that product were made over an extended period of time. Where we found that more than 90 percent of respondent's sales were at prices below the COP, and such sales were over an extended period of time, in accordance with section 773(b) of the Act, we disregarded all sales of that product and instead based FMV on CV.

In order to determine whether belowcost sales had been made over an extended period of time, in accordance with section 773(b)(1) of the Act, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in three or more months of the POI, we did not exclude below-cost sales unless there were below-cost sales in at least three months during the POI. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time; *i.e.*, where sales of a product were made in only two months, the extended period of time was two months, where sales of a product were made in only one month, the extended period of time was one month.

BKL provided no evidence that the disregarded sales were at prices that would permit recovery of all costs within a reasonable period of time and in the normal course of trade. (*See* Section 773(b)(2); 19 U.S.C. 1677b(b)(2).)

Constructed Value

We calculated CV based on the sum of the cost of materials, fabrication, general expenses, U.S. packing costs and profit. In accordance with section 773(e)(1)(B)(i) and (ii) of the Act we: (1) included the greater of BKL's reported general expenses or the statutory minimum of ten percent of the cost of manufacture ("COM"), as appropriate; and (2) used the greater of BKL's actual profit on sales in the home market or the statutory minimum profit of eight percent of the sum of COM and general expenses.

Price-to-Price Comparisons

For price-to-price comparisons, we calculated FMV based on ex-factory or delivered prices, inclusive of packing to home market customers. We deducted rebates, where appropriate, on home market sales. We deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(1) of the Act. We also made adjustments, where appropriate, for differences in the physical characteristics of the merchandise in

accordance with section 773(a)(1) of the Act.

In light of the Court of Appeals for the Federal Circuit's decision in Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States, 13 F.3d 398 (Fed. Cir., January 5, 1994), the Department can no longer deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust for those expenses under the circumstance-of-sale provision of 19 CFR 353.56(a) and the exporter's sales price offset provision of 19 CFR 353.56(b)(2), as appropriate. Accordingly, in the present case, we deducted post-sale home market movement charges from the FMV under the circumstance-of-sale provision of 19 CFR 353.56(a). This adjustment included home market inland freight.

For both price-to-price comparisons and comparisons to CV, we also made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses, pursuant to 19 CFR 353.56(a)(2).

We adjusted for VAT in the home market in accordance with our practice. (See the "United States Price" section of this notice, above.)

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York (19 CFR 353.60).

Final Affirmative Determination of Critical Circumstances

Petitioner alleged that critical circumstances exist with respect to imports of pipe fittings from the U.K. In our preliminary determination, pursuant to section 733(e)(1) of the Act and 19 CFR 353.16, we analyzed the allegations using the Department's standard methodology. Because no additional information has been submitted since the preliminary determination, the Department is using the same analysis as explained in its preliminary determination and finds, in accordance with section 735(a)(3) of the Act, that critical circumstances exist with respect to imports of certain carbon steel butt-weld pipe fittings from the U.K.

Verification

As provided in section 776(b) of the Act, we verified information provided by the respondent using standard verification procedures, including the examination of relevant sales, cost and financial records, and selection of original source documentation. Our

verification results are outlined in detail in the public version of the verification report (Public File).

Interested Party Comments

Comment 1: BKL contends that the methodology used for the preliminary determination where sales made below the cost of production were excluded in calculating profit for CV is not in accordance with law. According to BKL, Section 773(e)(1)(B) of the Tariff Act of 1930, as amended, provides that profit will be "equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual commercial quantities and in the ordinary course of trade***" BKL claims that the statute neither explicitly nor implicitly authorizes CV profit to be calculated solely upon above-cost sales. Further, BKL cites to Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.; Final Results of Antidumping Duty Administrative Reviews, 57 FR 28360, 28374 (June 24, 1992) ("AFBs from France") where the Department rejected the argument that the calculation of profit should be based only on sales at prices above the cost of production. BKL contends that excluding below-cost sales would be contrary to law because the Department would be excluding a portion of sales "of the same class or kind of merchandise.

Petitioner maintains that the law leaves the decision of whether to include below-cost home market sales in calculating the profit element of CV to the discretion of the Department. While the statute does state that profit is to be calculated based on home market sales of the same general class or kind of merchandise, it also states that such sales must be made "in the ordinary course of trade." According to petitioner, it is entirely consistent with the purpose of the statutory provision to determine that below-cost sales are made outside the ordinary course of trade. Petitioner asserts that this approach advances the statute's purpose by preventing a foreign exporter from indirectly reducing FMV through below cost sales. Finally, petitioner argues that the fact that Commerce has included below-cost sales in the profit calculations in other proceedings does not dictate that the Department must do so in this investigation.

Department's Position: We agree with respondent. The Department's practice has been to calculate profit for constructed value using above- and below-cost home market sales. (See