

compare sales: form, coating, gauge, width, and alloy. For those U.S. sales for which we did not find sales of identical home market merchandise, we determined that the most similar home market merchandise for comparison purposes was merchandise which was identical in form, coating, gauge, and width, and similar in alloy content. Therefore, we used specific programming instructions to search for contemporaneous home market sales of merchandise which was identical except for alloy. Thus, the only criterion for which we considered differences was alloy, no matter what the order of the criteria as listed in the program. Consequently, we do not agree with the petitioners' suggestion that we change the ordering of the criteria in a search for similar merchandise.

Concerning the question of whether alloy is more important to customers than gauge and width specification, as the petitioners allege, we note that Wieland states in its February 23, 1995 Rebuttal Brief (p.3) that "generally customers must have very precise gauges and widths to serve their particular purpose and to use with their particular equipment, and no gauge or width substitutes would be acceptable". Notwithstanding the petitioners' allegation, there is nothing in the record of this review to confirm or support the petitioners' suggestion that customers have less flexibility in alloy than in gauge and width specifications, which typically have narrow tolerances reflecting the customers' machining or assembly requirements. Thus, the petitioners' assertion that alloy is more important than gauge and width to the respondent's customers is without foundation in the record of this review.

Therefore, we have determined for these final results to use the model-matching methodology used for the preliminary results.

#### Differences in Average Order Size

*Comment 5:* Defending its claim for adjustments in price to reflect the different average order sizes of its U.S. sales, Wieland contests our preliminary finding that it has not demonstrated a relationship between order size and price. In support of the claimed adjustment, Wieland cites the price lists in its questionnaire responses, the Department's verification report in the 1991-1992 administrative review, section 773(a)(4)(A) of the Act, and the regulations (19 CFR 353.55).

In rebuttal, the petitioners point to the Department's disallowance in the first review, as upheld by the CIT, concerning the same cost adjustment claim for different order sizes. The

petitioners also note Wieland's failure to show that it met the regulatory requirement for such an adjustment, *i.e.*, that Wieland must show that it "granted quantity discounts of at least the same magnitude on 20 percent or more of sales of such or similar merchandise \* \* \*" (19 CFR 353.55(b)(1)).

*Department's Position:* We disagree with the respondent. The regulations do not allow for adjustments to price based merely on claimed differences in per-pound costs according to order size. The adjustments allowed are only for differences in price or discounts for different quantities produced. The regulations (19 CFR 353.55(b)(2)) provide for adjustments if "the producer demonstrates \* \* \* that the discounts reflect savings specifically attributable to the production of the different quantities." In its questionnaire response Wieland complied in part, by showing the savings, in the form of differences in per-kilogram costs for processing different order quantities. But Wieland did not place on the record any evidence of quantity discounts actually given, or information showing that prices were affected by different production quantities. Indeed, Wieland's questionnaire response states unequivocally: "Wieland does not provide price-based quantity discounts".

The price list Wieland cites in this regard is not an adequate basis for this claim since it is a matter of record that the respondent's prices are negotiated ad hoc and do not necessarily follow the price list. The 1991-1992 verification report, in which we noted variations in prices for varying quantities in one particular contract, is not dispositive; our inspection of a contract in a verification does not signal our acceptance of a claimed adjustment to price. Wieland has the burden, in each review, of showing how its actual prices varied according to quantity, as required by 19 CFR 353.55.

#### Value-Added Tax

*Comment 6:* While conceding that the practice is consistent with current Department policy on value-added tax (VAT), Wieland contests the Department's application of a 14-percent VAT adjustment to both U.S. and home market sales in this review, and requests that the Department instead add the actual home market VAT amount to U.S. price. Wieland alleges that the use of the VAT rate on sales in both markets introduces a multiplier effect. Wieland urges the Department to instead adopt its alternative solution, at least until this issue can be resolved more definitively

by the U.S. Court of Appeals for the Federal Circuit (CAFC), once an appeal is heard in the case of *Federal Mogul Corporation v. United States*, 834 F. Supp. 1391 (Fed. Cir. 1993).

*Department's Position:* We disagree with Wieland. We adjusted U.S. Price (USP) and FMV for VAT in accordance with our practice, pursuant to the decision of the CIT in *Federal-Mogul Corporation and the Torrington Company v. United States*, 813 F. Supp. 856 (October 7, 1993) (*Federal-Mogul*) and as outlined in *Silicomanganese From Venezuela; Preliminary Determination of Sales at Less than Fair Value*, 59 FR 31204, June 17, 1994, where we address the multiplier effect issue in detail.

#### Commission Offset

*Comment 7:* The petitioners argue that the Department should offset home market commissions for purchase price (PP) sales.

*Department's Position:* We agree and have made an offset to FMV for PP sales based on U.S. indirect selling expenses, limited to the amount of commissions that were deducted from home market price.

#### Interest Rates Used in Credit Expenses

*Comment 8:* In the 1990-1991 review period, neither Wieland nor its U.S. affiliate borrowed funds in the United States. To calculate the imputed credit expense on its ESP sales in that period, Wieland used a U.S. bank deposit interest rate. The petitioners argue that the Department should correct for Wieland's use of deposit interest rates, and replace them with home market borrowing rates. The petitioners cite the Department's position in *Final Determination of Sales at less than Fair Value: Coated Groundwood Paper from Belgium* 56 FR 56359 (November 11, 1991) (*Groundwood Paper*), that a respondent must show that it had actual borrowings in the United States before the Department imputes credit expenses based upon U.S. rates.

To calculate the imputed credit expense on its PP sales in the 1990-1991 period, Wieland originally used its home market borrowing rates. However, in its February 13, 1995 rebuttal brief, Wieland asks the Department to "correct this mistake" and to replace the home market rates which it used for PP sales with the U.S. deposit rate which it used for ESP sales, because Department policy now requires that a U.S. interest rate be used to calculate imputed credit expense on U.S. sales.

For the 1991-1992 and 1992-1993 review periods, Wieland did have borrowings in the United States, and