnaire response.

Further, Pulton maintains that if the Department does not use the information contained in its questionnaire response, then it should not use an adverse inference in selecting FA. According to Pulton, Section 776(b) of the Act permits the Department to use an adverse inference in applying FA only 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. Pulton asserts that the facts of this review demonstrate that it did cooperate to the best of its ability and that the Department's use of adverse inference in applying FA is not warranted.

Moreover, Pulton contends that if the Department does use an adverse inference it should not use the 43.29 percent rate because the rate has no probative value. Pulton states that the Department's decision memorandum, dated April 15, 1997, explains that in corroborating secondary information the Department examines the reliability and the relevance of the information used. Pulton argues that the 43.29 percent rate is neither reliable nor relevant. It states that it is not reliable because the rate was not a final properly calculated rate and that it is not relevant because the rate is not indicative of commercial practices in the roller chain industry.

DOC Position

We disagree with Pulton that it has satisfied the five factors listed in Section 782(e) of the Act. Section 782(e) states *inter alia* that the Department shall not decline to use information in reaching a determination if ''the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination'' and if the ''interested party has demonstrated that it acted to the best of its ability in providing the

information and meeting the requirements established by the Department with respect to the information.'' Section 782(d) requires that before the Department declines to consider information that the Department notify the person submitting the information of the nature of the deficiency and, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency.

In this case, the information provided by Pulton is so incomplete that it cannot serve as a reliable basis for our determination. Pulton did not report its sales of all HM models. On several occasions, we notified Pulton of the deficiencies in its response, requested the DIFMER for the unreported HM sales, and provided Pulton with the opportunity to provide the information. On each occasion Pulton failed to provide the requested data, declined to provide an explanation for the deficient nature of its responses, and failed to provide the Department with any suggested alternatives for the requested data. *See Preliminary Results* at 25166. In accordance with Section 782(e) of the Act, Pulton's failure to report the DIFMER data requested by the Department, despite several warnings by the Department regarding the consequences of such an action and despite the Department granting Pulton several opportunities to remedy the deficiencies, authorizes the Department to decline to use Pulton's response.

Pulton's failure to provide the requested DIFMER data has left the Department without information which is essential to our determination. We do not have complete information on sales of identical merchandise and are unable to determine whether any of Pulton's unreported HM models passed the Department's 20 percent DIFMER test. Pulton also did not provide CV information. All of this information, which Pulton was in control of, is vital to our dumping calculations because it is required in order to calculate NV. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.* 62 FR 2081, 2088 (January 15, 1997) (*AFBs VI*). For these reasons, we are compelled to apply FA to Pulton as the Department cannot be left with trying to make its determinations based only on the information that the respondent chooses to provide. *See Olympic Adhesives Inc.* v. *United States,* 899 F.2d 1565, 1571–72 (Fed. Cir. 1990).

We also disagree with Pulton's argument that the Department should not use an adverse inference in selecting FA. Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. As discussed, Pulton has failed to cooperate to the best of its ability in this review. Although Pulton requested that it be allowed to disregard Section B of the questionnaire asking for HM sales, the Department informed Pulton that it should respond to this portion of the questionnaire and that failure to do so would be at its own risk. (*See* Memorandum to the File from Ron Trentham, July 26, 1996). Additionally, the questionnaire asked Pulton to provide DIFMER data for its home sales. As established above, this is an integral element of the questionnaire because this information is necessary for the Department to confirm which U.S. and HM sales match. Further, this is a standard element of the questionnaire and requests information which Pulton should have expected it would be asked to provide, given its participation in numerous roller chain reviews. *See AFBs VI,* at 2088. Nevertheless, as Pulton asked the Department if it could simplify its reporting requirements because it might be overburdened in meeting its full reporting requirements, the Department did offer Pulton an alternative. Specifically, the Department submitted to Pulton a list of specific model numbers and advised Pulton that, at a minimum, it should report the DIFMER data for these models. *See* Department Letter to Pulton, February 5, 1997. The number of models the Department submitted was substantially less than the number of models Pulton sold in the home market, significantly reducing Pulton's reporting burden. Pulton, however, failed to provide even this information. Its failure to cooperate with even this minimal request cannot be characterized as acting to the best of its ability.

