

could be used to make a determination regarding the "all others" category. In the case of Japan, however, these statistics cover numerous HTS categories that include merchandise other than subject merchandise. Therefore, we cannot rely on these data in determining if there were massive imports for the "all others" category for Japan. *See Stainless Steel from Japan.* The Department does not have any other data indicating massive imports from the companies in question. Therefore, the Department does not find massive imports with regard to the "all others" category in the Japan case.

In the case of Thailand, we determined that there were not massive imports from the one mandatory respondent. Although we made this determination on the basis of the facts available, we did not use an adverse inference. Therefore, we have considered this as evidence of no massive imports from all other companies. Further, we were able to analyze the U.S. Customs data on imports of cold rolled steel products from Thailand because these statistics did not include HTS categories covering merchandise other than subject merchandise. However, our analysis showed that massive imports did not occur during the "relatively short period". As a result, the Department does not find massive imports in regard to the "all others" categories in the Thailand case.

Because the massive imports criterion necessary to find critical circumstances has not been met with respect to firms other than NSC, KSC, Kobe, and Nisshin, the Department preliminarily finds that critical circumstances do not exist for the "all others" category in the Japan and Thailand investigations.

#### *Suspension of Liquidation*

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cold-rolled steel products exported from Japan by KSC, NSC, Kobe and Nisshin that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**. For entries of cold-rolled steel products from Argentina and Thailand, and merchandise exported by all other companies in Japan, we are directing the U.S. Customs Service to suspend liquidation of those entries that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash

deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below.

Manufacturer/exporter	Margin (percent)
Argentina:	
Siderar Limited .....	24.53
All Others .....	24.53
Japan:	
Nippon Steel Corporation ..	53.04
Kawasaki Steel Corpora- tion .....	53.04
Kobe Steel, Ltd .....	53.04
Nisshin Steel Co., Ltd .....	53.04
All Others .....	39.28
Thailand:	
TCRSC/Sahaviriya .....	80.67
All Others .....	67.97

#### *ITC Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations. If our final antidumping determinations are affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of these preliminary determinations or 45 days after the date of our final determinations.

#### *Public Comment*

For the investigations of cold-rolled steel products from Argentina, Japan and Thailand, case briefs must be submitted no later than 50 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to several cold-rolled cases, the

Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If these investigations proceed normally, we will make our final determinations in the investigations of cold-rolled steel products from Argentina, Japan and Thailand no later than 75 days after the date of this preliminary determination.

These determinations are published pursuant to sections 733(d) and 777(i)(1) of the Act.

Dated: November 1, 1999.

**Robert S. LaRussa**,  
*Assistant Secretary for Import Administration.*

[FR Doc. 99-29064 Filed 11-4-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-504]

#### **Porcelain-on-Steel Cookware From Mexico: Preliminary Results of Antidumping Duty Administrative Review**

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

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

**SUMMARY:** In response to a request by the petitioner, Columbian Home Products, LLC (formerly General Housewares Corporation), the Department of Commerce is conducting an administrative review of the antidumping duty order on porcelain-on-steel cookware from Mexico. This review covers Cinsa, S.A. de C.V. and Esmaltaciones de Norte America, S.A. de C.V., manufacturers/exporters of the subject merchandise to the United States. The twelfth period of review is December 1, 1997, through November 30, 1998.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to comment on these preliminary results. If

these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

**EFFECTIVE DATE:** November 5, 1999.

**FOR FURTHER INFORMATION CONTACT:** Kate Johnson or Rebecca Trainor, Office 2, AD/CVD Enforcement Group I, Import Administration-Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4929 or 482-4007, respectively.

**SUPPLEMENTARY INFORMATION:**

### The Applicable Statute

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

### Background

On October 10, 1986, the Department published in the **Federal Register**, 51 FR 36435, the final affirmative antidumping duty determination on certain porcelain-on-steel (POS) cookware from Mexico. We published an antidumping duty order on December 2, 1986, 51 FR 43415.

