Site 4—Cedar Park site (122 acres), some eight miles northwest of the Austin city limits, in Williamson County;

Site 5—Round Rock ''SSC'' site (246 acres), consisting of two parcels located along I–35 between Chandler Road and Westinghouse Road on the northern edge of the City of Round Rock;

Site 6—Georgetown site (246 acres), located along I–35 and U.S. 81, south of downtown Georgetown;

Site 7—San Marcos site (40 acres), located within the San Marcos Municipal Airport facility in eastern San Marcos, adjacent to State Highway 21, on the Hays County/Caldwell County line.

(An expansion request (Doc. 30–97) is currently pending with the FTZ Board to expand Site 3 to include 368 acres (5 contiguous tracts) located within the City of Round Rock, adjacent to Site 3's eastern boundary)

The applicant is now requesting authority to expand FTZ 183 to include the MET Center industrial park (200 acres) located between U.S. Highway 183 South and State Highway 71 East in southeast Austin, some 5 miles northwest of the new Austin Bergstrom International Airport. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 14, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to October 29, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 1700 Congress, 2nd Floor, Austin, Texas 78701

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: August 8, 1997.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 97–21714 Filed 8–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–098]

Anhydrous Sodium Metasilicate From France; Notice of Termination of Antidumping Duty Administrative Review

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

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: On March 3, 1997, the Department of Commerce (''the Department'') published in the **Federal Register** (62 FR 1874) a notice announcing the initiation of an administrative review of the antidumping duty order on anhydrous sodium metasilicate (ASM) from France. The initiation was in response to a request for review by the petitioner, the PQ Corporation. This review covers Rhone-Poulenc, a manufacturer/exporter of ASM, and the period of review (POR) from January 1, 1996 through December 31, 1996. However, we are terminating this review as a result of the absence of entries into the United States of subject merchandise manufactured/exported by Rhone-Poulenc.

EFFECTIVE DATE: August 15, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Ross or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act.

Background

The Department published in the **Federal Register** on January 14, 1997 (62 FR 1874) a ''Notice of Opportunity to Request Administrative Review'' of the antidumping duty order on ASM from France (46 FR 1667, January 7, 1981). On January 28, 1997, the petitioner requested an administrative review of Rhone-Poulenc, a manufacturer/exporter of ASM. The Department initiated the review on March 3, 1997 (62 FR 9413). On April 2, 1997, Rhone-Poulenc filed a letter explaining that it did not export any subject merchandise to the United States during the POR. On April 10, 1997, the Department sent a no-shipment inquiry regarding Rhone-Poulenc to the U.S. Customs Service. The purpose of this inquiry was to determine whether the U.S. Customs Service suspended liquidation of entry summaries of this merchandise during the period. Because the U.S. Customs Service did not identify any suspended entry summaries of ASM manufactured/exported by Rhone-Poulenc during the POR, we have determined that no entries into the customs territory of the United States occurred during the POR. Therefore, we are terminating this review. The cash deposit rate for Rhone-Poulenc will remain at 60 percent, the rate established in the most recently completed segment of this proceeding (61 FR 44038, August 27, 1996).

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1997).

Dated: August 7, 1997.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–21713 Filed 8–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–433–807]

Notice of Final Determination of Sales at Less Than Fair Value: Open-End Spun Rayon Singles Yarn From Austria

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

EFFECTIVE DATE: August 15, 1997.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Robert Copyak, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the ''Act''). In addition, unless otherwise indicated, all citations to the

Department's regulations are to 19 CFR Part 353 (1997).

Final Determination

We determine that open-end spun rayon singles yarn from Austria is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act.

Case History

Since the preliminary determination in this investigation (Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Open-End Spun Rayon Singles Yarn from Austria, (62 FR 14399 (March 26, 1997)), the following events have occurred:

In May, we verified the questionnaire responses of respondents, Linz Textil GmbH (Linz) and G. Borckenstein und Sohn A.G. (Borckenstein). Petitioner, The Ad-Hoc Committee of Open-End Rayon Yarn Producers, and respondents submitted case briefs on June 30, 1997, and rebuttal briefs on July 7, 1997.

Scope of Investigation

The investigation covers all items of open-end spun singles yarn containing 85% or more rayon staple fiber. The merchandise is classifiable under subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and for Customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 1995 through June 30, 1996.

Fair Value Comparisons

To determine whether sales to the United States of the subject merchandise by respondents were made at less than fair value, we compared the Export Price (''EP'') to the Normal Value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice. As set forth in section 773(a)(1)(B)(i) of the Act, we calculated NV based on sales at the same level of trade as the U.S. sale. In accordance with section 777A(d)(1)(A)(i), we compared the weighted average EPs to weighted-average NVs during the POI. In determining averaging groups for comparison purposes, we considered the appropriateness of such factors as physical characteristics.

1. Physical Characteristics

In accordance with section 771(16) of the Act, we considered all products covered by the description in the ''Scope of Investigation'' section, above, produced in Austria by the respondents and sold in the home market during the POI, to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): weight, percentage of rayon fiber, color, denier, finish, and luster. All comparisons were based on the same grade of yarn.