Moreover, we disagree with Pulton's contention that the Department should not use the 43.29 percent rate as adverse FA because it has no probative value. Because the FA information which we are using in this review constitutes secondary information, we are required under section 776(c) of the Act to corroborate, to the extent practicable, the facts available from independent sources reasonably at our disposal. The Statement of Administrative Action (SAA) 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). To corroborate the secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for calculated margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances and facts indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. *See Fresh Cut Flowers From Mexico; Final Results of Antidumping Administrative Review,* 61 FR 6812 (June 18, 1996).

In the instant case, the Department is satisfied that the 43.29 percent adverse FA rate is relevant to the current period. It is a final calculated rate affirmed by the Court of International Trade. *See Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Administrative Review of Antidumping Finding,* 46 FR 17068, 17070 (March 17, 1981); *Roller Chain, Other Than Bicycle, From Japan; Final Results of Administrative Review of Antidumping Finding,* 46 FR 44488 (September 4, 1981); *Roller Chain, Other Than Bicycle, from Japan; Final Results of Antidumping Administrative Review,* 52 FR 18004 (May 13, 1987); *Roller Chain, Other Than Bicycle, from Japan; Final Results of Antidumping Duty Administrative Review,* 57 FR 43697 (September 22, 1992); *Sugiyama Chain Co., Ltd.,* v. *United States,* 852 F. Supp. 1103, 1114 (CIT 1994). The 43.29 percent inarguably relates to past practices in the industry as it is an actual margin of dumping found to have existed in the roller chain industry. Pulton has provided the Department with no evidence that would call into question the relevance of this rate. Absent such evidence, the 43.29 percent rate represents an appropriate adverse inference regarding the level of dumping during the current period. Furthermore, in employing adverse inferences, the SAA authorizes the Department to consider the extent to which a party may benefit from its own lack of cooperation. SAA at 870. The

Department concludes that assigning a 43.29% rate to Pulton will prevent it from benefitting from its failure to respond to the Department's requests for information. In sum, the Department is satisfied that it has met the corroboration requirement of section 776(c) and can apply this rate to Pulton as adverse FA in this review.

Enuma

Enuma argues that the Department should not use a FA dumping margin in its final determination. Rather, the Department should calculate a dumping margin for Enuma using either the November 15, 1996, Daido Tsusho and Daido Corporation U.S. sales questionnaire response or the June 12, 1997, Enuma U.S. sales questionnaire response. According to Enuma, the Department now has the information on the record to calculate dumping margins regardless of whether the Department determines that Enuma and Daido Tsusho are affiliated or unaffiliated. Enuma contends that the condition which the Department relied on to use FA in the preliminary determination, *i.e.*, necessary information is not available on the record, no longer exists.

Further, Enuma points out that in the notice of preliminary results, the Department expressed concern over the possible integrity of Enuma's post-preliminary results submission. According to Enuma there are three reasons why the integrity of this submission should be no more in doubt than the integrity of any other documents submitted by Enuma or any other respondent prior to the preliminary determination. First, Enuma has provided the corporate and attorney certification as to the accuracy of its June 12, 1997, response. Second, the June 12, 1997, submission is potentially subject to verification. Third, all adjustment data submitted with the June 12, 1997, submission has been previously included in one of the earlier questionnaire responses and was potentially subject to verification as part of the earlier questionnaire responses, as well as part of the June 12, 1997, submission.

Based on Enuma's response to issues raised in the petitioner's case brief, the petitioner now concurs that the Department should calculate an actual margin for Enuma rather than applying FA.

DOC Position

We agree with Enuma and have calculated a dumping margin for this final determination using Enuma's original HM sales questionnaire response and its June 12, 1997, U.S. sales questionnaire response. In our preliminary determination, we found that Enuma is not affiliated with either Daido Tsusho or Daido Corporation and stated that we believed that the appropriate U.S. transactions to be reviewed were those between Enuma and Daido Tsusho. Section 776(a) of the Act authorizes the Department, subject to section 782(d), to use FA when necessary information is not available on the record. Given that Enuma had not reported its sales to Daido Tsusho in the U.S. sales listing, we could not calculate United States price with respect to Enuma. Therefore, we were compelled to use FA. However, because we did not specifically request that Enuma provide this data in its supplemental questionnaires, we applied non-adverse FA.