On December 8, 1998, the Department published in the **Federal Register** a notice advising of the opportunity to request an administrative review of this order for the period December 1, 1997, through November 30, 1998 (the POR), 63 FR 67646. The Department received a request for an administrative review of Cinsa, S.A. de C.V. (Cinsa) and Esmaltaciones de Norte America, S.A. de C.V. (ENASA) from Columbian Home Products, LLC (CHP), formerly General Housewares Corporation (GHC) (hereinafter, the petitioner). We published a notice of initiation of the review on January 25, 1999, 64 FR 3682. The Department is conducting this review in accordance with section 751(a) of the Act.

### Scope of the Review

The products covered by this review are porcelain-on-steel cookware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under Harmonized

Tariff Schedule of the United States (HTSUS) subheading 7323.94.00. Kitchenware currently classifiable under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

### Allegation of Reimbursement

For the reasons discussed below, the Department has preliminarily determined that the producers/exporters, Cinsa and ENASA, will reimburse their affiliated importer Cinsa International Corporation (CIC) for antidumping duties assessed on entries of POS cookware from Mexico made during this review period. As a result of this determination, we deducted from the export price (EP) and constructed export price (CEP) the amount of the antidumping duty that we preliminarily found for Cinsa and ENASA for this review period in accordance with 19 CFR 351.402 (1998).

In the eleventh review of this order, we found that Cinsa and ENASA had reimbursed CIC for antidumping duties through a capital infusion provided to CIC, through a holding company, by their common parent company, Grupo Industrial Saltillo ("GIS"). We found that, in making this transfer of funds dedicated to the payment of antidumping duties, GIS acted on behalf of Cinsa and ENASA, such that the transfer may be attributed to those two firms. See *Porcelain-On-Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 26934, 26936-37 (May 18, 1999) ("POS Cookware").

The Department has previously stated that "where the Department determines in the final results of an administrative review that an exporter or producer has engaged in the practice of reimbursing the importer, the Department will presume that the company has continued to engage in such activity in subsequent reviews, absent a demonstration to the contrary." See *Certain Cold-Rolled Carbon Steel Flat Products From the Netherlands: Final Results of Antidumping Duty Administrative Review*, 63 FR 13204, 13213 (March 18, 1998) ("Dutch Steel"). "The establishment of a rebuttable presumption allows the Department to administer the law fairly and effectively." See *Dutch Steel*, 63 FR at 13214. "The Department's policy is crafted to address the instances in which there has been a finding of reimbursement and the importer is financially unable to pay the duty on its own. In that circumstance, the

Department will determine that the importer must continue to rely on reimbursements, such as intracorporate transfers, from the producer or exporter in order to meet its obligations to pay the duties." *Id.*

We gave Cinsa and ENASA an opportunity to submit factual information to rebut the presumption of reimbursement with respect to current review entries. To rebut the presumption that reimbursement will continue to take place when current entries are liquidated, a respondent must normally demonstrate that, during the POR in question (in this case the 12th POR), antidumping duties were assessed against the affiliated importer and the affiliated importer did in fact pay all antidumping duties assessed during that POR, without reimbursement, directly or indirectly, by the exporter/producer. See *POS Cookware*, 64 FR at 26938. In such a case, the importer's financial ability to pay antidumping duties during the current POR is sufficient evidence of the importer's ability, without reimbursement, to pay the antidumping duties to be assessed on entries during the current review. *Id.* Alternatively, respondents may rebut the presumption by demonstrating that there are changed circumstances (e.g., completed corporate restructuring) sufficient to obviate the need for reimbursement of antidumping duties to be assessed on the entries under review. *Id.*; see also *Dutch Steel*, 63 FR at 13213.

In order to establish that CIC is no longer being reimbursed for antidumping duties and that changed circumstances exist sufficient to obviate the need for reimbursement as to twelfth review entries when they are liquidated, respondents submitted the following:

1. The relevant pages of CIC's general ledger from year-end 1997 and 1998 showing that CIC's capital account did not change during 1998. Respondents also submitted the January 1999 general ledger page showing the return of the April 1997 capital contribution upon which the Department's finding of reimbursement was based in the prior review.

