Tariff Act, which does not offer any guidance to the Department regarding the period covered by the first administrative review.

The petitioners note that the Department has consistently utilized this approach in determining the appropriate period for the first administrative review. Furthermore, the Department has consistently calculated assessment and deposit rates based on sales over the entire period. Petitioners further argue that in such situations the courts have consistently supported an agency's implementation of a statute, citing *Timken Co.* v. *United States,* 14 CIT 753 (1990); *Mart Corp.* v. *United States,* 486 U.S. 281 (1988); and *Zenith Radio Corp.* v. *United States,* 437 U.S. 443, 450 (1978). Petitioners observe that none of the cases cited by Toray in its brief relates at all to the Department's first administrative review procedures or in any way attributes any punitive or retaliatory characteristics to them. Further, petitioners note that Toray cites no judicial precedent that supports its position that the Department's current first administrative review period is not ''current'' or is ''unfair.''

Therefore, petitioners conclude, the Department has properly determined that one-year review periods are appropriate only after the first administrative review, which normally covers a period closer to 18 months. By honoring Toray's request, petitioners argue that the Department would in fact be ignoring dumping which occurs earlier in the review period, an action which would be inconsistent with the Tariff Act and would be ''punitive'' to the domestic industry.

Department's Position: There is no statutory guidance regarding the period to be covered by the first administrative review or the period on which to base cash deposit rates. However, the Department's regulations identify the period to be covered by a first administrative review as ''the period from the suspension of liquidation * * * to the end of the month immediately preceding the first anniversary month'' (*see* 19 CFR 353.22(b)(2)). As a matter of administrative practice, the Department has consistently calculated assessment and deposit rates based on the entire period of review. To do otherwise would invite manipulation by parties who, depending on their point of view, could argue that one division or another of the POR would be more favorable to their interests. The Department considers the first review period to be ''current'' even if it exceeds twelve months.

Finally, we are not persuaded by Toray's argument that the Department, by not dividing the first POR into pre- and post-order periods, undermines its own company-specific revocation procedures, which are based on three consecutive years of no dumping. Respondents can begin practicing pricing discipline as soon as the Department initiates an investigation. Certainly at the time of the preliminary determination, when suspension of liquidation occurs, respondents are made aware of the Department's methodology and can begin to change their prices accordingly.

Comment 4: TPA claims that, in accordance with the Department's methodology, recently upheld in *Outokumpu Copper Rolled Products AB* v. *United States,* 829 F.Supp. 1371, 1379–80 (CIT, 1993) (Outokumpu), many of Teijin's U.S. sales should be treated as exporter's sales price (ESP) transactions.

TPA asserts that, in *Outokumpu,* the Court held that the Department could apply a ''purchase price'' analysis to ''closed consignment'' sales (where the exporter's U.S. subsidiary held merchandise for ''just-in-time'' delivery) if, first, the U.S. subsidiary performs strictly ministerial functions, and, second, any warehousing operation undertaken by the U.S. subsidiary reflects the parties' ''customary commercial channels.'' TPA contends that Teijin does not meet either of these criteria. First, according to TPA, Teijin has three separate U.S. companies that account for a significant portion of U.S. sales under review. Further, TPA claims that Teijin's questionnaire response makes clear that the company's U.S. subsidiaries are engaged in a wide range of sales and post-sale activities, including marketing and acting as a selling agent. Similarly, TPA notes that Teijin has reported technical service expenses, as well as indirect expenses, by all three U.S. subsidiaries for the maintenance of sales staff. Finally, TPA claims that Teijin's sales do not follow the ''customary commercial channels'' utilized by Teijin and its U.S. subsidiaries.

Teijin responds that its U.S. sales are properly analyzed as purchase price transactions and disputes TPA's argument that, based on criteria upheld by *Outokumpu,* Teijin's sales should be treated as ESP sales. First, during the LTFV investigation, the Department verified that the merchandise did not enter the physical inventory of the subsidiary. Second, Teijin's subsidiaries continue to perform only ministerial functions, processing sales-related documentation and serving as a communication link, in connection with U.S. sales of PET film. Finally, Teijin argues that TPA's attempt to portray Teijin's U.S. operations as more substantial or ''substantially restructured'' are misinformed.

Department's Position: During the LTFV investigation, the Department verified that Teijin's U.S. sales were final before importation and did not enter inventory in the United States. Accordingly, Teijin's sales qualified as purchase price sales. In this review, Teijin again asserts that its U.S. subsidiaries perform only ministerial functions and that its U.S. sales during the POR do not enter inventory in the United States. In this review, TPA offers no specific support for its position except to question certain selling expenses. Further, nothing appears in the record of this review to show that there is anything different from the investigation that would distinguish any of the sales as ESP sales. We disagree with TPA's comment that Teijin's questionnaire response makes it clear that it and its U.S. subsidiaries are engaged in activities that would force the Department to conclude that Teijin's sales should be analyzed as ESP sales. Also, we considered these sales to be in the customary commercial channels in the investigation, and TPA has provided no evidence to the contrary. Finally, in our verification of Teijin's response during the LTFV investigation, we found no additional expenses such as technical services, advertising, or warranties on U.S. sales. Accordingly we have accepted Teijin's claim for purchase price analysis for the final results of administrative review.

Comment 5: TPA argues that the Department should reject Teijin's suggested model match because the methodology is distortive and deficient. TPA argues that the correct methodology is to first match PET film products by their end-use and subsequently by their polymers and gauges because this is the most accurate and administrable model match methodology. TPA maintains that each of PET film's five primary end-use categories requires common physical and performance characteristics that determine the commercial utility and value of the product and that are unique to that class.

Teijin responds that, notwithstanding its strong belief that physical characteristics represent the most appropriate matching methodology, in compliance with the Department's requests, it has provided the Department with alternative product concordances with and without end-use as a matching criteria. Therefore, in spite of Teijin's