Subsequently, we requested that Enuma report all U.S. sales made to Daido Tsusho, and provide additional explanations and/or clarifications regarding the nature of the affiliation and any forms of control between these companies. Based on our analysis of Enuma's submissions of June 12, 1997 and July 10, 1997, we have determined for purposes of the final results that the appropriate U.S. transactions to be reviewed are those between Enuma and Daido Tsusho.

We used EP in accordance with subsections 772(a) of the Act because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of the record. We calculated EP based on packed prices to the first unaffiliated customer in the United States. In accordance with section 772(c)(2)(A) of the Act, we made a deduction for inland freight plant/warehouse to customer.

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 HM sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1) (B) and (C) of the Act. Since respondent's aggregate volume of HM sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we based NV on HM sales.

We made deductions, where appropriate, from the starting price for inland freight. In addition, we made a circumstance-of-sale adjustment for credit in accordance with section 773(a)(6)(C)(iii) of the Act. We deducted HM packing costs and added U.S. packing cost in accordance with sections 773(a)(6) (A) and (B) of the Act.

Sales to an affiliated customer in the home market which were determined not to be 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 of comparison products to affiliated and unaffiliated customers, net of all movement charges, direct and indirect selling expenses, discount, and packing. Pursuant to 19 CFR 353.45(a) and in accordance with our practice, where the price to the affiliated party was less than 99.5 percent or more of the price to the unaffiliated party, we determined that the sales made to the affiliated party were not at arm's-length. *See Final Results 1994–1995* at 64322, 64327.

In our initial questionnaire, we stated that if for each product Enuma sold during the POR to the United States it sold the identical product in the comparison market, it was not necessary to supply information regarding the DIFMER. However, we also stated that if Enuma elected not to supply this information and we later determined for any reason that a United States sale should be compared to a sale of a similar product in the comparison market, we might have to resort to FA. In response, Enuma stated that it believed that a matching HM model existed for every U.S. model. In a supplemental questionnaire dated February 13, 1997, we again informed Enuma that if we determined that there was not a contemporaneous sale in the home market of an identical model for every model of chain sold in the United States, or that these sales could not be used as a basis for NV for any reason, and Enuma failed to report its HM sales of the most similar merchandise, we may apply FA in making our determinations. Enuma provided no response except to state that no answer was required. Further, we noted that Enuma had not reported CV for any of the models sold in the United States during the POR and we subsequently informed Enuma that if it chose not to report CV and we were unable to make price-to-price comparisons for any reason, we might apply FA in making our determinations. Enuma responded again that no answer was required. Moreover, in its revised section C response submitted to the Department on July 10, 1997, Enuma failed to provide DIFMER claiming that it had made sales in Japan of roller chain identical to that which it sold in the United States during the POR. However, contrary to Enuma's claims, in conducting our margin calculations for Enuma we discovered a number of sales

to the United States for which there were no contemporaneous sales of identical merchandise in the home market.

Since Enuma failed to provide DIFMER information and did not provide CV information, we are unable to calculate a margin for Enuma's unmatched U.S. sales. Therefore, we are compelled to use FA with regard to these sales for purposes of the final results.

Enuma's failure to report DIFMER data, information which it controlled, despite our request for that information and our warnings regarding the consequences of such an action, demonstrates that Enuma failed to cooperate to the best of its ability in this review. Thus, in accordance with 776(b), in selecting among the FA for Enuma, an adverse inference is warranted. As FA we have selected 43.29 percent, which we established above in the FA section regarding Pulton. This rate represents the highest calculated rate for any respondent from any prior segment of this proceeding and, for the reasons stated above in the FA section regarding Pulton, meets the corroboration requirements of section 776(c) of the Act.