2. Recent audited financial data for 1998 showing CIC's earnings and profit margin for that year and interim financial data for the first half of 1999, as well as projected figures through 2002.

3. A statement that CIC has ceased being the importer of record for POS cookware imported from Mexico effective September 1, 1999. Respondents state that Cinsa is now the importer of record of the subject merchandise, with title passing to CIC

after the merchandise clears Customs. They claim that the result of this restructuring is to eliminate the cost to CIC of posting the estimated antidumping duty deposits, and thus to increase the profitability of CIC.

4. A statement that, in August 1, 1999, CIC will begin to market a new line of products in the U.S. and Canada that will further enhance CIC's profitability, and information in support of the level of income they expect to realize from this new line.

We find that the information that Cinsa and ENASA have submitted fails to satisfactorily demonstrate changed circumstances sufficient to obviate the need for reimbursement of CIC as to twelfth-review entries when they are liquidated. The primary basis of Cinsa and ENASA's argument that CIC is financially self-sufficient and will not need assistance to pay antidumping duties are sales projections which contrast markedly with CIC's actual performance in 1999 versus its performance in 1998. In addition, the limited actual financial data on the record is insufficient to enable us to determine that CIC's resources will be adequate to cover the liquidation of twelfth review entries. Because much of this information is business proprietary, it is discussed more fully in the November 1, 1999, Analysis Memorandum for the Preliminary Results (*Analysis Memo*). We will continue to evaluate whether CIC will have the financial capacity to independently meet its antidumping duty obligations and, in so doing, will solicit additional financial data from CIC when it becomes available for purposes of the final results. Furthermore, we will revisit our interpretation of the reimbursement regulation as it applies to this case.

Accordingly, based on our finding that the respondents have failed to satisfactorily rebut the presumption of reimbursement established in the eleventh review of this order, we preliminarily presume that antidumping duties to be assessed on twelfth-review entries will be reimbursed as well. Therefore, in accordance with our regulations, we deducted from EP and CEP the amount of the antidumping duty that we preliminarily found for Cinsa and ENASA for this review period.

#### Fair Value Comparisons

To determine whether sales of POS cookware by Cinsa and ENASA to the United States were made at less than normal value (NV), we compared EP or CEP to the NV, as described in the "Export Price and Constructed Export

Price" and "Normal Value" sections of this notice.

Pursuant to section 777A(d)(2), we compared the EPs or CEPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade at prices above the cost of production (COP), as discussed in the "Cost of Production Analysis" section, below.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Cinsa and ENASA covered by the description in the "Scope of the Review" section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we compared individual cookware pieces with identical or similar pieces, and cookware sets to identical or similar sets. Within these groupings, we matched foreign like products based on the physical characteristics reported by the respondents in the following order: quality, gauge, cookware category, model, shape, wall shape, diameter, width, capacity, weight, interior coating, exterior coating, grade of frit (a material component of enamel), color, decoration, and cover, if any.

#### Export Price and Constructed Export Price

For certain sales made by Cinsa, we calculated EP in accordance with section 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 because CEP methodology was not otherwise indicated. We based EP on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for billing adjustments, U.S. and foreign inland freight, U.S. and Mexican brokerage and handling expenses, and U.S. duty in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a). We reclassified pre-sale warehousing expenses, that were incorrectly reported

by the respondents as movement expenses, as factory overhead expenses, based on information in the questionnaire response and in accordance with 19 CFR 351.401(e)(2). We also deducted the amount of antidumping duties reimbursed to CIC by Cinsa and ENASA, consistent with our reimbursement finding discussed above. (*See Calculation Memorandum dated November 1, 1999 (Calculation Memo)*).