2. Level of Trade

In the preliminary determination, the Department determined that no difference in level of trade existed between home market and U.S. sales for either Borckenstein or Linz (Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Open-End Spun Rayon Singles Yarn from Austria, (62 FR 14399 (March 26, 1997)). Our findings at verification confirmed that Borckenstein and Linz performed essentially the same selling activities for all reported home market and U.S. sales. Accordingly, we determine that all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is unwarranted.

Export Price

We calculated EP, in accordance with subsections 772 (a) and (c) of the Act, for each of the respondents, where the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and use of constructed export price (CEP) was not otherwise warranted based on the facts of record.

We made company-specific adjustments as follows:

1. Linz

We calculated EP based on packed, delivered/duty paid and f.o.b. prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for the following charges: Austrian inland freight (which included brokerage), insurance (which included inland and marine insurance), ocean freight, U.S. duty, clearing charges, bond expenses, U.S. freight and post-sale warehousing, in accordance with section 772(c)(2).

Linz reported that it did not borrow in U.S. dollars during the POI. In accordance with the Department's policy (*see, e.g.,* Notice of Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Sweden, (61 FR 15780, April 9, 1996)), we recalculated the U.S. imputed credit expense using the average short-term lending rates published by the Federal Reserve as surrogate U.S. interest rates, for purposes of making the circumstance of sale adjustment for this expense. In addition, in the preliminary determination, we treated post-sale warehousing as a circumstance of sale adjustment. For the final determination, we have deducted post-sale warehousing from the export price because it is a movement expense (*see, e.g.,* Certain Stainless Steel Wire Rods from France: Final Results of Antidumping Duty Administrative Review, (62 FR 7206, February 18, 1997)).

Based on our verification findings, we deducted an additional small movement expense, called the ''vorlage,'' which Linz had omitted in reporting movement charges to the United States (see Comment 2).

2. Borckenstein

For Borckenstein, we calculated EP based on packed, CIF, U.S. port prices to an unaffiliated customer in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for international freight (which included freight from the plant to port of export and ocean freight) and marine insurance, in accordance with section 772(c)(2)(A).

We have considered petitioner's request to use CEP. Based on our analysis and verification findings, however, we do not find that sufficient evidence exists to indicate that the sole U.S. importer and Borckenstein are affiliated parties. Pursuant to section 771(33) of the Act, we reviewed Borckenstein's relationship with the U.S. importer during verification and determined that petitioner's claim is unwarranted (see Comment 10).

We made the following correction, based on our verification findings. In our preliminary determination, we treated the U.S. commissions paid by Borckenstein to its U.S. selling agent as rebates. Upon a thorough review of documentation during verification, and our analysis of arguments from interested parties, we have determined that the fee paid by Borckenstein to its selling agent on U.S. sales is a commission (see Comment 14).

Normal Value

Cost of Production Analysis

As discussed in the preliminary determination, the Department found reasonable grounds to believe or suspect that Linz's and Borckenstein's sales in the home market were made at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Linz and Borckenstein had made home market sales during the POI at prices below their respective cost of production (''COP'') within the meaning of section 773(b) of the Act. Although the Department was unable to include a COP analysis of Borckenstein's home market sales in the preliminary determination, the final determination does include a COP analysis of Borckenstein's home market sales.

Before making any fair value comparisons, we conducted the COP analysis described below for each company:

1. Linz

A. Calculation of COP

We calculated the COP based on the sum of Linz's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (''SG&A'') and packing costs in accordance with section 773(b)(3) of the Act.

In calculating Linz's SG&A, we adjusted the submitted net interest expense amount to include only short-term interest income as an offset (see Comment 8).

B. Test of Home Market Prices

We compared the respondent's submitted POI weighted-average COP figures, as adjusted, to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and whether the below-cost prices would permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. As in our preliminary determination, we did not deduct indirect selling expenses from the home market price because these expenses were included in the SG&A rate for COP.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product are at prices less than COP, we do 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 a respondent's sales of a given product during the POI are at prices less than the COP, we determine such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act, and not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. In such cases, we disregard the below-cost sales. Under the Department's practice, when all sales of a specific product are at prices below the COP, we disregard all sales of that product, and calculate NV based on constructed value (''CV'').

Based on our COP test, we found that less than 20 percent (by quantity) of Linz's sales of a given product were at less than COP. Thus, we did not disregard any below-cost sales. For matching purposes, export prices were compared to home market prices for all comparisons, and CV was not required.

D. Price to Price Comparison

We calculated NV based on packed, delivered prices to unaffiliated customers and prices to affiliated customers where the sales were made at arm's length. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and inland insurance, in accordance with section 773(a)(6)(B). In addition, where appropriate, we adjusted for differences in circumstances of sale for credit expenses and commissions (including appropriate offsets), in accordance with section 773(a)(6)(C)(iii). We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) (A) and (B) of the Act. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In no case did the difference in merchandise adjustment for the comparison product exceed 20 percent of the U.S. product's cost of manufacturing.

For purposes of the difference in merchandise adjustment, Linz reported a different cost of manufacturing for identical yarns due to the fact that different machines produce the yarn. Since the difference in merchandise adjustment is intended to account for physical differences in similar merchandise being compared and not differences in the production process, we have calculated a single weighted-average cost of manufacturing for identical yarns.