Daido Kogyo

The initial questionnaire and supplemental questionnaire which we sent to Daido Kogyo were identical to those sent to Enuma as described above. In response to our initial questionnaire, Daido Kogyo stated that it believed that a matching HM model existed for every U.S. model. In response to our supplemental questionnaire dated February 13, 1997 requesting DIFMER data, Daido Kogyo responded that no answer was required. Finally, in response to our May 19, 1997 letter requesting DIFMER data, Daido Kogyo declined to provide this data, stating that it believed that there would be few, if any, unmatched U.S. sales. Similar to our notice to Enuma, we notified Daido Kogyo that we may have to apply FA in making our determinations if its claims later proved inaccurate. Contrary to Daido Kogyo's claims, in conducting our margin calculations for Daido Kogyo, we discovered a number of sales to the United States for which there were no contemporaneous sales of identical merchandise in the home market. Since Daido Kogyo failed to provide DIFMER information and did not provide CV information, we are unable to calculate a margin for Daido Kogyo's unmatched U.S. sales. Just as in the situation of Enuma, described above, Daido Kogyo's failure to report this information, despite our information requests and our warnings regarding the consequences of such an action, demonstrates that Daido Kogyo failed to cooperate to the best of its ability in this review. Therefore, as required by section 776(a) of the Act, we are compelled to apply adverse FA to these sales for the same reasons and in the same manner as we determined above for Enuma.

Comment 3: Level of Trade/CEP Offset

Daido Kogyo argues that in finding that no difference in the level of trade (LOT) existed and in denying it a CEP offset, the Department misinterpreted the facts and the law, producing a result unfair to Daido Kogyo. Daido Kogyo contends that because a difference in LOT exists, even if no LOT adjustment can be made, it is still entitled to a CEP offset.

Daido Kogyo asserts that because the Department incorrectly defined the CEP sale, this error led to the mistaken conclusion that there is no difference in LOT between CEP and HM sales. Daido Kogyo further argues that we further misinterpreted the CEP offset provision, section 773(a)(7)(B) of the Act, by misidentifying the relevant CEP sales transaction.

According to Daido Kogyo, the relevant CEP sales transaction to be examined for LOT analysis is the point at the company's factory door. Daido Kogyo bases this assertion on its interpretation that the statute requires all costs to be deducted back to the factory door. Daido Kogyo asserts that not only is our preliminary determination in error, but that the Department's regulations are as well. Daido Kogyo further asserts that the Department erroneously collapsed Daido Kogyo, Daido Tsusho, and Daido Corporation into one company for purposes of LOT analysis.

Daido Kogyo also contends that the Department omitted, overlooked, or misunderstood certain facts on the record regarding Daido Kogyo's selling functions, in particular its HM sales practices. Specifically, Daido Kogyo asserts that the Department missed major differences between the selling functions Daido Kogyo performed for HM customers and those it performed for CEP sales.

The petitioner maintains that, consistent with the Department's preliminary results, Daido Kogyo is not entitled to a LOT adjustment or a CEP offset. Specifically, the petitioner states that Daido Kogyo sold roller chain to the United States through Daido Tsusho. Accordingly, once U.S. selling expenses and U.S. profit are deducted, the merchandise is not at the factory door, but rather at the same LOT as Daido Tsusho's EP sales. For example, the petitioner maintains that the Department did not make a deduction for the profit earned by Daido Tsusho on the CEP transactions. Furthermore, the petitioner argues that Daido Kogyo's argument concerning the appropriate starting point for comparing CEP and home market transactions was previously considered and rejected by the Department in formulating the new antidumping regulations.

Moreover, the petitioner argues that in case the Department were to revisit its preliminary results position on this issue, it should include a determination as to whether Daido Kogyo has cooperated to the best of its ability in providing data to the Department that would permit it to make a traditional LOT adjustment. Specifically, the petitioner objects to Daido Kogyo's assertion that there is only one LOT in the home market even though the company sells roller chain to OEMs, trading companies, and local distributors.

DOC Position

We agree with the petitioner that Daido Kogyo has not demonstrated eligibility for a CEP offset. Daido Kogyo's position is at odds with the Department's determination in several significant respects: (1) how the Department defined the starting price of the CEP sale and determined whether U.S. and HM sales were made at different points in the channels of distribution; (2) whether the selling functions performed for Daido Kogyo's CEP sales were sufficiently different from those performed for HM sales; (3) whether HM and CEP sales were at different stages of marketing, and (4) whether the Department created an artificial distinction between HM and CEP sales.

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the U.S. LOT is the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and

the unaffiliated customer. If the comparison-market sales are at a different LOT, and that difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Certain Welded Carbon Steel Standard Pipes and Tubes From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review,* 62 FR 23760, 23761 (May 1, 1997); *see also Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.* 62 FR 54043, 54056 (October 17, 1997) (*AFBs VII*).