For the CEP sales made by Cinsa and ENASA during the POR, we calculated CEP in accordance with section 772(b) of the Act, because the subject merchandise was first sold by CIC in the United States. We reclassified as CEP certain sales sold by U.S. agents that Cinsa reported as EP sales, because the limited information on the record indicates that the merchandise was first sold (or agreed to be sold) by CIC after importation into the United States. *See Calculation Memo* for further details. We excluded ENASA's sample sales from the margin calculation, in accordance with *NSK, Ltd. v. United States*, 115 F.3d 965, 975 (Fed. Cir. 1997). We based CEP on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for billing adjustments, discounts, U.S. and foreign inland freight, U.S. and Mexican brokerage and handling expenses, and U.S. duty in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a). We reclassified pre-sale warehousing expenses, that were incorrectly reported by the respondents as movement expenses, as a factory overhead expenses, based on information in the questionnaire response and in accordance with 19 CFR 351.401(e)(2). We recalculated respondents' reported inventory carrying costs because respondents did not use the Department's standard methodology to report these expenses in their questionnaire response. *See Calculation Memo*.

We made further deductions, where appropriate, for credit, commissions, repacking expenses, warehousing expenses, and indirect selling expenses that were associated with economic activities occurring in the United States pursuant to section 772(d)(1) of the Act and 19 CFR 351.402(b). For those home market sales for which the payment date was not reported, we calculated credit based on the average number of days between shipment and payment using the sales for which payment information was reported. We recalculated CIC's indirect selling expenses to include bad debt and depreciation expenses. For purposes of calculating the indirect

selling expense ratio, we also reallocated certain of CIC's total expenses pertaining only to the CEP sales over the total sales value excluding the value of EP sales. See Calculation Memo. We performed this reallocation because CIC performs limited sales-related functions with respect to EP sales and equal allocation of all CIC expenses across all U.S. sales in which CIC is involved would disproportionately shift these costs from CEP to EP sales. Finally, we made an adjustment for profit in accordance with section 772(d)(3) of the Act. We also deducted the amount of antidumping duties to be reimbursed to CIC by Cinsa and ENASA, consistent with our reimbursement finding discussed above. See Calculation Memo.

#### Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, we based NV on the price (exclusive of value-added tax) at which the foreign like product was first sold for consumption in the home market, in accordance with section 773(a)(1)(B)(i) of the Act, as noted below.

#### Level of Trade and CEP Offset

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 level of trade (LOT) as the EP or CEP transaction. 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 also the level of the starting-price sale, which is usually from the exporter to an unaffiliated U.S. customer. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer, after the deductions required under section 772(d) of the Act. To determine whether NV sales are at a LOT different from 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 the 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 an LOT adjustment under section 773(a)(7)(A) of the Act. 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 *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In this review, Cinsa and ENASA reported that comparison-market and CEP sales were made at different LOTs, and that comparison-market sales were made at a more advanced LOT than were Cinsa's sales to CIC in the United States. The respondents requested that the Department make a CEP offset in lieu of an LOT adjustment, as they were unable to quantify the price differences related to sales made at the different LOTs. Respondents made no claim for differences in LOT between comparison-market and EP sales.

Cinsa and ENASA reported four channels of distribution in the home market: (1) Direct sales to customers from the Saltillo plant, (2) sales shipped from their Mexico city warehouse, (3) sales shipped from their Guadalajara warehouse, and (4) sales shipped to discount stores. In analyzing the data in the home market sales listing by distribution channel and sales function, we found that the four home market channels did not differ significantly with respect to selling functions. Similar services were offered to all or some portion of customers in each channel. Based on this analysis, we find that the four home market channels of distribution comprise a single LOT.

Cinsa made both EP and CEP sales in the U.S. market during the POR, while ENASA made only CEP sales in the U.S. market. The EP sales were made by the exporter to the unaffiliated customer, who received the merchandise at the border between Mexico and the United States (FOB Laredo, Texas). As Cinsa did not provide the selling function information necessary to evaluate LOT(s) associated with EP sales in response to the Department's questionnaire, we have not performed a LOT analysis for purposes of making a LOT adjustment for any differences between comparison-market and EP sales.