Linz also reported an amount upon which to base an adjustment for differences in quantities sold in the United States and Austrian markets. However, Linz was unable to demonstrate, based on information on the record, that pricing differences were related to quantity. Accordingly, we have not made the requested adjustment (see Comment 6).

Linz was instructed to provide sales made to affiliated weaving mills in Austria (see Comment 5). We tested these sales to ensure that the affiliated party sales were at arm's-length. To conduct this test, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. We utilized the 99.5 percent benchmark ratio used in the 1993 carbon steel investigations. *See, e.g.,* Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (58 FR 37062, 37077 (July 9, 1993)). Where no affiliated customer price ratio could be constructed because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length and, therefore, we excluded them from our LTFV analysis.

We made the following corrections, based on our verification findings. For the preliminary determination, Linz did not report home market indirect selling expenses; therefore, we were unable to offset commissions paid in the United States with home market indirect selling expenses. Subsequent to the preliminary determination, Linz submitted its indirect selling expenses. However, we were unable to verify the full amount of Linz's claimed home market indirect selling expenses, and have recalculated the allowable portion of indirect selling expenses to be used as an offset to the U.S. commission (see Comment 3).

During verification, we discovered the interest rate used to calculate home market credit expenses was based on long-term lending. However, we did find that the company maintained two lines of credit for export sales during the POI. Although these lines of credit are based on a percentage of the company's annual export turnover, the company can borrow against these lines of credit to finance more than just exports. The credit lines are available for financing

current assets and liabilities and the interest rates charged are set on a quarterly basis. Therefore, we have recalculated Linz's home market credit expenses based upon the average interest rate charged on these lines of credit in order to reflect the company's actual short-term borrowing experience.

2. Borckenstein

A. Calculation of COP

We calculated the COP based on the sum of Borckenstein's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act.

We adjusted Borckenstein's depreciation expense to include depreciation expense for all categories of fixed assets used in the production of the subject merchandise and for assets used to perform the administrative functions of the company (see Comment 15).

B. Test of Home Market Prices

We compared the respondent's submitted POI weighted-average COP figures, as adjusted, to home market sales of the foreign like product as required under section 773(b) of the Act in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and were not at prices which permit recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. We deducted indirect selling expenses from the home market price because these expenses were not included in the G&A rate for COP.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product are at prices less than COP, we do 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 a respondent's sales of a given product during the POI are at prices less than the COP, we determine such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act, and that such sales are not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. In such cases, we disregard the below-cost sales. Under the Department's practice, when all sales of a specific product are at prices below the COP, we disregard all sales of that product, and calculate NV based on CV.

Based on our COP test, we found that less than 20 percent (by quantity) of Borckenstein's sales of a given product were at less than COP. Thus, we did not disregard any below-cost sales. For matching purposes, export prices were compared to home market prices for all comparisons, and CV was not required.

D. Price to Price Comparisons

We calculated NV based on packed, delivered prices to unaffiliated customers. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and inland insurance, in accordance with section 773(a)(6)(B). In addition, where appropriate, we adjusted for differences in circumstances of sale for credit expenses, export credit insurance, and commissions (including appropriate offsets), in accordance with section 773(a)(6)(C)(iii). We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) (A) and (B) of the Act. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In no case did the difference in merchandise adjustment for the comparison product exceed 20 percent of the U.S. product's cost of manufacturing.

Borckenstein also reported an amount upon which to base an adjustment for differences in quantities sold in the U.S. and Austrian markets, pursuant to 19 CFR 353.55(b). Although Borckenstein claimed that it incurred differing manufacturing costs based on quantities produced, it was unable to demonstrate, based on information on the record, that pricing differences were related to quantity. Our review of the submitted prices indicated that prices did not vary based upon the quantity sold. Accordingly, we have not made the requested adjustment (see Comment 11).

We made the following modification to the calculations for the final determination. In our preliminary determination, we treated the U.S. commissions paid by Borckenstein to its U.S. selling agent as rebates. As a result, there was no offset for indirect selling expenses in the home market. Upon a thorough review of documentation during verification, we have determined that the fee paid by Borckenstein to its selling agent on U.S. sales is a commission. Therefore, we have offset the U.S. commission with Borckenstein's home market indirect selling expenses (see Comment 14).

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to convert foreign currencies based on the dollar exchange rate in effect on the date of sale of the subject merchandise, except if it is established that a currency transaction on forward markets is directly linked to an export sale. When a company demonstrates that a sale on forward markets is directly linked to a particular export sale in order to minimize its exposure to exchange rate losses, the Department will use the rate of exchange in the forward currency sale agreement.

Section 773A(a) also directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks, see Change in Policy Regarding Currency Conversions 61 FR 9434 (March 8, 1996). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Austrian Schilling did not undergo a sustained movement.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments

Linz

Comment 1: Comparison of Sales of Second-Quality Merchandise

Petitioner asserts that the comparison of sales of second-quality merchandise in the home market to first quality export sales to the U.S. is inconsistent with the Department's standard practice. Accordingly, petitioner claims that the Department should revise its preliminary results to ensure that first quality and second quality merchandise are treated as distinct products in the Department's margin program for purposes of the final determination. Linz argues that the Department should include Linz's sales to the home market of second-quality merchandise in the margin calculation.