First, as to Daido Kogyo's argument that the Department erroneously defined the CEP sale, we agree with petitioner that the relevant transaction is at the point after U.S. selling expenses and U.S. profit are deducted, and not at the factory door. With respect to section 773(a)(7)(B) of the Act, Daido Kogyo argues that the ''only realistic interpretation of the statute is that the LOT for CEP sales is at the factory door.'' *See* Daido Kogyo Brief at 24 (Brief). Yet, Daido Kogyo itself acknowledged that the statute lends itself to ''two possible interpretations of the phrase 'level of trade of the constructed export price,' '' the ex-factory price or the price from the affiliated importer to an unaffiliated U.S. customer. *See id.* (emphasis added).

However, the crux of Daido Kogyo's argument is that it disagrees with the Department's regulations under the statute, apart from our preliminary determination. Specifically, Daido Kogyo asserts that the regulations fail to distinguish between a HM price which includes those expenses which are deducted under section 772(d) and a CEP price lacking such expenses. *See* Brief at 19. While Daido Kogyo's disagreement with the Department's regulations on this issue is outside our present purview, we disagree with Daido Kogyo's interpretation as to how CEP is defined. Pursuant to section 773(a)(7)(A) of the Act, the Department's practice has been to examine the relevant selling functions included in the CEP *after* making deductions under section 772(d) of the Act. *See SAA* at 823; *see also Gray Portland Cement and Clinker from Mexico, Final Results of Antidumping Administrative Review,* 62 FR 17148, 17156, (April 9, 1997) (*Mexican Cement*).

Daido Kogyo additionally argues that the selling functions it performed for CEP sales were different from those performed for HM sales. Our practice, as reflected in the new regulations, is that differences in selling activities are a necessary but not, in themselves, a sufficient condition for finding a difference in marketing stages. *See* 19 CFR 351.412 (c)(2); *see also Mexican Cement* at 17157. We analyzed all of the selling functions (or activities) included in the CEP after making deductions under section 772(d) of the Act, and compared them to the ones performed for HM sales. We considered all selling activities of all affiliated parties for CEP sales (*i.e.*, Daido Kogyo and Daido Tsusho), after disregarding selling activities associated with the selling expenses deducted under section 772(d) of the Act. We noted that Daido Kogyo itself stated that Daido Tsusho was a selling organization for CEP sales (*see* Brief at 33) and found that Daido Kogyo and/or Daido Tsusho performed selling functions for CEP sales, in addition to those selling functions performed by Daido Corporation, which included the following: preparing chain for export shipment, arranging its transportation from plant to a Japanese port, carrying or maintaining inventory in Japan, and export sales administration and billing. We note that Daido Kogyo's selling functions performed with respect to sales to HM customers are not significantly different from those performed with respect to CEP sales.

Further, we note that the facts as to Daido Kogyo's distribution process are virtually the same as in a prior segment of this proceeding, the 1994–1995 POR, where we determined on these facts that there were no significant differences between selling activities performed for HM sales and those performed for CEP sales and thus determined that there was no difference in LOT (*see Final Results 1994–1995* at 64326–27).

In addition, based on our analysis of Daido Kogyo's responses, we identified a single marketing stage in the home market, that of distributor. In the CEP market, we also identified a single stage of marketing to a distributor, from Daido Tsusho to Daido Corp. Therefore, we concluded that Daido Kogyo's home market and CEP sales were therefore at the same marketing stage.

Finally, we turn to Daido Kogyo's argument that the Department, erroneously and contrary to Congressional intent, created an artificial distinction between companies which export directly to the United States and those which export through an affiliated trading company. We find, on the contrary, that to ignore the selling functions performed by Daido Tsusho as a selling organization for CEP sales would result in the very sort of distorted results which Daido Kogyo seeks to avoid. No new facts have been introduced since our preliminary results that would warrant a reversal of our preliminary results.

Based on the above, we do not consider Daido Kogyo's sales in the home market and in the U.S. market to be at a different LOT. Consequently, we determined that Daido Kogyo is not entitled to a LOT adjustment. Thus, no CEP offset has been granted for the final results.

Comment 4: Commission Offset

Daido Kogyo claims that the Department, in calculating NV, erroneously denied it a commission offset adjustment. Daido Kogyo argues that this offset should have included its total indirect selling expenses, including HM sales commissions not separately claimed. Daido Kogyo urges the Department to deduct, in the manner of a commission offset, its total indirect selling expenses in the home market as Daido Kogyo had originally reported, which included HM commissions as part of this amount and not as a separate deduction.