All CEP sales were made through the same distribution channel: By the Mexican exporter to CIC, the U.S. affiliated reseller, who then sold the

merchandise directly to unaffiliated purchasers in the United States. The same selling functions/services were provided by Cinsa and ENASA to all customers in this distribution channel. Therefore, we preliminarily determine that all CEP sales constitute a single LOT in the United States.

To determine whether sales in the comparison market were at a different LOT than CEP sales, we examined the selling functions performed at the CEP level, after making the appropriate deductions under section 772(d) of the Act, and compared those selling functions to the selling functions performed in the home market LOT.

In the comparison market, Cinsa and ENASA sold subject merchandise to their affiliated sales organization, COMESCO, which then resold the POS product to unaffiliated customers. In the United States, Cinsa sold its and ENASA's subject merchandise to its affiliate, CIC, which then sold the subject merchandise directly to unaffiliated purchasers. Therefore, we compared the selling functions and the level of activity associated with Cinsa's sales to CIC with the sales by COMESCO to unaffiliated purchasers in the Mexican market. We found that several of the functions performed in making the starting price sale in the comparison market either were not performed in connection with sales to CIC (e.g., market research, order solicitation, after sale services/warranties, and advertising), or were only performed to a small degree in connection with sales to CIC (e.g. inventory maintenance), thus supporting respondents' contention that different LOTs exist between comparison-market and CEP sales.

These differences also support the respondents' assertion that the comparison-market merchandise is sold at a more advanced LOT (see the Preamble to the Department's Regulations, 62 FR 27295, 27371 (May 19, 1997)) ("Each more remote level must be characterized by an additional layer of selling activities, amounting in the aggregate to a substantially different selling function.") Furthermore, many of the same selling functions that are performed at the comparison-market LOT are performed, not at the CEP LOT, but by the respondents' U.S. affiliate. Based on this analysis, we preliminarily conclude that the comparison-market and CEP channels of distribution are sufficiently different to determine that two different LOTs exist, and that the comparison-market sales are made at a more advanced LOT than are the CEP sales.

As there is no comparison-market LOT that is comparable to that in the

United States, we have no basis for determining whether the difference in LOTs affects price comparability. Therefore, we made a CEP offset to NV. In accordance with section 773(a)(7) of the Act, we calculated the CEP offset as the lesser of the following:

1. The indirect selling expenses on the comparison-market sale, or
2. The indirect selling expenses deducted from the starting price in calculating CEP.

**Cost of Production Analysis**

The Department disregarded certain sales made by Cinsa and ENASA for the period December 1, 1996, through November 30, 1997 (the most recently completed review of Cinsa and ENASA), pursuant to a finding in that review that sales were made below cost. Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that respondents Cinsa and ENASA made sales in the home market at prices below the cost of producing the merchandise in the current review period. As a result, the Department initiated investigations to determine whether the respondents made home market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

**A. Calculation of COP**

We calculated the COP on a product-specific basis, based on the sum of Cinsa's and ENASA's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A and packing costs in accordance with section 773(b)(3) of the Act. Because Cinsa and ENASA reported monthly costs, we created an annual average COP on a product-specific basis.

We relied on COP information submitted by Cinsa and ENASA, except in the following instances where it was not appropriately quantified or valued: (1) Frit prices from an affiliated supplier did not approximate fair market value prices; therefore, we increased Cinsa's and ENASA's frit prices to account for the portion of the reported cost savings to affiliated parties which was not due to market-based savings; (2) we recalculated Cinsa's depreciation expenses to account for idle assets; (3) we excluded Cinsa's and ENASA's negative interest expense; (4) for sales reported without COP data, we assigned the weighted-average COP reported for other sales in the database; and (5) we

reclassified pre-sale warehousing expenses, that were incorrectly reported by the respondents as movement expenses, as factory overhead expenses.