DOC Position: The petitioner is correct that it is the Department's policy to compare U.S. and home market merchandise of comparable quality. *See, e.g.,* Notice of Final Results of Antidumping Administrative Review: Porcelain on Steel Cookware from Mexico, 62 FR 25908 (May 12, 1997). Only first quality merchandise was sold in the U.S. market. Therefore, for purposes of this final determination, first quality products sold in the United States were compared only to first quality merchandise sold in the home market.

Comment 2: Movement Expenses

The petitioner contends that Linz failed to fully report all of its movement expenses to the United States. Petitioner states that the Department discovered that Linz failed to report the ''vorlage'' freight expenses incurred in transporting merchandise to the United States during verification. As a result, the Department should account for this unreported expense by applying, as facts available, an adjustment for this expense to be deducted from the price of each U.S. sale. Linz asserts that the Department should not adjust all U.S. sales for a movement expense that may not have actually been incurred. Linz states that this expense is not found on the invoices of all freight forwarders.

DOC Position: During verification, the Department discovered that Linz had inadvertently failed to report a minor freight expense incurred in transporting merchandise to the United States. This expense, called ''vorlage,'' was part of the company's freight bill. This expense was reported on all of the freight bills reviewed by the Department for U.S. sales. Therefore, during verification, we collected several U.S. freight bills and calculated the average ''vorlage'' charged on U.S. sales. We have deducted the average ''vorlage'' expense from the sales price of all U.S. sales as ''facts available'' in accordance with section 776(a) of the Act.

Comment 3: Commission Offset

Petitioner argues that Linz's estimated indirect selling expenses were not verified, and, thus, cannot be used as a commission offset. Petitioner contends that there are two problems with Linz's estimated indirect selling expense, and, therefore, only the general indirect selling expense was properly calculated and should be included in the Department's margin calculation. First, petitioner states that all of Linz's estimated indirect selling expenses were fully captured in the general expense amount and that creation of an additional expense estimate is not warranted. Second, the Department was unable to verify the allocation method of the estimated selling expenses to domestic sales at verification.

Linz argues that it arrived at a general per unit indirect selling amount applicable to all sales and then adjusted this amount to reflect the proportion allocated to home market sales for which no separate selling agents are involved. Linz states that this allocation is reasonable and properly accepted based upon the stated experience of the sales manager.

DOC Position: We agree with the petitioner. Commissions are paid on U.S. sales but none are paid on home market sales. In our preliminary determination, the Department did not perform a commission offset, pursuant to 19 CFR section 353.56(b), as Linz had not provided information on its indirect selling expenses in the home market. After the preliminary determination, Linz provided an amount for home market indirect selling expenses. Linz reported two indirect selling expense amounts: a general indirect selling expense amount and an additional estimated home market indirect selling expense amount.

At verification, Linz explained how it calculated its estimated indirect selling expenses incurred on home market sales. Linz stated that beginning with a total indirect selling amount that captures the expenses for all production (open-end and ring-spun yarn), Linz arrived at a general per unit amount applicable to all sales on a global scale. It then adjusted this amount to reflect the proportion attributable solely to home market sales. Linz estimated that only 20 percent of indirect selling must be allocated to home market sales because there are no selling agents in their domestic market. We requested to review worksheets to determine how they calculated this percentage. Linz stated that no worksheets were used in this calculation. Because no worksheets were used to calculate this portion of indirect selling expenses that Linz claimed to be attributed to home market sales, and because they were unable to tie the estimate to any source documentation, the Department cannot consider this additional estimated home market selling expense as verified. Therefore, we are not allowing this portion of the indirect selling expense adjustment. However, because we were able to verify the general indirect selling expense claim, we have used that amount as the basis of the commission offset.

Comment 4: Granting of Early Payment Discount

Petitioner contends that Linz's early payment discounts on home market sales should not be granted to customers that did not meet the terms of the discount program. Petitioner states that Linz applied an early payment discount to a number of sales where payment was not made within the requisite time period, as agreed upon in the terms of payment. Linz states that the Department should subtract all early payment discounts from the normal value, regardless of whether payment was made within the time period specified in the payment terms.

DOC Position: At verification, the Department carefully reviewed the customer accounts involving early payment discounts, both those taken within and outside the requisite time period, and found that the discounts were in fact granted. Because we verified that the discounts were given on the sales, we have taken them into account in this final determination.

Comment 5: Deficiencies With Affiliated Sales

Petitioner argues that there are significant errors in Linz's revised data file for sales to affiliates in the home market. Petitioner states that in submitting its revised data, Linz did not report gross price, sales date, pay date, rebates, discounts, rebates or credit expenses. Petitioner states that the Department was forced to verify Linz's revised affiliated sales during verification and that none of the reported sales to affiliates were traced for accuracy during verification. Thus, petitioner argues that the Department should employ the use of facts available in analyzing Linz's sales to affiliated parties in the home market. At a minimum, the Department should deny

the unverified adjustments claimed by Linz.