The petitioner disagrees that Daido Kogyo is entitled to this commission offset. The petitioner notes that Daido Kogyo states that it paid commissions to unaffiliated sales representatives in the United States but did not claim these commissions as a deduction to U.S. price. Further, the petitioner also notes that Daido Kogyo actually made commission payments in the home market, which it reported as part of HM indirect selling expenses, rather than transaction-specific amounts for each HM sale where applicable. Moreover, the petitioner argues that there is no basis for assuming that had commissions been reported for each of these HM transactions, they would have been compared to U.S. sales where commissions were paid. Therefore, the petitioner contends that Daido Kogyo should not benefit from its failure to follow the Department's instructions.

DOC Position

We agree with the petitioner that sales commissions were in fact paid by Daido Kogyo in both the home market and in the United States. When a respondent has incurred commission costs in both

the U.S. and home markets, it is standard Departmental practice to simply deduct the commission amounts from the reported HM and U.S. prices to calculate NV and CEP. (*See Antidumping Manual,* Import Administration, International Trade Administration, Department of Commerce (*Antidumping Manual*), Chapter 8, p. 30). However, in this instance, Daido Kogyo has failed to report its HM commission expenses in an appropriate manner for us to make this deduction. Despite our request for transaction-specific HM commission expenses, Daido Kogyo stated that because the commission amounts paid in the home market were very small, it ''has elected not to claim a direct expense deduction for'' this item. *See* Daido Kogyo's Supplemental Questionnaire Response, March 10, 1997 at 28. The only commission information which Daido Kogyo reported was in aggregate form for the POR and lacked any explanation of how the figure related to sales of subject merchandise.

In addition, we agree with the petitioner that a respondent should not benefit from its failure to follow the Department's instructions. Accordingly, because we are unable to determine what portion of Daido Kogyo's commission expense is related to the sale of subject merchandise, we have not made any deduction from HM price for commission in the margin calculation program for Daido Kogyo in these final results.

Further, we disagree with Daido Kogyo's argument that, in lieu of a direct HM commission deduction, we should use indirect selling expenses as a basis for granting a commission offset adjustment. Such an offset adjustment is only made when commission expenses are incurred in one market and not in the other. (*See Antidumping Manual,* Chapter 8, p. 31). Since this is not the case here, we have removed the commission offset adjustment from the margin calculation program for Daido Kogyo, (at line numbers 547–558), for these final results.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margins exist for the period April 1, 1995 through March 31, 1996:

Manufacturer/exporter	Weighted-average margin percentage
Daido Kogyo	6.84
Enuma	1.57
Izumi	2.66
Pulton	43.29 (adverse FA)
R.K. Excel	0.17

Intent Not To Revoke

As we noted in our preliminary results, Daido Kogyo and Enuma submitted a request in accordance with 19 CFR 353.25 (b) to revoke the order with respect to its sales of roller chain in the United States. (*See Preliminary Results* at 25171). In these final results and those of our most recently completed administrative review of this order, the margins calculated for Daido and Enuma were greater than *de minimis. See Final Results 1994–1995* at 64327. Therefore, we determine that Daido Kogyo and Enuma do not qualify for revocation at this time.

Cash Deposit Requirements

The following deposit requirements shall be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise from Japan that are entered or withdrawn from warehouse, for consumption on of after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed companies will be the rates listed above, except that for RK Excel whose weighted-average margin is less than 0.5 percent and therefore de minimis, the Department shall require a zero deposit of estimated antidumping duties; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, 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 manufacture of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.92 percent, the all others rate based on the first review conducted by the Department in which a ''new shipper'' rate was established in the final results of antidumping finding administrative review (48 FR 51801, November 14, 1983).

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

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, we have calculated exporter/importer-specific assessment rates for roller chain.

Where entered value or entered quantity data is not available, we have divided for both EP and CEP sales, where applicable, the total dumping margins (calculated as the difference between NV and EP (or CEP)) for each importer by the total number of units sold to the importer. We will direct Customs to assess the resulting unit dollar amount against each unit of subject merchandise entered by the importer during the POR.

This notice serves as a final 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 notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: October 31, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–29630 Filed 11–7–97; 8:45 am]

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