**B. Test of Home Market Prices**

We compared the weighted-average, per-unit COP figures for the POR to home market sales of the foreign like product, as required by section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP (net of selling expenses) to the home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses.

**C. Results of COP Test**

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POR were at prices less than the COP, we disregarded the below-cost sales where such sales were found to be made at prices which would not permit the recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act).

The results of our cost tests for Cinsa and ENASA indicated for certain home market models, less than twenty percent of the sales of the model were at prices below COP. We therefore retained all sales of these models in our analysis and used them as the basis for determining NV. Our cost tests also indicated that for certain other home market models more than twenty percent of home market sales within an extended period of time were at prices below COP and would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we therefore excluded the below-cost sales of these models from our analysis and

used the remaining sales as the basis for determining NV.

**Price-to-Price Comparisons**

For both of the respondents, we calculated NV based on the VAT-exclusive, home market gross unit price and deducted, where appropriate, inland freight, and early payment discounts in accordance with section 773(a)(6) of the Act and 19 CFR 351.401. We reclassified pre-sale warehousing expenses, that were incorrectly reported by the respondents as movement expenses, as a factory overhead expenses, based on information in the questionnaire response and in accordance with 19 CFR 351.401(e)(2).

For comparisons to Cinsa's EP sales, we made a circumstance-of-sale adjustment, where appropriate, for differences in credit expenses pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c). For comparisons to Cinsa's and ENASA's CEP sales, we also deducted from NV credit expenses, commissions, and the lesser of comparison-market indirect selling expenses and the indirect selling expenses deducted from CEP (the CEP offset) pursuant to section 773(a)(7)(A) of the Act and 19 CFR 351.412(f). For those comparison-market sales for which the payment date was not reported, we calculated credit based on the average number of days between shipment and payment using the sales for which payment information was reported. We made adjustments to NV for differences in packing expenses. We also made adjustments to NV, where appropriate, for differences in costs attributable to differences in the physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

**Currency Conversion**

We made currency conversions in accordance with section 773A of the Act based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

**Preliminary Results of Review**

As a result of this review, we preliminarily determine that the weighted-average dumping margins for the period December 1, 1997, through November 30, 1998, are as follows:

Manufacturer/exporter	Period	Margin
Cinsa .....	12/1/97-11/30/98	16.89
ENASA .....	12/1/97-11/30/98	54.59

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. See 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the publication of this notice, or the first workday thereafter.

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. See 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of these administrative reviews, including the results of its analysis of issues raised in any written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

#### Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisal instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*. For assessment purposes, we intend to calculate importer-specific

assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total entered value of the sales examined. In calculating these importer-specific assessment rates, we will take into account the amount of the reimbursement calculated on sales during the POR. See *Calculation Memo* for details.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those established in the final results of this review; (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 less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 29.52 percent, the "All Others" rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice is published in accordance with sections 751(a)(1) of the Act and CFR 351.221.

Dated: November 1, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 99-29059 Filed 11-4-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-821-811]

#### Preliminary Determination of Critical Circumstances: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation

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

**EFFECTIVE DATE:** November 5, 1999.

**FOR FURTHER INFORMATION CONTACT:** Doreen Chen at (202) 482-0408 or Rick Johnson at (202) 482-3818, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

#### Preliminary Determination of Critical Circumstances

##### *The Applicable Statute and Regulations*

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

##### *Critical Circumstances*

On August 12, 1999, the Department of Commerce ("the Department") initiated an investigation to determine whether imports of solid fertilizer grade ammonium nitrate from the Russian Federation ("Russia") are being, or are likely to be, sold in the United States at less than fair value. In the petition filed on July 23, 1999, petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of solid fertilizer grade ammonium nitrate from Russia. On September 3, 1999, the International Trade Commission ("ITC") determined that there was threat of material injury to the domestic industry from imports of solid fertilizer grade ammonium nitrate from Russia.

In accordance with 19 CFR 351.206(c)(2)(i), because petitioner submitted a critical circumstances