Linz states that nowhere in the Department's verification report does the Department state that it could not verify any adjustment. Linz states that the verification team reviewed the affiliated party sales extensively because of a ''data sort'' problem encountered and corrected at verification. Linz asserts that the verification team checked the records of these sales through numerous sales traces.

DOC Position: During verification, we discovered that there was a problem with the data base for Linz's home market affiliated sales. This problem was caused during a ''data sort'' for the affiliated data base used in our preliminary determination. The company only resorted the first few fields in the data base, while the other data fields remained in the original order. This caused the observation numbers to be out of sequential order and, thus, the information on pricing and expenses were unrelated to the specified sale in the data base. After discovering this error at verification, Linz correctly sorted the data fields and provided a corrected affiliated party sales listing.

We collected this revised affiliated party sales listing as a verification exhibit. The price reported in this sales listing was less the early payment discount. The sales listing also reported the freight expenses. The Department then verified this corrected data base and traced the information reported on these affiliated party sales to source documents. Thus, we verified the accuracy of the revised home market affiliated party sales data base and have used it where appropriate in this final determination. However, because the company did not report any other adjustment for these sales, the only deductions made from the starting price were for early payment discounts and freight expense.

Comment 6: Quantity Adjustment Under Section 353.55(b)

Linz has requested recognition of quantity price adjustments under § 353.55(b)(1) of the Department's regulations. Linz states that it has supplied the Department with information to show that its small quantity price adjustment policy was motivated by a commercial need to equalize the per-unit administrative expenses of processing large and small quantity orders. Linz further states that it has demonstrated that the amount of any price differential is wholly or partially due to the differences in quantities sold in the two markets, and that it has demonstrated that the small quantity price adjustment was consistently applied on a majority of its home market sales in the POI.

Petitioner argues that there is no basis to grant Linz's claim of a small quantity surcharge. Petitioner states that Linz was unable to verify the accuracy or relevance of their internal memorandum on low volume sales, which serves as the basis for Linz's claim. They state that prices and quantities in the home market were inconsistent with the guidelines established by Linz for the low quantity price add-ons. Thus, there has been no demonstration that price increases for small quantity sales were applied in a consistent manner as required by Department policy.

DOC Position: Pursuant to 19 CFR 353.55(b), ''The Secretary will calculate foreign market value based on sales with quantity discounts if:

> (1) During the period examined or during a more representative period, the producer or reseller granted quantity discounts of at least the same magnitude on 20 percent or more of sales of such or similar merchandise for the relevant country [Six-Month Rule]; or
>
> (2) the producer demonstrates to the Secretary's satisfaction that the discounts reflect savings specifically attributable to the production of different quantities [Cost Justification Method].''

The Department expounded upon its requirements for including quantity discounts in its analysis in Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip from the Netherlands, (Brass Sheet and Strip) 53 FR 23431 (June 22, 1988). The Department asserted that:

> to be eligible for a quantity-based adjustment [six-month rule], a respondent must demonstrate a clear and direct *correlation between price differences and quantities sold or costs incurred.* This requirement applies equally to an allowance for quantity differences under the six-month rule or the cost justification requirement. Under the six-month rule, it is not sufficient that, during the POI, the respondent merely granted discounts of at least the same magnitude with respect to 20 percent or more of such or similar merchandise sold in the *ordinary course of trade* in the market used to establish foreign market value[;] the exporter must also demonstrate, using evidence such as a *price list or quantity discount schedule,* that it gave discounts on a *uniform basis* and that such discounts were *available to substantially all home market customers.* With regard to a cost-based adjustment, the exporter must demonstrate that the discounts are warranted on the basis of savings which are specifically attributable to the production of the different quantities involved. (Emphasis added)

Linz has specified that it is seeking to include a small quantity surcharge under the Department's so-called ''six-month'' rule, contained in Section 353.55(b)(1) of the Department's regulations. The Department requires consistency under this rule in two respects: The first is whether or not price increases were applied when appropriate. The second is whether or not price increases, when applied, were applied consistently in accordance with the pricing policy.

Linz stated that, for small quantity purchasers in the home market, it adds a small quantity price add-on to account for the additional administrative expenses incurred in servicing small quantity purchasers. Linz based its claimed small quantity surcharge on a September 1992 internal memorandum on low volume sales. This memorandum specifies four small quantity categories with a specified price increase for each of the quantity brackets.

In the preliminary determination, the Department denied Linz's claim for a small quantity surcharge. Linz stated in its January 6, 1997 supplemental response that the application of its small quantity price adjustment is ''flexible, made on a case-by-case basis, and is meant only as a guideline.'' Therefore, Linz was unable to demonstrate, based on the information on the record, the required consistency.

Prior to verification, Linz provided additional information on its small quantity surcharge. The company stated that while its small quantity adjustment policy was meant to be a guideline and to be flexible, it was to be followed in all possible cases and was to be applied to virtually all small quantity sales. Linz stated that, during the POI, it followed the small quantity price increases in all cases but eleven. The company stated that there were specific reasons why there were eleven exceptions to this policy during the POI.

For purposes of this final determination, we again examined Linz's home market sales to determine whether or not price increases were applied when appropriate, and to determine whether or not price increases were applied consistently in accordance with Linz's 1992 internal memorandum on low volume sales. An examination of Linz's home market prices during the POI demonstrated that Linz did not consistently adhere to its small quantity add-on pricing policy with respect to the four quantity brackets listed in its 1992 sales memorandum, even disregarding the eleven sales which Linz stated were exceptions to this pricing policy. Therefore, we do not find that there was a clear and direct correlation between price and quantity. Thus, the company

did not meet the requirements of section 353.55(b) of the regulations and we have not granted their claimed differences due to small quantity surcharges.

Comment 7: Sales of Comparable Quantities

Linz argues that absent an adjustment to normal value for quantity discounts under section 353.55(b) of the regulations, the Department should resort to comparisons of only sales in comparable quantities in the two markets. Linz states that under 19 C.F.R. 353.55(a), ''in comparing the United States price with foreign market value, the Secretary normally will use sales of comparable quantities of merchandise.'' Linz states that all sales in both the U.S. and home market over a certain amount are treated equally in terms of quantity pricing adjustments. Thus, the Department should only use home market sales over that amount in calculating normal value.

Petitioner states that the Department should reject Linz's arguments for comparable quantities. Petitioner states that in defining its notion of comparable quantities, Linz has classified all sales into one of two quantity ranges, and that these comparable quantity ranges are flawed for two reasons. First, they contradict the five quantity ranges that Linz has claimed in the context of the quantity discount. Thus, Linz is arguing for one set of quantity ranges with respect to quantity discounts, and a different set of quantity ranges with respect to comparable quantities. Second, Linz has created an overly-broad upper range.

DOC Position: The issue of comparison of comparable quantities arose in Notice of Final Determination of Sales at Less Than Fair Value: Extruded PVC and Polystyrene Framing Stock from the United Kingdom (*Framing Stock*), 61 FR 51412 (October 2, 1996). In *Framing Stock,* we stated that information on the record demonstrated that the prices between different quantity bands were sufficiently distinct to warrant comparisons at comparable quantity bands. In the instant investigation, we reviewed the pricing information on home market sales between sales over a certain quantity and those below that quantity to determine whether the prices between these two quantity bands were sufficiently distinct to also warrant comparisons at comparable quantities. Based upon our pricing analysis, we found that the pricing between the two quantity bands was not sufficiently distinct to warrant comparisons at comparable quantity bands. Therefore, we based normal value on the weighted-average of all comparable sales, regardless of quantity.

Comment 8: Calculation of Financial Expenses

Petitioner states that the Department should continue to include only short-term interest income as an offset to interest expense. Petitioner notes that, in the preliminary determination, the Department adjusted Linz's reported interest income to approximate the portion of interest income attributable to short-term assets. However, as a result of verification, petitioner concludes that the Department now has the data to accurately determine which items of interest income are short-term and which are long-term. Linz states that petitioner, in its brief, did not specifically state which amount of Linz's interest income is short-term and long-term. As a result, Linz argues that the Department should disregard petitioner's request for an adjustment to the calculation of Linz's interest expense.

DOC Position: We agree with petitioner. During verification, the Department verified the portion of interest income related to short-term investments of its working capital. For the final determination, the Department adjusted Linz's reported net interest expense rate to include only short-term interest income as an offset to interest expense.

Comment 9: Parent Company G&A

The petitioner claims that Linz understated its general and administrative expenses by failing to account for expenses incurred by its non-operating corporate parent. Petitioner argues that because the section D questionnaire instructed Linz to include in its reported G&A an amount for administrative services performed by its parent, the Department should increase Linz's reported G&A expenses to include a G&A expense amount incurred by its parent company. Linz asserts that the Department has already included the expenses of Linz's parent company in its calculation of the G&A expense.

DOC Position: The Department's practice is to include a portion of parent company G&A expenses where appropriate. In this case, Linz's reported G&A expense already reflects expenses incurred on its behalf by its parent. Therefore, to include additional G&A amounts as argued by petitioner would overstate G&A.

Borckenstein

Comment 10: Affiliation Due To Close Supplier Relationship

Petitioner claims that information on the record indicates a close supplier relationship between Borckenstein and its sole U.S. customer of the subject merchandise, Beavertown, and thus Borckenstein and the U.S. customer would fall within the definition of affiliated parties set forth in section 771(33) of the Act. Petitioner contends that a determination of affiliation may be based on a close supplier relationship for the following reasons. By purchasing a large percentage of a supplier's subject sales, the buyer could extract price and other concessions from the supplier by threatening to purchase the products from another vendor. Because such an action would severely impact the business of the supplier, the purchasing company is in a position to control the related supplier by exerting restraint or direction over the supplier. Therefore, petitioner argues that Borckenstein and Beavertown are affiliated and that Borckenstein's U.S. sales should be classified as CEP sales.

Borckenstein states that it is not affiliated with Beavertown and that there is no close supplier relationship based upon the percentage of Beavertown's purchases compared to Borckenstein's total sales revenue. Borckenstein argues that petitioner's assertion that this percentage should only be based on subject sales and not on subject and non-subject sales is flatly contrary to current Department practice. Borckenstein states that the Department's standard practice of determining close supplier relationship is based on the percentage of ''total annual sales,'' not solely the percentage of subject sales. See Notice of Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled from Japan, (hereinafter Printing Presses) 61 FR 38139, (July 23, 1996).

DOC Position: We disagree with the petitioner's claim that information on the record indicates that a close supplier relationship exists between Borckenstein and its sole U.S. customer of subject merchandise. We examined this issue at verification and did not find evidence of a close supplier relationship. In addition, the Department has dealt with a similar issue in other recent cases and likewise did not find affiliation. *See, e.g.,* Printing Presses.

In Printing Presses, the Department indicated, among other factors, that close supplier relationships may occur

when a majority of a supplier's sales are made to one customer. However, in the instant case, Borckenstein's financial records indicate that Beavertown's purchases account for only a small portion of Borckenstein's total sales revenue, which is based on sales of the subject merchandise and closely related products. Therefore, Borckenstein is not reliant on Beavertown, and we find no close supplier relationship in this case. Thus, the two parties are not affiliated under 771(33) of the Act.

Comment 11: Quantity Discount Under Section 353.55(b)

Borckenstein states that the information on the record supports an adjustment for differences in quantities sold in the U.S. and Austrian markets pursuant to section 773(a)(6) of the Act and section 353.55(b) of the Department's regulations. The claim for the quantity adjustment is based on raw material rebates received from Borckenstein's raw material supplier, and the additional cost of machine recalibrations in the home market. Petitioner states that Borckenstein has failed to demonstrate a clear and direct correlation between price differences and quantities sold, or price differences and costs incurred. Therefore, Borckenstein's claimed quantity adjustment pursuant to section 353.55(b) must be denied.

DOC Position: We agree with the petitioner. The criteria for recognizing quantity discounts pursuant to 19 CFR 353.55(b) have been fully explained in the Department's Position to *Comment 6.* Borckenstein has not demonstrated a clear and direct correlation between price differences and quantities sold or costs incurred. See the discussion of Brass Sheet and Strip referenced in *Comment 6.* Furthermore, although Borckenstein contends that the additional cost of machine recalibrations are appropriate costs on which to base a difference in quantities adjustment, however, it is the Department's practice not to allow a quantity based adjustment under 19 CFR 353.55(b) based upon the additional setup time that is required for shorter runs. The Department will grant cost adjustment claims based on direct manufacturing costs; recalibration of machinery does not constitute a direct cost. In addition, the claim for the rebate of raw material does not meet the standard set forth in Brass Sheet and Strip for an adjustment under 353.55(b). It is our practice to use one average cost for a raw material; different costs cannot be attributed to the same raw material. Therefore, Borckenstein is unable to demonstrate that price differences are attributable to the production of different quantities. Accordingly, the Department has not granted Borckenstein's claim for a quantity discount.

Comment 12: Raw Material Rebate

Petitioner argues that the Department should not grant an adjustment for a raw material rebate that Borckenstein receives from its supplier and that Borckenstein claims it used to produce subject merchandise destined for the U.S. market. Petitioner states that the granting of an export-based rebate on raw material purchases is commonly referred to as ''input dumping,'' and the Department has condemned input dumping in past cases, and must continue to do so in the present case. Borckenstein contends that the Department should adjust for its claimed raw material rebate. Borckenstein argues that the rebate is not directed at the U.S. market but to the customer who purchases large quantities of product which allows Borckenstein to achieve economies of scale in production. Borckenstein also asserts that petitioner is incorrect when it stated that there is input dumping in this case.

DOC Position: Section 773(a)(4)(B) of the Act authorizes the Department to adjust for ''differences in circumstances of sales,'' which include such things as differences in commissions, credit terms, guarantees, warranties, technical assistance, and servicing. We note that while the regulations do provide for adjustments to production cost differences in two instances (where quantity discounts reflect savings in production of different quantities (19 CFR 353.55(b)(2)), and where differences in production cost are due to differences in physical characteristics (19 CFR 353.57(b)), neither of these provisions is applicable here. Since the type of adjustment at issue here does not relate to physical differences in merchandise, it is not an allowable adjustment under the difference-in-merchandise provision. In addition, in view of the fact that the proposed adjustment cannot be deemed a sales-related expense, it is not appropriate to adjust for the rebate as a circumstance of sale.

Comment 13: Raw Material Costs

The petitioner asserts that Borckenstein's costs of production for home market sales is underreported. Petitioner states that Borckenstein received a rebate on raw material only for finished yarn exported to the United States. Since this rebate did not apply to home market sales, this rebate should not be attributable to raw material costs for COP applied to home market sales. Thus, the actual fiber costs incurred by Borckenstein for home market sales are higher than have been reported. Borckenstein states that the raw material costs reported by Borckenstein are weighted-average costs between the home market and the U.S. market, consistent with standard Department methodology. In addition, Borckenstein states that the Department verified the accuracy of Borckenstein's reported material cost at verification and found no discrepancies.

DOC Position: We agree with Borckenstein that the Department's normal practice is to compute a single weighted-average COP for each unique model subject to the investigation. Accordingly, we did not adjust Borckenstein's reported raw material cost for the final determination.

Comment 14: Treatment of Commission as a Rebate

The petitioner asserts that Beavertown Mills, Borckenstein's sole U.S. customer of subject merchandise, is wholly-owned by Titan Textile Co., and that Borckenstein's commission agent is also wholly-owned by Titan Textile Co. Thus, petitioner asserts that the reported commission payments are in effect payments to the customer itself. According to petitioner, the amount paid to the customer cannot be considered a commission, but is instead a rebate. Therefore, the Department should continue to treat the claimed commission as a rebate. Borckenstein contends that the payment is made to its selling agent, therefore, the payment should be considered a commission, not a rebate. Borckenstein contends that the selling agent never takes possession of the merchandise, nor does it pay the selling agent directly for the merchandise. In addition, Borckenstein states that these payments of commissions are accounted for in its books as commissions, and are invoiced to its selling agent as commissions.

DOC Position: In the preliminary determination, the Department treated Borckenstein's U.S. commissions as rebates based on its understanding that the commission agent was wholly-owned by Beavertown's parent company. Because the commission was treated as a rebate there was no offset for indirect selling expenses in the preliminary determination. At verification, we learned that Borckenstein uses selling agents for all of its U.S. sales. The Department established that the selling agent used for sales of the subject merchandise performed the functions of a

commission agent. We verified that the U.S. customer, not the selling agent, pays Borckenstein for the merchandise. In addition, Borckenstein makes payments directly to the selling agent for services rendered in the sales transaction.

During verification, we also reviewed documentation regarding the shareholder listings for Borckenstein's selling agent, Beavertown, and Beavertown's parent company which demonstrated that the selling agent is not affiliated with Beavertown. The controlling shareholder of the selling agent owns no shares in either Beavertown or Beavertown's parent company. Therefore, we do not find Borckenstein's selling agent to be affiliated with Beavertown under section 771(33) of the Act for the purposes of the treatment of this commission. Therefore, in this final determination, we have treated this expense as a commission and offset it with home market indirect selling expenses.

Comment 15: Depreciation Expense in Reported Cost of Production

The petitioner contends that Borckenstein underreported its depreciation expense. Among the excluded costs were depreciation expenses for the plant in which the product is produced, all depreciation related to the general and administrative functions of the company, and depreciation related to assets that directly or indirectly support the manufacturing operation. Borckenstein states that it does not object to an appropriate and reasonable increase of submitted depreciation expenses in calculating the cost of production.

DOC Position: We agree with petitioner. For the final determination, we recalculated depreciation expense to include depreciation from the other categories of fixed assets used in the production of the subject merchandise. Additionally, we included a portion of the depreciation expense related to Borckenstein's assets used to perform the administrative functions of the company.

Comment 16: Failure to Include Indirect Material Expenses

The petitioner contends that Borckenstein failed to include indirect material expenses in its reported cost of production. The indirect materials excluded were: (1) Materials purchased for the refurbishment of the open-end equipment specifically used to produce the merchandise under investigation; and (2) repair materials. Further, the petitioner asserts that these costs were incurred during the fiscal period on which Borckenstein's cost response was based, and related directly to the equipment used to produce the merchandise under investigation. Borckenstein states that it properly reported indirect material expenses in its reported cost of production, and that, at verification, the Department determined that the expenses in question were not incurred for the production of the subject merchandise during the POI.

DOC Position: The Department agrees, in part, with petitioner. The Department verified that the majority of the parts purchased by respondent in the last month of the cost calculation period were used to refurbish and extend the useful life of the machinery sold subsequent to the POI. Given the fact that Borckenstein intended to sell the machinery, the company expensed the cost of these parts rather than capitalize them. In the normal course of business, Borckenstein depreciates its machinery over four years. Since the refurbishment was so extensive, we agree that the costs incurred should have been capitalized. Accordingly, we consider it appropriate for Borckenstein to depreciate the refurbishment costs over four years beginning with the month of purchases (the last month of the POI). Thus, Borckenstein should recognize one month of depreciation related to the purchased parts in its submitted POI costs of manufacturing. We verified that the remaining parts Borckenstein purchased at the end of the year related to repairs and maintenance for the subsequent year. In the ordinary course of business, Borckenstein expenses small parts and maintenance supplies when purchased rather than when consumed. As such, the Department maintains that the cost of these parts are representative of Borckenstein's yearly repairs and maintenance expense and should be included in its COP and CV. However, consistent with 19 C.F.R. § 353.59(a), which permits the Department to disregard insignificant adjustments, we have elected not to adjust Borckenstein's COM for either the depreciation expense or cost of the parts, since the addition of these costs would not affect our overall margin calculation.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of open-end spun rayon singles yarn that are entered, or withdrawn from warehouse, for consumption on or after March 26, 1997, the date of publication of our preliminary determination in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart below. This suspension of liquidation will remain in effect until further notice.

Exporter/manufacturer	Weighted average margin percentage
Linz	12.36
Borckenstein	2.36
All Others	7.42

Pursuant to section 733(d)(1)(A) and section 735(c)(5) of the Act, the Department has not included zero or *de minimis* weighted-average dumping margins, or margins determined entirely under section 776 of the Act, in the calculation of the ''all others'' rate.

ITC Notification

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

This determination is published pursuant to section 735(d) of the Act.

Dated: August 8, 1997.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub.