ACTION: Notice of amendment to final results of antidumping duty administrative review.

SUMMARY: On July 11, 1995, in the case of *Zenith Electronics Corporation et. al.* v. *United States (Zenith),* Consolidated Court No. 89–01–00011, the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department) results of redetermination on remand of the results of the second administrative review of the antidumping duty order on color television receivers, except for video monitors (CTVs), from Taiwan.

EFFECTIVE DATE: March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or John Kugelman, Office of Antidumping Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., D.C. 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION

Background

On March 11, 1995, the Court ordered the Department to correct the clerical error resulting from the Department's failure to convert the amounts for Tatung's foreign inland freight expense from New Taiwan dollars to U.S. dollars before deducting this expense from the U.S. price. Pursuant to the Court's instructions, the Department corrected this clerical error and filed its redetermination on remand with the Court on June 26, 1995. On July 11, 1995, the Court affirmed the Department's results of redetermination on remand.

Final Results of Remand

As a result of the Department's conversion of the expense for Tatung's foreign inland freight from New Taiwan dollars to U.S. dollars, we have determined that the weighted-average dumping margin for Tatung for the period April 1, 1985 through March 31, 1986 is 2.18 percent.

Accordingly, the Department will determine, and the Customs Service will assess, antidumping duties on the appropriate entries of Tatung. The Department will issue appraisement instructions directly to the Customs Service.

This amendment of final results of review and notice are in accordance with section 751(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1673 (d)) and 19 CFR 353.28(c).

Dated: March 14, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7463 Filed 3–27–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–820 (Lead Case Number); A–122–822; A–122–823]

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada; Final Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Reviews.

SUMMARY: On August 16, 1995, the Department of Commerce (the Department) published the preliminary results of the administrative reviews of the antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. These reviews cover five manufacturers/exporters of the subject merchandise to the United States and the period February 4, 1993, through July 31, 1994. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of reviews.

EFFECTIVE DATE: March 28, 1996.

FOR FURTHER INFORMATION CONTACT: John Drury (CCC), Eric Johnson (Dofasco/Sorevco), Stephen Jacques (Manitoba Rolling Mills), Jim Rice (Algoma), Gerry Zapiain (Stelco), or Jean Kemp, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1995, the Department published in the Federal Register (60 FR 42511) the preliminary results of the administrative reviews of the antidumping duty orders on corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada (58 FR 44162, August 19, 1993). The Department has now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of this Review

The products covered by these administrative reviews constitute two separate ''classes or kinds'' of merchandise: (1) certain corrosion-resistant steel and (2) certain cut-to-length plate.

The first class or kind, certain corrosion-resistant steel, includes flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.32.5000, 7217.33.5000, 7217.39.1000, and 7217.39.5000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The second class or kind, certain cut-to-length plate, includes hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The periods of review (POR) are February 4, 1993, through July 31, 1994.

VAT Tax Methodology

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith* v. *United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a ''zero'' pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the ''*Zenith* footnote 4'' methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements to which the United States is a party, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the ''*Zenith* footnote 4'' methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the URAA (Uruguay Round Administrative Action) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the ''*Zenith* footnote 4'' methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments and rebuttal comments from Algoma Steel Inc. (Algoma), Continuous Colour Coat (CCC), Dofasco Inc./Sorevco, Inc. (Dofasco), Manitoba Rolling Mills (MRM), Stelco Inc. (Stelco), exporters of the subject merchandise, (respondents), and from Bethlehem Steel Corporation, U.S. Steel Group a Unit of USX Corporation, Inland Steel Industries, Inc., Gulf States Steel Inc. Of Alabama, Sharon Steel Corporation, Geneva Steel, and Lukens Steel Company, petitioners. At the request of petitioners, the Department held a hearing on September 29, 1995.

Algoma

Comment 1: Algoma argues that the Department's margin program fails to weight-average all appropriate ''most similar'' matches where there is no identical home market sale to match to a U.S. sale. Algoma's contention is that the computer program ignores all but the last possible ''most similar'' match, and then matches that individual similar home market sale to the U.S. sale. Respondent argues that the Department should modify the program so the appropriate ''most similar'' matches are weight-averaged prior to comparison to a U.S. sale.

Department's Position: The Department agrees with respondent. It is our standard practice to weight-average the most similar matches and we have corrected our calculations for the final results accordingly.

Comment 2: Algoma produces subject merchandise on two rolling mills, a 166″ mill and a 106″ mill. Algoma reported rolling costs only for the 166'' mill, citing the limitations of its accounting system and other factors. Petitioner disagrees with this methodology, and objects to the Department's use of certain information presented by Algoma to the Department at verification. Petitioner's and respondent's arguments regarding the various aspects of this issue, as well as the Department's positions, are found below.

Petitioners contend that even though Algoma acknowledges producing subject merchandise on its 106″ plate mill, it did not submit this mill's cost information as part of its response to the Department's COP/CV questionnaire, but rather, only submitted cost information for its 166″ plate mill. Petitioners argue that Algoma failed to provide actual manufacturing cost information as required by the Department's instructions. Compounding this failure to report all relevant production costs, petitioners contend that Algoma's presentation of new factual information regarding the 106″ mill at verification was improper and untimely. Petitioners argue that the deadline for submitting new information was March 7, 1994, a full six weeks prior to the presentation of this new information at verification. In addition, it is argued that the Department's practice, as explained in *Calcium Aluminate Cement, Cement Clinker and Flux from France,* 59 FR 14136, 14140 (1994) has been to not permit the submission of new information at verification (other than minor corrections). Petitioners also cite *Mechanical Transfer Presses from Germany,* 59 FR 9958 (1994), *Photo Albums and Filler Pages from Korea,* 50 FR 43754 (1985) and *Steel Wire Rope from Taiwan,* 56 FR 46288 (1991).

Moreover, petitioners state that even if the Department does accept this new information, the information provided is of no use because it is based upon total production costs of the mill, not just the costs of producing the subject merchandise. As a result, the utility of this information is minimal, as there is no way, in the view of petitioners, to verify that the production costs of subject merchandise associated with the 106″ mill are lower than the production costs of the 166″ mill, as suggested by Algoma.

Because Algoma did not provide actual production costs as requested in the Department's questionnaire, and did not notify either petitioners or the Department of its failure to use its actual production costs, petitioners argue that the Department should apply total best information available (BIA). Short of that, petitioners suggest that since the 106″ mill produces plate with a gauge less than 3/8″ and less that 96″ in width, all home market sales of material meeting these two physical criteria be deemed to be sold at below cost, and since a valid constructed value comparison would also be impossible, all matching identical and similar U.S. sales should be treated as BIA and be presumed to have been sold at below cost.

Concerning petitioners' contention that Algoma failed to report costs in accordance with the Department's questionnaire, Algoma asserts that it properly calculated a rolling cost for subject merchandise. Algoma contends that because its cost accounting system does not attribute costs of a particular process directly to different gauges of steel, it calculated the average cost per ton of the cost center producing the vast preponderance of the subject merchandise and attributed these costs to individual products. Algoma also argues that it possesses no records that would permit direct calculation of costs incurred at the 106″ mill that relate only to subject merchandise.

Algoma argues that, as demonstrated at verification, the average rolling cost on the 106″ mill is significantly less than that of the 166″ plate mill, thus Algoma used the most conservative approach possible in determining the average rolling cost for subject merchandise. Algoma further argues that this cost information was an appropriate subject of verification. Finally, Algoma cites *Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada,* 58 FR 15481 (1993) and *Floral Trade Council of Davis Cal.* v. *U.S.* 775 F. Supp 1492, 1499 (CIT 1991) for the proposition that the Department may request information at any time during a proceeding. Thus Algoma disagrees with petitioner's allegations that Algoma's ''Comparison of Costs'' exhibit was new factual information presented at verification. Algoma considers this to be documentation supporting the accuracy and reasonableness of the information submitted and the methodologies employed by Algoma in preparing its questionnaire responses.

Finally, Algoma also takes exception to petitioner's suggestion that the Department resort to total BIA if it determines that Algoma's reported rolling cost data is not appropriate or reasonable. Algoma asserts that petitioners themselves acknowledge that the data available to Algoma pertaining to the 106″ strip mill would not have been an appropriate basis for a COP response. Algoma believes that the approach it has adopted has been reviewed and verified by the Department, and represents a reasonable and conservative approach to account for the rolling costs that were incurred on the 106″ mill.

Department's Position: We agree with respondents. Algoma has two rolling mills: a 166″ mill and a 106″ mill. While the 166″ mill produces only subject merchandise, only a very small percentage of the merchandise produced on the 106″ mill is subject merchandise (the rest being strip products too narrow to be included in the scope of this order). Further, an ''overwhelming majority'' of subject merchandise is produced on the 166″ mill. The Department verified that Algoma could not separate the costs to produce different gauges of steel on the 106″ mill, thus it could not specifically identify the cost to produce subject merchandise on that mill. Therefore, because subject merchandise produced on the 106″ mill is a small percentage of the total quantity of subject merchandise produced, and because the average COP of the 106″ mill is lower than the average of the 166″ mill, the Department finds that it was reasonable for Algoma to use the COP of the 166″ mill as the basis for the COP of all subject merchandise.

Algoma's reporting of rolling costs incurred at only one of its two manufacturing facilities is reasonable, considering (1) the nature of its cost accounting system, (2) Algoma's verified inability to determine specific rolling costs based upon the gauge of the material being manufactured at either facility, and (3) the conservative methodology adopted by Algoma. Algoma stated, and the Department verified, that Algoma is not capable of specifically determining direct calculation of rolling costs incurred at the unreported mill on a basis that would capture costs solely of subject material (which represents a small percentage of that rolling mill's production). The alternative methodology used by Algoma is reasonable.

The Department verified the soundness and reasonableness of Algoma's methodology of calculating rolling costs for all subject merchandise. As stated in the Department's verification report ''Algoma demonstrated that costs at the 166″ (plate mill) were significantly higher than at the 106″ (strip) mill.'' Therefore, this information indicates that the use of the 166″ mill costs was conservative.

The Department also notes, as did petitioners, that rolling cost data from the 106″ strip mill was of limited utility because it is based upon total production costs and not just the costs of rolling the subject merchandise. Because of the limitations of Algoma's cost accounting system, this rolling cost data would have been an inappropriate basis for determining rolling costs for subject merchandise produced on the 106″ strip mill.

In addition, the Department does not consider the rolling mill costs associated with the 106″ strip mill we examined at verification to be new information. The Department's responsibility at verification is to verify the accuracy and completeness of the questionnaire response. In this case, Algoma had clearly stated on the record that the rolling costs it submitted to the Department, for a variety of reasons, reflected only those costs incurred at the 166″ plate mill. Therefore, by verifying all the information available which pertained to the 106″ strip mill, the Department was merely verifying the reasonableness and accuracy of a methodology Algoma had already reported.

Petitioners' citation to *Calcium Aluminate Cement, Cement Clinker and Flux from France* is not relevant here because that case refers to the presentation of new factual information and the Department's treatment of such information with regard to statutory deadlines. In this case, the new information at issue represents the type of supporting documentation which the Department routinely reviews during the course of a verification.

Petitioners reference to *Mechanical Transfer Presses from Germany* is not relevant here because in that instance, the respondent submitted unsolicited post-verification information which it was unable to provide during the actual verification. Petitioners also cite to *Photo Album and Filler Pages from Korea* and *Steel Wire Rope from Taiwan* to support their argument that new information presented at verification is unacceptable because such acceptance precludes the Department from a reasonable and thorough analysis of the information and denies petitioners their right to comment on such information prior to its acceptance. Again, however, the Department finds that the information reviewed at verification was not new information, but rather simply documentation supporting Algoma's contention that it was unable to report meaningful cost data on one particular rolling mill, that the vast majority of subject merchandise was produced on that mill and that the other mill's costs were significantly lower.

Finally, the Department agrees with Algoma that costs associated with movement to the 106″ mill and with coiling and uncoiling were properly included in the average 106″ mill costs which were compared to the 166″ mill costs at verification.

Regarding petitioner's recommendation that the Department apply total BIA or, alternatively, partial BIA to material meeting the gauge and width criteria of subject merchandise rolled on the 106″ strip mill, the Department finds that BIA is not appropriate in this circumstance where the respondent has provided complete information for the mill producing the vast majority of the subject merchandise and supporting documentation for its reported cost.

Comment 3: Petitioners object to Algoma's May 5, 1995, changes to its reported scrap revenue data. Petitioners contend that this new information is not supported by any verification documentation and is inconsistent with existing verification exhibits, and no Departmental request for a recalculation of scrap revenue exists on the record. Petitioners also argue that this new information is untimely.

Petitioners further note that although the Department did request that Algoma submit a revised cost tape following verification, the Department did not solicit any corrections regarding Algoma's reported scrap revenue data. Petitioners allege that Algoma submitted this new information without disclosing it to either petitioners or the Department. Petitioners contend that this inclusion of unsolicited data is improper and is in violation of 19 CFR 353.31(a)(i), which sets a deadline of seven days prior to verification for the submission of unsolicited factual information. Petitioners urge the Department to base its margin calculations on verified data only, citing *Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina* (54 FR 13913), in which the Department was requested by respondent to verify a significant quantity of new information. In addition, in that case, respondent submitted an unsolicited revised response after the preliminary determination. All these factors resulted in the Department's use of total BIA because of the uncertainty of the veracity of the respondent's information.

Algoma contends that all the changes made by Algoma pursuant to the post-verification tape were disclosed to the Department. As explained at verification, Algoma identified a correction for yield loss for Algoma's No. 1 shearing line and reported this correction to the Department at the beginning of verification. This correction increased the calculated generation of scrap, which in turn increased the resulting scrap revenue data as a simple mathematical function (i.e., the higher the yield loss figure, the greater the amount of scrap that is generated and sold or recycled into the production cycle). Respondent holds that this is not ''new information.''

Algoma also contends that petitioners' allegation that this scrap revenue data is inconsistent with the cost verification exhibits and cannot be the product of the yield loss correction is without merit. According to Algoma, petitioners do not understand the scrap revenue calculation and the verification document they cite contains the erroneous data which Algoma later corrected. Algoma adds that petitioners' contention that all product categories should have been revised is incorrect, because only one particular line was affected by this correction.

Department's Position: We agree with respondent that the post-verification submission of information related to yield loss (based upon errors disclosed at the beginning of verification) and the resultant change in scrap revenue does not constitute new information, and is not a violation of 19 CFR 353.31(a)(i).

On April 28, 1995, Algoma filed a ''Corrections Memorandum'' with the Department, which indicated the errors Algoma discovered in its response during the process of preparing for its COP/CV verification. One of the errors discovered was an error in its calculation of yield loss for one of Algoma's production lines. The error, as verified by the Department, involved an understatement of yield loss, which Algoma corrected, pursuant to the Department's instructions following verification. As a result of this correction, in which the yield loss factor was increased, Algoma discovered that as a function of the yield loss correction scrap revenue was increased because the increased yield loss automatically increased the amount of imputed scrap generated, and thus increased Algoma's scrap revenue figure. For Algoma to have acted otherwise (i.e., to have corrected only the yield loss data without having corrected subsequent derivative information) would have been to knowingly submit erroneous data to the Department, and the Department would have had to request a correction.

In addition, petitioners' reference to *Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina* is not directly relevant to this proceeding because the nature and extent of the respondents' revisions to their responses in that case (at verification and following the preliminary determination) are far in excess of any additional or new information presented by Algoma in the course of this administrative review.

Comment 4: Petitioners allege that Algoma submitted incorrect revised yield loss data for each of its general product categories, as the result of having based its calculation on the wrong yield loss per ton value. Petitioners contend that the correct way to calculate yield loss is to use the value of the loss at each production stage, in order to ensure that the total yield loss value actually reflects the value of the tonnage lost at each stage of production. According to petitioner, Algoma valued the tonnage lost at each production stage before it entered that production process, resulting in an understatement of the value of the total yield loss.

In addition, petitioners argue that Algoma's revised yield loss data is not supported by any documentation and that there is insufficient information on the record to correct for the understated yield loss values. Therefore, petitioners contend that to correct Algoma's misreported yield data, the Department should increase the yield loss amounts for Algoma's other product categories, as reported in their March 27, 1995 cost tape, to correspond to the increase reported by petitioners in their rebuttal brief.

Algoma argues that its revised yield loss figures are correct and that petitioners' arguments are based upon a misunderstanding of the methodology used by Algoma. Apparently, petitioners assume that the variable HRMYLD (plate rolling mill yield loss) contains not just the value of raw materials lost in later processes, but also reflects yield loss of labor and overhead costs added by later processes. In fact, the HRMYLD figure contains only losses in raw material (slab) value that is caused by product waste in downstream processes. Other yield losses are reported as labor, variable overhead, or fixed overhead losses. This reporting methodology was necessitated by the Department's requirement that costs be reported on a consistent basis, per ton of finished plate.

Department's Position: We agree with respondent. Through inspection of verification documentation, specifically, the slab-to-finished-plate-processing-cost sheet and Algoma's documentation supporting its calculation of scrap revenues, and the subsequent corrections submitted to the Department, the Department is satisfied that Algoma has properly reported correct yield loss data for its regular sheared plate.

Comment 5: Petitioner contends that Algoma's short-term interest expense was calculated using an incorrect short-term interest income offset. According to petitioners, two of the items used by Algoma to calculate its interest expense do not belong in the calculation because their interest revenues do not represent income earned from short-term investments of the company's working capital. See *Television Receivers, Monochrome and Color from Japan,* 56 FR 56189, 56192 (1991) (*Television Receivers from Japan*).

Specifically, Algoma has failed to demonstrate that there was (1) an ''investment'', (2) that if there was, that it was short-term, and (3) that if there was an investment, that it was related to the current operations of the company. See *Dynamic Random Access Memory Semiconductors of One Megabit and Above from Korea,* 58 FR 15467, 15473 (1993) (*DRAMS from Korea*). Petitioners also cite *Certain Hot-Rolled Carbon Steel flat products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Canada,* 58 FR 37099, 37119 (1993), in which a respondent improperly offset interest expense against interest gained from settlement of a tax case.

Algoma asserts that it properly calculated its interest expense. Algoma contends that petitioners have misstated the law, and that the Court of International Trade has held that respondents may offset against interest expense company interest income ''related to the general operations of the firm'' (*Timken Company* v. *United States,* 852 F. Supp. 1040, 1048 (CIT 1994)). Additionally, it is the Department's practice ''to accept a reduction of total interest expense by such short-term interest income because such income is earned from working capital, which by definition is related to manufacturing and sales operations.'' See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts thereof from France,* 60 FR 10900, 10925–26 (1995) (*AFBs from France*).

Department's Position: We agree with respondent. Petitioners' citation to *Flat Rolled Steel from Canada* does not apply. In that case, the Department stated only that it agreed with petitioners' point that a manufacturing line's interest expense ''should be included in the cost of production * * *.'' This comment did not address, nor did the Department's response address, the issue of appropriate interest offsets. Petitioners also cite *Television Receivers from Japan* and *DRAMS from Korea.* In *Television Receivers from Japan,* the Department stated that it would allow an offset to interest expense only with interest income from short-term investments of the company's working capital. However, we disagree with petitioners that methodology applies in this review because since that determination was published, the Department has expanded its view of what constitutes an appropriate offset to interest expense. In *DRAMS from Korea,* the Department stated only that such short-term investments must be ''related to the current operations of the company.'' More recently, however, the Department stated in *AFB's from France,* that ''the interest earned on short-term deposits, on advance payments to suppliers, and on late payments is derived from manufacturing and sales operations. The Department's practice is to accept a reduction of total interest expense by such short-term interest income because such income is earned from working capital, which by definition is related to manufacturing and sales operations. Therefore, we accepted the interest offset as reported by SNR.'' In light of these recent decisions of what constitutes an appropriate interest offset, the Department agrees with Algoma that it properly calculated its interest expense and that all its claimed offsets are allowable.

Comment 6: Petitioners contend that some of Algoma's product specifications and suggested model matches are incorrect. According to petitioners, Algoma made several errors in reporting technical properties in its suggested model match, and when corrected, it becomes clear that certain matches are incorrect.

Algoma argues that one of petitioners' proposed revised model matches is correct but that the other suggested match is less accurate than that originally submitted by Algoma, and that Algoma's original model matching hierarchy be used in that case.

Department's Position: The Department agrees with both parties that one model match modification suggested by petitioners is correct, and that model match is reflected in these final results. The Department also agrees with petitioner that the second disputed model match should be modified on the basis of petitioners' proposal, because the basis upon which Algoma determined the model match is not appropriate, according to the model match hierarchy as laid out in the Department's instructions. The Department agrees that the petitioners' proposed model match is a closer match than that proposed by Algoma on the basis of comparable chemical characteristics. See also the Department's Analysis Memo.

Comment 7: Petitioners allege that Algoma's allocation of indirect selling expenses is incorrect and must be rejected. Specifically, it is alleged that Algoma failed to properly report its indirect selling expenses on a market-specific basis.

In calculating its indirect selling expense factors for each market, Algoma allocated a certain percentage of its indirect selling expenses exclusively to the home market, with the remainder allocated between markets, including its home market, based upon sales to the home market as a percentage of total sales. Algoma claimed it cannot separately identify U.S. specific indirect selling expenses from expenses related to other markets. Algoma's records indicate that these expenses were classified in six cost centers, four of which support sales in all markets and two supporting sales in Canada only. Thus, Algoma allocated the Canadian cost centers to the home market and the other four across all markets.

Petitioners argue that the record clearly indicates that there are market-specific selling expenses that Algoma could have reported on a market-specific basis (e.g., the ''U.S. Sales Department'') which Algoma combined with its indirect selling expenses to all markets. Petitioners argue that only the percentage of indirect selling expenses properly identified by Algoma as relating to the home market should be used in the calculation of home market indirect selling expenses, citing *Steel Jacks from Canada,* 50 FR 42577 (1985), wherein the Department denied respondent's allocation methodology because it was unable to provide any evidence separating certain selling expenses by product and market.

Algoma argues that its allocation of indirect selling expenses is correct given the constraints of its normal business procedures. As explained by Algoma in submissions and at verification, the ''U.S. Sales Department'' is, in fact, a misnomer. During the POR, this department consisted of one employee, who also had other responsibilities beyond those associated with sales to the United States. In addition, sales to the United States were also handled by other personnel. Consistent with this reality, Algoma does not treat this department as a separate cost center in the normal course of business and demonstrated this at verification. Instead, Algoma distinguishes between the costs of selling in the home market, and all other selling costs to all other markets, and costs in this second category are not, and cannot be, broken out among specific countries.

Department's Position: We agree with respondent. The Department verified each of Algoma's indirect selling cost centers, and we confirmed that although Algoma does maintain some information specific to home market, United States, and ''off-Shore'' sales (quantity, cost of sales, etc.), it does not maintain specific information on selling expenses for each of these three markets. Instead, it maintains some indirect selling expense information only for home market sales while other indirect selling expense information cannot be broken out by market. The former group was only attributed to the home market, while the latter was allocated over all three markets (home market, U.S., and off-shore). Thus the Department is satisfied that Algoma has allocated these indirect selling expenses as specifically as possible given the limitations of its business records. In addition, *Steel Jacks from Canada* is not applicable here because in that case, respondent was not able to demonstrate that these indirect selling expenses related ''solely to sales in the Canadian market.'' In the case of Algoma, it has been able to identify and separate Canada-specific indirect selling expenses from ''other market'' selling expenses, and within the confines of Algoma's financial accounting system, has properly allocated its indirect selling expenses among all appropriate markets.

Comment 8: Petitioners allege that the margin program incorrectly defines U.S. Direct Expense (USDIREXP), and that it fails to include deductions for U.S. Duty and Brokerage expenses. In addition, the commission offsets are incorrectly defined. Algoma agrees with petitioners, and requests that the Department correct these errors in the final results of review.

Department's Position: We agree with both parties, and the corrections are reflected in the Department's final results.

CCC

Comment 9: In its response to the Department's questionnaire concerning the Model Match, CCC did not provide complete physical characteristics data for all sales. Petitioners assert that the Department erred in accepting incomplete data from respondent on physical characteristics for sales in both the U.S. and home markets. Petitioners further state that the use of these missing variables for the purposes of the model match is inconsistent with past practice and contrary to existing statute. Specifically, petitioners assert that 19 U.S.C 1677(16) requires comparisons with identical physical characteristics and that the Department's practice is not consistent with that requirement. In addition, petitioners believe that the methodology violates 19 U.S.C. 1677b(a)(4) in that no diffmers are used to adjust for potentially different physical characteristics. Petitioners insist that the Department use BIA in cases where sales are reported with missing physical characteristics values. Petitioners request that the Department apply either a regular second-tier BIA (the highest calculated rate in either the investigation or the review, 18.71%), or the highest non-aberrant margin found on any CCC sale.

Petitioners conclude that the Department must use BIA if the respondent is unable to provide the adequate information. By failing to report full product characteristics for a number of prime home market and U.S. sales, petitioners state that CCC made it impossible to accurately perform the model match with respect to these sales or to determine accurate costs of these products. Petitioners reason that the Department is required to use BIA whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation. Petitioners recommend that to ensure that respondents are encouraged to provide complete information, the Department should apply to the relevant transactions either the higher of a calculated margin found in the investigation or review, or the highest non-aberrant margin found on any CCC sale.

Respondents state that the law does not require identical matches to mean identical in every respect, and that the Department can make reasonable interpretations of the term ''identical.'' In addition, respondents assert that petitioners have already accepted the proposition that the Department may depart from product matching criteria. To support this assertion, respondents note that the Department used the exact same methodology in its treatment of missing physical characteristics for seconds produced by Dofasco as outlined in a policy paper dated April 19, 1995, and that petitioners did not object to that policy. Respondents claim that the same policy is applicable to CCC.

Respondents also note that CCC is not a steel substrate manufacturer, but purchases substrate from others, and as such does not know many of the characteristics of the underlying substrate. In particular, CCC contends that substrate purchased from service centers often lacked specific physical characteristic information and that CCC was unable to obtain said information. CCC argues that its customers are unconcerned with many of the characteristics of the steel substrate which underlies its coated steel products.

Department's Position: We disagree with Petitioners. The Department has the authority to determine what merchandise qualifies as such or similar for the purposes of the statute. *United Engineering & Forging* v. *United States,* 779 F. Supp. 1375, 1380–82 (CIT 1991); *NTN Bearing Corp.* v. *United States,* 747 F. Supp. 726, 735–36 (CIT 1990); *Kerr-McGee Chem. Corp.* v. *United States,* 741 F. Supp. 947, 951–52 (CIT 1990); *Monsanto Co.* v. *United States,* 698 F. Supp. 275, 277–278 (CIT 1988); *Timken Co.* v. *United States* (Timken I), 630 F. Supp. 1327, 1338 (CIT 1986).

The market for the specific products manufactured by CCC is unlike the market for other corrosion-resistant steel products in certain respects. Because CCC's specialized customers are unconcerned with certain characteristics of the steel, CCC has no need to record those characteristics. Moreover, unlike other respondents, CCC does not manufacture steel substrate. Rather, it either paints or galvanizes substrate purchased from other sources. Therefore, for those sales with missing product characteristics, CCC does not possess, or cannot obtain, all of the product characteristics requested in the Department's model match criteria, since some of the criteria in question are only available to the original manufacturer of the substrate. Most importantly, however, because both CCC's U.S. and home market customers are unconcerned with the missing characteristics, there is no reason those characteristics should be used to determine which sales should be compared. Finally, the Department verified that the missing characteristics are not random in nature. Rather, CCC could not report specific sets of characteristics depending upon the type of seller of the original substrate (e.g. steel service centers). As such, the Department determines that any given set of missing characteristics in a sale are the result of a purchase from a particular type of seller of the substrate and not as a result of ''selective reporting'' by the respondent.

In light of the circumstances contained in this review, we believe that the Department's decision to accept a modified matching hierarchy for some sales is proper. The Department is using a similar modified hierarchy for the purposes of comparing certain of Dofasco's such or similar merchandise, in the same administrative review of carbon steel flat products from Canada. Specifically, the methodology used by the Department for CCC is similar to that used for the comparison of non-prime merchandise manufactured by a Dofasco (*See* Department of Commerce Memorandum, A–100–003, of April 19, 1995; ''For those respondents unable to report the same product characteristics for seconds in both markets, the Department could simply drop the missing characteristics and compare products based on the same characteristics reported in both markets.''). As with the market for CCC's coated products, the Department determined that the market for non-prime merchandise was highly specialized, and that, therefore, the standard hierarchy would require parties to report irrelevant characteristics (of which they were unlikely to maintain records) and would produce inappropriate matches. No interested party raised objections to the methodology for matching non-prime merchandise.

In its sales verification, the Department noted that CCC used available information to report type, process, metal, coating weight, thickness, width, and form. In addition, it reported quality, strength, temper rolling, and tension leveling for input coils purchased from Stelco. Stelco provided the reported information requested by CCC. During the verification, the Department confirmed that CCC did not possess the four characteristics previously mentioned for coil purchased from suppliers other than Stelco.

Petitioners cite the *Timken* case as support for their contention that the Department is compelled to use BIA in this case. However, the case in question differs from *Timken* in regard to the facts. In *Timken*, the court directed the Department to collect additional home market sales data from a previous review period which had already been completed. When it requested the additional data, the Department found that the company under review had already disposed of all of its home market data for the period and was unable to provide the necessary information, necessitating the use of BIA. Unlike the situation in *Timken*, CCC did not dispose of the relevant data, but rather had no reason to ever maintain such data. Thus, the use of BIA in this case is not warranted.

Comment 10: Petitioners protest the use of certain slitting expenses incurred by CCC in U.S. sales as an addition to Foreign Market Value. Petitioners claim that the Department should instead deduct the expenses from U.S. price. Petitioners cite 19 U.S.C. § 1677a(d)(2)(A), stating that ''the statute requires that additional costs, charges and expenses incident to bringing the merchandise from the place of shipment in the country of exportation to the United States shall be deducted from U.S. price.''

Department's Position: We disagree with Petitioners. Both CCC and Dofasco had U.S. sales which were slit in the U.S. by unrelated slitters. In both cases, the Department considered the sales to be purchase price sales, and not exporter sales price sales. The slitters in question were unrelated to the companies being reviewed. However, there were slight differences between CCC and Dofasco in terms of the structure of transactions performed by unrelated slitter. In the case of Dofasco, the customer designates the slitter to be used. The slitter invoices Dofasco, which then adds the amount of the charge, noted on a separate line of the invoice, to the price that it charges the customer for the un-slit steel. By contrast, CCC, chooses the slitter, which is a single non-related U.S. company. Furthermore, CCC does not separate the charges but instead includes them in the overall sales price. CCC finalizes the price prior to shipment into the U.S. and maintains a record of the expense charged to it by the slitter.

As a result, the Department simply disregarded the price for the slitting when identifying the price charged by Dofasco. For CCC, however, the slitting expense is a circumstance of sale expense for which the Department must make a circumstance of sale adjustment to FMV under section 773(a)(4).

Petitioners' reliance on section 772(d)(2)(A) is unwarranted. That provision deals with the deduction from USP of movement and related expenses (such as freight, brokerage, handling and port charges). Although the slitting expense was incurred prior to delivery to the customer, that fact alone does not make the expense a movement expense subject to 772(d)(2)(A).

Comment 11: Petitioners object to the Department's price adjustment methodology regarding credit and debit notes for sales in both the U.S. and Canadian markets. Specifically, Petitioners believe that the Department should not allocate such adjustments over multiple sales. Instead, the Department should tie said adjustments directly to specific sales and use BIA when these expenses cannot be tied to specific sales.

Respondents contend that both the Department's policy and various court decisions do not allow for the allocation of such expenses to unspecified invoices. In the case of CCC, however, respondent notes that the adjustments in question are directly related to a specific group of invoices. Therefore, the credit and debit notes are directly related to a set of sales, rather than one sale in particular or to all sales. As such, they meet the criteria of the Department for direct expenses.

Department's Position: While the Department prefers that discounts, rebates and other price adjustments be reported on a transaction-specific basis, the Department has long recognized that some price adjustments are not granted on that basis, and thus cannot be reported on that basis. However, the Department disagrees with CCC's argument that the debits and credits at issue were not granted on a transaction-specific basis. CCC issued the adjustments when a customer over- or under-paid a specific transaction. By including several invoices on the debit or credit note, CCC allocated the debit or credit over the transactions included on the note. Consequently, the debits and credits are transaction-specific but not invoice-specific.

Nevertheless, the Department does not agree with petitioners that this methodology is sufficient to warrant treatment of the adjustments as indirect expenses in the home market (or application of BIA in the U.S. market), under the policy discussed in *Antifriction Bearings (and Parts Thereof) from France,* 58 FR 39729, 39759 (1993), cited by petitioners. In that case, the Department contrasted transaction-specific reporting with customer- or product-specific reporting. In this case, the amount of the ''allocation'' is limited to a few specific transactions, all to the same customer, and typically within a very limited period of time. Thus the danger of allocation, which is the averaging effect on prices, is extremely limited in this case. This case is similar to situations, permitted by the Department as direct adjustments, in which a rebate is granted on a limited number of purchases by a single customer. Because CCC's method of reporting this transaction is reasonable, the Department has allowed it as a direct adjustment.

Dofasco/Sorevco

Comment 12: Respondents claim that the Department improperly reclassified certain home market rebates as post-sale price adjustments in the preliminary results. Dofasco states that, contrary to the Department's assertion, the record shows that the buyer was aware of the conditions to be fulfilled and the approximate amount of the rebates at the time of sale. Respondents also claim that there are no factual differences between the investigation and this administrative review concerning Dofasco's rebates. Finally, respondents assert that the antidumping law was never intended to be so rigid that memoranda or customer letters would be an insufficient basis to show previous knowledge. Therefore, Dofasco says that the Department should classify all of its home market rebates as rebates.

Petitioners assert that respondents have failed in each case to substantiate these home market rebates. For the first type of rebate, petitioners claim that respondents have stated for the record that in the majority of cases, documentation which the Department requested to illustrate ''that their customer knew the conditions and terms of each rebate granted to the customer before the time of the sale'' did not exist. Furthermore, even in the minority of cases where some documentation exists, such evidence does not demonstrate the necessary facts for the Department to classify such expenses as rebates. Likewise, for the other two types of rebates, the documentation Dofasco presents as evidence is, according to petitioners, insufficient proof that the customers were aware of the terms of sale and the amount of the rebates at or before the time the sale was made.

Department's Position: We agree with petitioners. First, the evidence to which respondents have pointed in their case brief in no way demonstrates that Dofasco's customers had knowledge of the terms and conditions of the rebates at or before the time of sale.

For Dofasco-reported REBATE1H, respondents have referred to an internal Dofasco memorandum stating the terms of the rebate for a future period. Respondents argue that, while this internal memorandum ''may not constitute explicit customer notice,'' the fact that the customer had been receiving the rebate for some time previously was a clear indication that the customer knew of the rebate prior to sale.

In this case, respondents have implicitly acknowledged the inherent deficiency of this evidence: namely, that the document to which respondents refer is an *internal* memorandum, and thus by its nature cannot serve as evidence of the customer's prior awareness of the terms and conditions of the rebate. While the customer's receipt of this rebate over time may increase the likelihood that the customer may have expected to continue to receive this rebate, such a condition reflects at most the probability that Dofasco's ''rebate'' policy in this case represented its normal business practice. However, it does not constitute the customer's awareness of the rebate at or prior to the time of the sale.

Furthermore, respondents explicitly acknowledged during verification that ''the majority of its rebate and pricing negotiations are completed over the phone and little written communication is exchanged between Dofasco and the customer.'' *See* Dofasco Sales Verification Report (May 5, 1995), at pg. 24. In fact, for REBATE1H we found no written communication proving prior customer awareness. In this respect, Dofasco's reference to the hand written notation in the example provided in their case brief is unpersuasive. Even presuming the individual in question is employed by the customer (for which we have no evidence), there is no indication when (or whether) the document was sent to the individual.

With regard to Dofasco-reported REBATE2H, respondents have also failed to provide adequate evidence proving prior customer awareness for the example cited. The letters from the customer to Dofasco to which respondents refer in their case brief show nothing about what the customer knew at the time of the sale. Finally, concerning Dofasco-reported REBATE3H, Dofasco's evidence suffers the same defect as REBATE1H: that is, the 1992 document provided as an attachment to respondents' case brief is an internal memorandum which fails entirely in proving the customer's prior awareness.

Second, the Department takes issue with respondents' claim that there are ''no factual differences between the investigation and this administrative review'' concerning Dofasco's rebates. In fact, it is precisely the factual, documentary difference between the LTFV investigation and this administrative review which has led the Department to its decision to disallow the treatment of these ''rebates'' as rebates for the Department's purposes. In the LTFV investigation, Dofasco was able to produce a certain type of document (an Allowance Approval Page) which proved that the customer was aware of the terms and conditions of these rebates at or before the time the sale was made. See, *Dofasco's Response to Sections B, C, and E of the Department's Questionnaire,* October 20, 1992, Appendix B–4. This

Allowance Approval Page is absent from the record of this review.

Finally, concerning respondents' assertion that the antidumping law was never intended to be so rigid that memoranda or customer letters would be an insufficient basis to show previous knowledge, we stress that the Department's requirements in this regard are not arbitrary. The purpose of requiring respondents to prove that the buyer was aware of the conditions to be fulfilled and the approximate amount of the rebates at the time of the sale is to protect against manipulation of the dumping margins by a respondent once it learns that certain sales will be subject to review. See *Antifriction Bearings (other than Tapered Roller Bearings) and Parts Thereof from France (AFBs),* 60 FR 10900, 10930 (February 28, 1995), which notes that the purpose of the rebate rule is to ''prevent respondents, after they realize that their sales will be subject to administrative review, from granting rebates in order to lower dumping margins on particular sales.'' Hence, in order to circumvent any such *ex post facto* downward adjustments of foreign market value, the Department has established the evidentiary requirement of ''prior knowledge''. Therefore, the Department disallows these ''rebates'' as Departmentally-defined rebates for the period of review.

Comment 13: Petitioners argue that the Department should not treat Dofasco's home market rebates as post-sale price adjustments, because the Department has indicated that post-sale price adjustments are generally corrections to the price resulting from clerical or other data input errors. Moreover, petitioners assert that such a reclassification undermines the Department's policy of requiring a respondent to demonstrate that the rebate is justified. Therefore, petitioners conclude that Dofasco's claimed adjustments must be denied. Additionally, petitioners assert that even if the Department adjusts for Dofasco's rebates, it should not directly adjust for two types of ''rebates'' because Dofasco reported these on a customer-specific basis, and not on a transaction or product-specific basis.

Respondents argue that, even if the Department does not accept Dofasco's ''rebates'' as rebates (as defined by the Department), it must at a minimum accept them as post-sale price adjustments, since they reflect a respondent's normal business practice. Regarding the two types of ''rebates'' allegedly reported on a customer-specific basis, Dofasco claims that the Department verified that these rebates have been reported for each customer on a product-specific basis.

Department's Position: We agree in part with respondents. While petitioners have asserted that post-sale price adjustments are ''generally corrections to the price resulting from clerical or other data input errors,'' they have failed to note that in the case from which they cite, the Department also allowed post-sale price adjustments which were *not* data input errors, because they reflected the respondent's ''normal business practice.'' See *AFBs* at 10930. As Dofasco has argued, the post-sale price adjustments in this instance do reflect its normal business practice. The Department reviewed numerous documents at verification which confirmed this, and petitioners have not suggested otherwise. Additionally, although documentation regarding the administration of these ''rebates'' for this administrative review differs from the LTFV investigation, their existence since the beginning of the investigation indicates that the use of these ''rebates'' reflects Dofasco's normal business practice. Nevertheless, in *AFBs* (at 10929), the Department stated that ''as a general matter, the Department only accepts claims for discounts, rebates and price adjustments as direct adjustments to price if actual amounts are reported for each transaction.'' The Department discovered at verification that for certain customers, for two types of Dofasco's claimed rebates (REBATE1H and REBATE2H), ''Dofasco totaled the value of specific credit notes issued to a customer and allocated them over sales to that customer.'' Furthermore, Dofasco demonstrated at verification that it had ''allocated rebates for a number of customers because the credit notes did not specify the invoices on which Dofasco granted the credit, and company officials noted that the invoicing department did not always identify correctly the specific product on which the credit was being granted.'' See *Verification Report* at 22. Thus, it is clear that these adjustments have often not been made on a transaction-specific basis, and the Department will, accordingly, treat them as indirect selling expenses for certain customers.

Finally, the Department disagrees with petitioners' assertion that reclassification undermines the Department's policy with respect to rebates. Rebates typically may be granted as a fixed and constant percentage of sales. The Department's policy is to treat them as direct adjustments if they are reported on that basis. *AFBs* at 10929. By contrast, post-sale price adjustments are usually granted on a transaction-by-transaction basis and, to qualify as direct adjustments, may only be reported on that basis.

Comment 14: Respondents state that the Department's preliminary results give the wrong impression concerning Dofasco's sales of secondary merchandise. Dofasco claims that it has informed the Department ''since the beginning of the LTFV investigation'' that it cannot properly identify all the product characteristics of secondary merchandise. Thus, Dofasco objects to the Department's alleged inference that Dofasco represented as accurate information certain product characteristics of its secondary merchandise.

Petitioners did not comment on this issue.

Department's Position: The Department has not stated at any time in this review that Dofasco has attempted to represent as complete information certain reported product characteristics for its sales of secondary merchandise. The evidence on the record of this review repeatedly confirms that Dofasco has consistently maintained it is unable to properly identify the product characteristics in question. See, *e.g., Response of Dofasco Inc. to Sections IV & V of the Department of Commerce's Antidumping Administrative Review Questionnaire,* pp. 15–17 of Section IV, (November 14, 1994); *Supplemental Response of Dofasco Inc. to Section III, IV, and V of the Department of Commerce's Antidumping Administrative Review Questionnaire,* pp. 21–25 (December 23, 1994); and *Response of Dofasco Inc. to Section III, IV, and V of the Department of Commerce's Antidumping Administrative Review Supplemental Questionnaire,* pg. 6 (February 22, 1995). Furthermore, the Department explicitly verified respondents' contention through a thorough review of Dofasco's records regarding secondary merchandise. See *Sales Verification Report* (May 5, 1995), pp. 8–10. The preliminary results of review merely confirm that the Department performed its model match on these six product characteristics (see also the Department's April 19, 1995 memorandum on secondary merchandise).

Comment 15: Respondents claim that the Department employed a methodology for adjusting for taxes which artificially inflates margins. Dofasco notes that 19 U.S.C. 1677a(d) (1988) of the statute requires the Department to adjust U.S.P. to take into account taxes that are levied upon foreign market sales, but that are rebated or not collected upon export sales. Respondents argue that because the Department's tax methodology violates the United States' international obligation by increasing or creating dumping margins, the Department should adopt the tax-adjustment methodology upheld by the Court of Appeals in *Federal Mogul Corp.* v. *United States (Federal Mogul),* 94–1097, –1104, at 20–21 (Fed. Cir. Aug. 28, 1995). Dofasco claims that the Court of Appeals specifically held that this U.S.P. tax-adjustment methodology is in accordance with the United States' international agreements and is reasonable.

Petitioners assert that respondents have improperly characterized the *Federal Mogul* opinion, and furthermore, that Dofasco's proposed alternative methodology would ''artificially *deflate* the amount of cash deposits'' (emphasis added). First, petitioners claim that the Court supported the Department's methodology in *Federal Mogul* as consistent with the express statutory language and ''not an unreasonable position.'' Petitioners add that, even if the results are contrary to certain GATT provision, the Court noted in *Federal Mogul* that ''in the event of a conflict between a GATT obligation and a statute, the statute must prevail.'' Therefore, the Court did not order the Department to utilize the methodology in *Federal Mogul* which respondents in this case now advocate. Instead, according to petitioners, the Court allowed the Department discretion to select a tax methodology such as the one used for the preliminary results here.

Second, petitioners argue that the utilization of Dofasco's proposed tax methodology would reduce the estimated duty deposit rate to a level below what it would be if no tax were imposed in the home market. Specifically, petitioners argue that Dofasco's approach, while creating an absolute dumping margin which is tax neutral, would deflate the *ad valorem* margin. Petitioners allege that this significant aspect of the methodology was not addressed by the Court of Appeals in *Federal Mogul,* and that ''no court has ever suggested that it was Congress' intent to *diminish* the amount of cash deposit rate to the detriment of the domestic industries (emphasis original).''

Department's Position: In accordance with *Federal Mogul,* we have changed our VAT methodology (see VAT tax methodology section, above).

Comment 16: Petitioners claim that Dofasco used an improper methodology for calculating its product-specific cost of production (COP), constructed value (CV), and difference in merchandise (difmer) data. Petitioners argue that Dofasco did not calculate its costs using its entire production volume to calculate weighted-average costs per product, but rather used only production for home market sales orders to determine the cost of manufacturing (COM) for COP, and only its production for U.S. sales orders to determine its COM for CV. Furthermore, petitioners claim that Dofasco did not alert the Department in its response concerning its methodology.

Respondents claim that petitioners have misunderstood the cost methodology employed by Dofasco to calculate COP and CV. Respondents state that their calculation methodology is a two-step process. First, Dofasco calculates a per unit production cost based on total production of a Dofasco product. Dofasco then weight-averages all Dofasco products by the Department's control number and by production for sale in a particular market. Dofasco argues that this methodology is in accordance with the statute (19 U.S.C. 1677b(e) (1995) for CV and 19 U.S.C. 1677b(b) (1995) for COP) and in accordance with the Department's questionnaire instructions.

Department's Position: The Department agrees with respondent and considers Dofasco's COP/CV response to be in compliance with the statute and with the Department's questionnaire.

Petitioners' argument that Dofasco used an improper methodology in determining COP and CV for subject merchandise because it does not take into account all of Dofasco's production is incorrect. As documented at verification, Dofasco used costs based on total production (on a control number basis) to determine COP and CV figures.

In addition, as stated in the Department's questionnaire issued to Dofasco, COP represents ''the total cost of production of each product sold in the home market/third country'' and constructed value ''is based upon the costs incurred to produce each product sold in the U.S. market, as if it had been sold in the home market.'' Thus, Dofasco's practice of basing COP and CV on home market sales and U.S. sales respectively is entirely consistent with the Department's practice and intent.

Comment 17: Petitioners claim that Dofasco failed to include third-country production in its weighted-average cost calculations. As a result, according to petitioners, there is no way for the Department to determine accurate product-by-product cost data.

Respondents claim that, as explained in Comment 16 above, the cost of manufacture for each product within a control number is based upon Dofasco's entire production volume of that product, regardless of where each individual production run of that product was sold.

Department's Position: As stated above, the Department verified that Dofasco used costs incurred in its total production (within each CONNUMH and CONNUMU) to determine the COP and CV of subject merchandise. Third country information was only disregarded when Dofasco weight-averaged its costs to determine U.S.-specific CV data and home market-specific COP data.

Comment 18: Petitioners claim that the reliability of Dofasco's COP data is compromised because Dofasco included in its calculations numerous sales orders where there was no cost for slab production, resulting in ''understated'' costs.

Respondents note that, for a small number of products, Dofasco inadvertently has not reported slab costs. Respondents maintain that this was a simple error arising from their presumption that there were no sales in 1994 of steel poured into ingots at Dofasco's ingot mill, which the Department verified had closed in the third quarter of 1993. Respondents argue that petitioners should have informed the Department of this error prior to petitioners' submission of their case brief, and that petitioners' failure to do so was a deliberate attempt to prevent respondents from presenting proof that the actual incidence of missing slab costs is insignificant.

Respondents add that, in the event Dofasco is not allowed the opportunity to correct this obvious error, the Department should adopt Dofasco's proposed methodology to correct this error, which Dofasco claims is adverse because it results in a certain increase in the cost data of all control numbers.

Department's Position: We agree with petitioners in part. Regardless of whether Dofasco's failure to report certain slab costs was an oversight, the Department is obligated to correct such errors. Because of the nature of this error, which prevented the Department from identifying which sales should have included slab costs, the Department has adopted the following methodology: the Department upwardly adjusted Dofasco's reported value for the control number which we verified, utilizing the weighted-average costs of slab production of all sales orders except those for which slab costs were clearly not included in reported production costs. Then, we applied to all control numbers, for both COP and CV purposes, the percentage difference between the upwardly adjusted value figure and the originally reported value figure as a partial BIA,. Because of the limited nature of this error, and the fact that Dofasco has been cooperative, the Department does not believe that total BIA is appropriate.

Comment 19: Petitioners claim that the problems with Dofasco's cost data, as put forward in comments 16–18 above, also affected the difmer data to the point where such data is inaccurate and unreliable. Petitioners state that the data used to calculate COP, which it claims did not include certain slab cost data, were also used to calculate difmers. Additionally, petitioners argue that the difmers were calculated incorrectly for a significant number of CONNUMs where Dofasco sold the merchandise in both the home and U.S. markets. Finally, petitioners stress that the calculation of accurate difmer data is not possible because Dofasco ignored production for export to third countries in calculating COP, and there is no way to know whether all or only some CONNUMs are affected.

Respondents agree with petitioners that the cost data used to calculate the difmer should be based on both U.S. and home market cost data, but that, due to a programming error, this did not occur in ''a few instances.'' Respondents argue that all the necessary information is currently on the record for the Department to recalculate difmers, and have provided the Department with proposed calculation strings and programming language to correct the data. Therefore, Dofasco asserts that there is no reason for the Department to resort to BIA.

Department's Position: The Department agrees with petitioners that Dofasco's reported difmer data is incorrect. However, the errors are obvious and were brought to the Department's attention in sufficient time for correction. Moreover, as noted by respondent, the Department does possess all the information necessary to correct this data. As a result, the Department corrected this data by using the computer code submitted by respondent. The Department has thoroughly reviewed this language and is satisfied that it fully corrects the difmer data.

Comment 20: Petitioners claim that respondents have under reported general and administrative costs by improperly deducting from its expense two items designated as ''Reversal of Restructuring Costs.'' Petitioners assert that the Department is clear that such prior period reversals are not part of the current year's cost of production. Petitioners argue that the Department should add a certain percentage to Dofasco's COP and CV figures to compensate for this improper calculation.

Respondents argue that petitioners have been ''inconsistent'' on this issue between the LTFV investigation and this review. Respondents claim that, since the Department included the restructuring expenses (as ordinary expenses borne by the entire corporation) in their entirety as part of COP and CV in the LTFV investigation, the Department should now accept a prior period reversal of a portion of those original restructuring estimates. According to Dofasco, this approach would achieve consistency in the Department's treatment of these restructuring expenses, and would also coincide with the Department's ''long-standing practice'' of following the home country's generally accepted accounting principles.

Respondents further argue that petitioners' reliance on *Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe from Italy,* 60 FR 31981, 31987 (1995) is misplaced, because in that instance, the respondent attempted to benefit from a reversal during a POI of an expense prior to the POI.

Department's Position: The Department agrees with respondent. In the *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Canada* (58 FR 37108), the Department agreed with petitioners that estimated expenditures related to restructuring should have been included in their entirety as part of COP and CV. In the investigation, these expenditures were on Dofasco's financial statements.

In the present review, Dofasco's financial statements include certain partial reversals of those earlier restructuring estimates. In order for the Department to be consistent and abide by its long-standing policy, it must also include these partial reversals in its calculation of COP and CV for Dofasco.

Comment 21: Petitioners note that Dofasco claimed a total of five levels of trade which consisted of distributors, known as service centers, and the following four categories of end-users: automotive, construction, converters, and manufacturers. Petitioners claim that the Department should reject Dofasco's claim that its end-user customers comprised four distinct levels of trade and that Dofasco has not proved distinct selling functions for the reported total of five levels of trade. Petitioners argue that the Department should disallow respondents' claim of different levels of trade within one general category because it is contrary to Departmental practice. Petitioners claim further that any differences pointed to by Dofasco among its purported levels of trade predominantly concern quantities purchased, not function. Petitioners argue that the Department has emphasized in the past that such differences do not warrant distinct level of trade treatment. Finally, petitioners claim that the analysis provided by respondents attempting to show a correlation between price and selling expenses on the one hand and levels of trade on the other is flawed and meaningless. Thus, petitioners state that the Department should allow only two levels of trade: Distributors and end-users.

Respondents note that the Department calculated its dumping margin in the final determination of the LTFV investigation based on its five reported levels of trade, which the Department verified. According to respondents, because the Department has verified these same five levels of trade in this review, and ''*nothing* has changed'' since the investigation regarding Dofasco's levels of trade, a Departmental decision to collapse Dofasco's levels of trade would ''constitute a change of policy * * * from the investigation,'' and that an agency must present an adequate basis for a policy change in such a situation. Moreover, respondents assert that the Department has differentiated among end-users in past cases. Finally, respondents claim that there were no meaningful methodological errors in its analysis of price and selling expenses by trade level, and that the record shows that Dofasco's prices indeed vary by level of trade for each particular product group.

Department's Position: In asking for level of trade information, the Department attempts to determine where in the distribution chain the respondent's customer falls (end-user, distributor, retailer). Thus, ''comparisons are made at distinct, discernible levels of trade based on the function each level of trade performs, such as end-user, distributor, and retailer.'' See *Certain Carbon and Alloy Steel Wire Rod from Canada* (''*Wire Rod from Canada*''), 59 FR 18791, 18794 (April 20, 1994) (Import Administration Policy Bulletin 92/1 (July 29, 1992)).

In this case, Dofasco has reported separate levels of trade among four types of end-users: that is, Dofasco claims that, while all four types of end-users occupy the same spot on the distribution chain, the differences among these end-users are significant enough that the Department would be mistaken to conduct its model match if they were aggregated into one end-user level.

However, the Department normally disallows a respondent's claim of different levels of trade within one general category. See *Disposable Pocket Lighters from Thailand*, 59 FR at 53415, and *Disposable Pocket Lighters from Thailand*, 60 FR 14263, 14264 (final determination) (March 16, 1995). We note that, in its divisions among end-users, the only characteristics of each of these end-users about which Dofasco uniformly informed the Department were quantities and the customer's end-products. This represents the type of information which the Department highlighted as being inadequate in *Wire Rod from Canada* (59 FR at 18794).

In this respect, the Department notes that Dofasco has referred to a case (*Limousines from Canada*, 55 FR 11036, 11039 (1990)), in which two end-users were differentiated due to differences in volume purchased, lower prices, and different sales resources. With regard to quantities purchased, it is noteworthy that the decision in *Limousines from Canada* predates *Wire Rod from Canada* by four years, and as such does not reflect current Department policy with regard to quantities purchased. Moreover, there is no discussion on the record of this review confirming price differentials among construction, converter, and manufacturing end-users. Finally, regarding sales resources, the Department found at verification that Dofasco's construction and manufacturing customers are served by the same sales division, and Dofasco has not set up a sales division to service only its converter customers as it has done, for example, for its automotive customers.

Dofasco also points to *Stainless Steel Bar from Spain*, in which Dofasco maintains that ''the Department separated end-user customers into two levels of trade because the characteristics of those customers were significantly different.'' See *Stainless Steel Bar from Spain*, 59 FR 66931, 66937 (December 28, 1994). In fact, in its discussion Dofasco omitted a crucial distinction between the end-users in the case of *Stainless Steel Bar from Spain*: namely, one set of end-users purchased through one distribution channel (direct from factory), while the other group of end-users made its purchases through a different distribution channel (from related service centers).

Nevertheless, Dofasco did report significantly more information regarding its sales to the automotive industry than it has for its sales to converters and manufacturers. This information includes a differentiated sales process (through a wholly-owned subsidiary), early vendor involvement, the presence of long-term requirements contracts, and generally lower prices. Together, such distinct and discernible functions represent exactly the sort of evidence which serves to distinguish sales to automotive manufacturers from sales to other customers, notwithstanding petitioners' contention regarding the methodological integrity of Dofasco's analysis of price and selling expenses. Moreover, the Department acknowledged in its questionnaire the uniqueness of automotive manufacturers as steel industry customers. Specifically, the computer field CUSTOMER CATEGORY/LEVEL OF TRADE (CUSTLOT) stated that respondents should ''(s)how a different code for each of the basic types of customers to whom you sell the merchandise, *e.g.*, auto manufacturers, steel service centers, etc...'' (emphasis added).

Finally, with regard to Dofasco's assertion that a Departmental decision to collapse Dofasco's levels of trade would constitute a change of policy from the investigation, and that ''an agency must present an adequate basis for a policy change'' (see *British Steel, Plc* v. *United States*, 879 F. Supp. 1254, 1307 (Ct. Int'l Trade 1995), citing *Secretary of Agric.* v. *United States*, 347 U.S. 645, 653–54, 74 S.Ct. 826, 832, 98 L.Ed. 1015 (1954)), the LOT issue addressed in this review was not brought to the Department's attention in the investigation and the Department is not precluded from making a determination on that issue in this administrative review. Neither petitioners nor respondents briefed the issue in the investigation. Each segment of a proceeding (*e.g.* investigations and review) forms a separate administrative record about which parties may raise issues before the Department and seek judicial review.

The Court's decision in *British Steel, Plc* v. *United States* cited by respondents is inapposite to the present case. The British Steel decision addressed a situation where the Department changed an explicitly stated policy between two segments of a proceeding. The issues raised by Petitioners in this proceeding concern the proper treatment of LOT in light of the facts presented and the Department's current policy.

Consequently, in accordance with standard practice, the Department has determined that Dofasco's three reported levels of trade ''construction'', ''converter'', and ''manufacturer'' are combined into one end-user level of trade. We have treated the automotive sector as a separate level of trade for the following reasons: a differentiated sales process (through a wholly-owned subsidiary), early vendor involvement, the presence of long-term requirements contracts, and generally lower prices.

Comment 22: Petitioners assert that, for one term of sale, the Department should include freight revenue to Dofasco in gross unit price and should deduct reported freight rates. Petitioners note that Dofasco did not supply actual freight rates, and that Dofasco acknowledged that in certain cases it did not pay the same amount for freight as the amount charged by Dofasco to its customers. Therefore, petitioners claim that the Department should add freight paid in certain sales, and deduct reported minimum freight for that destination in the home market, and add freight paid in certain United States sales while deducting maximum freight for that destination. Additionally, petitioners claim that an adjustment should also be made to net price for the purposes of the cost test, but that the application of the maximum freight rate (instead of the minimum) should be used as BIA.

Respondents argue that the Department properly accepted the freight amounts charged to Dofasco's customers for one term of sale. First, respondents state that there existed no requirement that Dofasco report actual freight charges. According to respondents, such a requirement would have imposed an unreasonable burden. Second, respondents stress that the Department has no reason to believe that the amounts charged to Dofasco's customers for these sales do not ''reasonably approximate'' Dofasco's actual freight expenses. Finally, respondents assert that petitioners have not indicated how differences between reported freight expenses and minimum/maximum freight rates charged are in any way significant.

Department's Position: In reporting its freight expenses, Dofasco Inc. has used an allocative methodology because, as the Department verified, the carrier invoices Dofasco for this term of sale for a group of shipments, as opposed to individual sales orders. Because (1) it would impose a heavy burden on respondents to report actual freight charges; (2) the terms of the questionnaire did not prohibit the use of an appropriate allocative methodology in determining freight expenses; and (3) the Department has consistently allowed the use of reasonable allocative methodologies in reporting freight expenses (See, *e.g., Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pie from Italy*, 60 FR 31981, 31987 (June 19, 1995), and *Oil Country Tubular Goods from Korea* (''*OCTG from Korea*''), 60 FR 33561, 33563 (June 28, 1995)), the Department agrees with respondent that respondent's use of allocations for the values reported for freight expense, (*i.e.*, the amounts charged by Dofasco to its customers) is acceptable and we determine that the use of this allocation methodology does not cause inaccuracies or distortions.

Nevertheless, the Department notes that Dofasco reported and the Department verified: (1) The amount Dofasco charged its customer on the invoice and the amount the customer paid Dofasco; and (2) the minimum freight rate charged by the carrier to Dofasco per destination for the home market, the maximum freight rate charged by the carrier to Dofasco per destination for the United States market, and the actual amount Dofasco paid the carrier. The reported minimum freight rates charged by the carrier to Dofasco in the home market reflect the minimum amount to be deducted from foreign market value. Therefore, the Department verified that Dofasco would have lowered its FMV (thereby lowering its margin) had it been able to report actual freight charged by the carrier to Dofasco, because the Department verified that in fact, Dofasco was always charged a higher rate by the carrier in the home market. Similarly, the reported maximum freight rates charged by the carrier to Dofasco in the U.S. market reflect the maximum amount to be deducted from U.S. price. Hence, the Department verified that Dofasco would have raised its USP (thereby lowering its margin) had it been able to report actual freight charged by the carrier to Dofasco, because the Department verified that in fact, Dofasco was always charged a lower rate by the carrier in the U.S. market.

The Department verified that differences between reported freight expenses and minimum/maximum freight rates charged are indeed significant (see, *e.g.*, Dofasco Sales Verification Report, May 5, 1995, pg. 21), and thus, contrary to respondents' assertion, the Department has adequate reason to believe that the amounts charged to Dofasco's customers for these sales do not reasonably approximate what Dofasco actually paid the carrier.

Regarding petitioners' claim that an adjustment should also be made to net price for the purposes of determining whether certain sales have been made below the cost of production, but that the application of the maximum freight rate (instead of the minimum) should be used as BIA (thereby increasing the likelihood that a sale would fail the cost test by deducting a greater amount from the sale's gross unit price), the Department agrees with petitioner that some form of BIA should be used. However, petitioners' proposal in this situation, in which Dofasco has cooperated fully with the Department and has provided extensive information for the record of this review, is not appropriate. Petitioners have proposed that the Department adjust upward Dofasco's minimum freight rate per home market destination by the highest percentage difference between minimum and maximum freight rates for any home market destination. Instead, the Department determines that the percentage difference between minimum and maximum freight rates for the most popular home market destination for this term of sale should be used to upwardly adjust minimum freight rates for all home market destinations. The resulting BIA rate shall be applied to upwardly adjust the minimum freight charged to Dofasco by the carrier for home market sales for the purposes of calculating net price for the cost test.

Therefore, for one term of sale, the Department will add freight paid to Dofasco by the customer and deduct reported minimum freight paid by Dofasco to its carrier for that destination in the home market, and add freight paid to Dofasco by the customer while deducting maximum freight paid by Dofasco to its carrier for that destination in the United States.

Comment 23: Petitioners argue that the Department must deduct estimated antidumping duties paid by the respondent or related parties from U.S. price. Section 772(d)(2)(A) states that the purchase price and exporter's sales price shall be reduced by United States import duties. According to petitioners, antidumping duties are ''incident to bringing the subject merchandise from the place of shipment in the country of exportation to the place of delivery in the United States'' and are therefore properly classified as import duties. Furthermore, petitioners claim that antidumping or countervailing duties are considered ''import duties'' in trade laws unless the provision specifically indicates otherwise.

Respondents rebut petitioners' assertion by noting that the Department, the courts, and the U.S. Congress have rejected petitioners' argument. Dofasco stresses that petitioners have cited ''no legal or other authority whatsoever'' to support their argument. Respondents assert that Congress did not intend for the antidumping law to operate in the manner proposed by petitioners; that furthermore, Congress explicitly rejected such a treatment in drafting the Uruguay Round trade negotiations implementing legislation; and that to follow petitioners' proposal would result in a geometric and infinite margin inflation. Additionally, respondents have only paid ''*estimated duty deposits,*'' and not actual antidumping duties. Therefore, respondents claim that the U.S. Court of International Trade has agreed with the Department's practice of refusing to deduct estimated antidumping duty deposits in calculating margins for a given period of review.

Department's Position: While section 772(d(2)(A) requires the deduction of normal ''import duties,'' cash deposits of estimated antidumping duties are not normal import duties, and do not qualify for deduction under section 772. Contrary to petitioners' argument, the CIT in *Federal-Mogul* v. *United States* 813 F. Supp. 856, 872 (CIT 1993), recognized that the actual amounts of normal duties to be assessed upon liquidation are known because they are based upon rates published in the Harmonized Tariff Schedule and the actual entered value of the merchandise. In contrast, deposits of estimated antidumping duties are based upon past dumping margins and may bear little relation to the actual current dumping margin. Thus, the CIT recognized the distinction between estimated antidumping duties and ''normal'' import duties for purposes of section 772(d)(2)(A).

Petitioners' methodology also conflicts with the holding of the CIT in *PQ Corp.* v. *United States,* 652 F. Supp. 724 (CIT 1987), in which the court addressed the issue of deduction of estimated antidumping duties under section 772(d)(2)(A). The court cited with approval the Department's policy of not allowing estimated antidumping duties, based upon past margins, to alter the calculation of present margins. The court explained ''[i]f deposits of estimated antidumping duties entered into the calculation of present dumping margins, then those deposits would work to open up a margin where none otherwise exists.'' *Id.* At 737.

Petitioners argue at length that the Department should not distinguish between purchase price and ESP transactions in deducting antidumping duties. However, because the Department does not deduct estimated antidumping duties from any transaction, this argument is inapposite.

The Department agrees with petitioners that statements made in the URAA are not relevant in this review, which is being conducted under pre-URAA law. However, the policies of other countries, cited by petitioners with respect to this issue, are equally irrelevant.

Comment 24: Respondents claim that the Department made a clerical error in its computer program on an inland freight charge for a U.S. sale.

Petitioners claim that the Department made clerical errors in the computer program by: failing to include the further processing field in the U.S. price calculation; failing to deduct a U.S. rebate from U.S. price; improperly classifying U.S. duty and brokerage as U.S. direct expenses instead of movement expenses; and double-counting one home market rebate.

Respondents agree with petitioners' identified clerical errors. Petitioners did not comment on respondents' identified clerical errors.

Department's Position: We acknowledge the clerical errors which both parties have identified, and have corrected them for our final results of review.

MRM

Comment 25: MRM contends that the Department's preliminary results contained a ministerial error affecting its treatment of VAT as it relates to U.S. sales. MRM asserts that the Department should multiply U.S. Price by 1.07 to account for the seven percent VAT tax which should be added to U.S. price.

Petitioner agrees with MRM but argue that a similar error was made affecting FMV.

Department's Position: The Department disagrees with both petitioners and respondents. In response to *Federal Mogul* v. *United States,* we have changed our VAT methodology in a manner not addressed by either party. See the VAT tax methodology section, above.

Comment 26: Petitioners contend that MRM has not substantiated its reported rebate expense by failing to demonstrate that the rebates were contemplated at the time of sale, and that (with one exception) MRM did not have any written rebate agreements with any of its customers. In support for their position, petitioners cite *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews,* 60 FR 10900, 10930 (February 28, 1995). In addition, Petitioners allege that there is no documentary evidence of MRM's reported ''rebate program.'' Given the average value of these ''rebates'', Petitioners argue that the Department should not grant any adjustment to MRM's FMV (with the exception of the one customer who had a written agreement with MRM).

MRM contends that it has satisfied the legal criteria for establishing that the Department should adjust FMV for rebates. MRM holds that it has established that the rebates are directly related to the sales under consideration by tying them directly to sales invoices and making reference to them on the invoice. In addition, MRM states that the Department conducted sales traces at verification that established that MRM paid the rebates and the documentation noted that the rebates were either customer or product specific in nature. MRM also argues that these rebates are fixed and determinable at the time of sale, and that it is a demonstrable business practice of MRM to offer these rebates.

Department's Position: We agree with petitioners that MRM failed to demonstrate that the rebates were contemplated at the time of sale. At verification, we confirmed that in the normal course of business, MRM normally made verbal agreements over the telephone with its customers concerning rebates. Only one of MRM's customers had a written rebate agreement. At verification, we examined documentation for MRM's one customer that had a written rebate agreement. We found that the agreement stated MRM's rebate program for the upcoming year, the rebate amount and the minimum purchase necessary to qualify for the rebate.

For the rebates where there were verbal agreements, we examined correspondence between MRM and its customers. These letters indicated the amount of sales on a monthly basis, the amount of the rebate earned and method of MRM's payment of the rebate to the customer. However, the correspondence from MRM to its customers fail to indicate what the customer knew at the time of the sale. In addition, MRM stated during verification that ''[i]n most cases there is no written agreement but there are verbal agreements between MRM and its customers. Negotiations and inquiries over MRM's rebate program are usually conducted over the telephone. MRM stated that it does not usually send a confirmation letter to its customers.'' See MRM Sales Verification Report (May 5, 1995), at pg. 14. With regard to MRM's rebates, respondent has failed to provide adequate evidence proving prior customer awareness for the claimed rebate.

As we stated in our position in Comment 13 concerning Dofasco's rebates, the Department allows post-sale price adjustments that reflect the respondent's ''normal business practice.'' The Department found that MRM's ''rebate'' program is part of the company's ''normal business practice.'' As the Department reviewed numerous documentation at verification that confirmed that MRM did pay the ''rebate'' amount claimed in the response, and as we tied the payments to the sale of subject merchandise, we will reclassify MRM's rebates to post-sale price adjustments and deduct them from FMV.

Comment 27: Petitioners note that MRM was unable to report actual credit expense because it could not report actual date of payment, and instead estimated credit expense by multiplying its short-term interest rate by the terms of payment offered to the individual customer. Petitioners contend that MRM's credit expense cannot be based upon terms of payment alone, but must reflect actual credit experience in each market, since all customers do not always pay according to agreed terms of payment. In support of their position, petitioners cite *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews,* 60 FR 10900, 10915 (February 28, 1995); and *Final Determination of Sales at Less Than Fair Value; Certain Tapered Roller Bearings from Italy,* 49 FR 2278 (January 19, 1984). Petitioners contend that the Department should make no adjustment to FMV for credit expense and, for U.S. sales, apply as BIA the highest per unit credit expense reported by MRM for any sale.

MRM argues that it reported estimated dates of payment based upon each customer's terms of payment because it does not maintain records of actual date of payment received for each invoice. MRM notes that Canadian GAAP does not require this information be maintained or collected by MRM. However, MRM did keep track of overdue accounts, and included those figures in its estimates.

Department's Position: We disagree with petitioners that MRM's credit expenses should be denied. At verification, we found that MRM was unable to report the actual expense because in the normal course of business, MRM does not maintain information on the date of payment in its computer system. We find that MRM's use of the average age of invoices for each month of the POR to be an acceptable methodology given the lack of company data concerning date of payment and the fact that the actual number of days outstanding on late payments were included in the estimate. At verification, we found that the credit information contained in the company's sales response tied to the company's internal records. We specifically examined customer-specific information about the number of days outstanding for credit while conducting our examination of MRM's sales traces at verification and found no discrepancies.

We disagree with petitioners' interpretation of *Roller Bearings from Italy* because in that case, the Department rejected the credit expense because ''the seller received payment on various dates *later* than those required under the terms of sale but did not account for this (emphasis added).'' In contrast, MRM's methodology specifically took into account actual credit experience on overdue accounts. We also disagree with petitioners' reliance on *Antifriction Bearings from France* in which the Department stated that it would be inappropriate to make an adjustment based solely on agreed terms rather than actual terms. In this review, MRM was unable to report the actual expense due to its record keeping system but did account for the late payments. Therefore, for the purposes of the final results, we have allowed the claimed credit expense.

Comment 28: Petitioners note that MRM has reported estimated freight expenses despite an ability to report actual freight expenses on an invoice-by-invoice basis. Therefore, Petitioners contend that the Department should reject MRM's freight information and as BIA use the lowest home market freight adjustment for all home market sales and the highest reported expense for constructed value and U.S. sales.

MRM argues that in the ordinary course of business, it does not track actual freight costs to individual invoices. Instead, MRM includes an estimated freight cost in each invoice and when later available, records the actual freight payment in its account payable records. MRM argues that the Department verified the accuracy of these estimates by comparing the monthly variance between actual and estimated freight payments for shipments in both the U.S. and home markets. MRM states that it established the reasonableness of this approach at verification. MRM contends that the Department's preliminary decision to accept MRM's estimated freight expense is both reasonable and supported by substantial evidence on the record.

Department's Position: We agree with respondent. We found that MRM does not track the actual freight payment on a invoice-by-invoice basis in the normal course of business. At verification, we examined documentation concerning MRM's estimated freight amounts and we successfully tied the estimated amounts to the response and proof of payment. In addition, we examined the variances between actual and estimated freight payments for both home market and U.S. sales and found that the variances were either nonexistent or *de minimis* and thus verified the accuracy of the method of estimation. Consequently, we determine that MRM's freight methodology is reasonable and will allow the adjustments for the final results.

Comment 29: Petitioners argue that MRM improperly calculated its interest expense based upon information for 1993 and the first half of 1994, instead of using only annual data. Petitioners contend that using partial year 1994 data is inappropriate and MRM should have used only 1993 information.

MRM argues that the Department verified the reported interest expense by tying it and the cost of goods sold to the audited financial statements of the Canam Manac group. Petitioner notes also that there is no compelling reason to base interest expense solely on annual figures.

Department's Position: We agree with respondents. The Department tied MRM's interest expense at verification from the questionnaire response to the audited financial statements. We specifically examined the annual data from MRM's audited financial statements for 1993 and 1994. Consequently, the Department examined and verified the full year data on interest expense for both 1993 and 1994 and the actual interest expenses during the POR. Accordingly, the Department will use MRM's interest expense as reported in its questionnaire response.

Comment 30: Petitioners note that MRM reported its G&A expenses on a per/ton basis instead of expressing it as a ratio of cost of goods sold. Petitioners contend that the Department should recalculate the G&A expense as a percentage of cost of goods sold. In addition, petitioners assert that the Department should recalculate MRM's G&A expense as a ratio using 1993 annual data only (excluding the use of partial-year 1994 data).

MRM states that it recalculated its G&A expense as a percentage of the cost of goods sold, in accordance with Departmental instructions, and submitted it the Department on May 5, 1995. Regarding Petitioner's argument that G&A expense should be based upon fiscal year figures only (citing *Oil Country Tubular Goods from Argentina* (60 FR 33539, 33549), MRM notes that the case actually states that ''the Department long-standing [sic] practice is to calculate G&A expenses from the audited financial statement which most closely correspond to the POI.'' Therefore, MRM claims it is entirely appropriate to use the audited financial records corresponding directly to the POR.

Department's Position: We agree with petitioners in part. We agree that the G&A expense should be calculated as a percentage of the cost of goods sold. However, petitioners are incorrect in their assertion that MRM's G&A expense is calculated on a per/ton basis. The Department required MRM to recalculate its G&A on a cost of goods sold basis (see *Memorandum to the File,* May 5, 1995, p.2).

However, we disagree with petitioners that the Department should recalculate MRM's G&A expense as a ratio using 1993 annual data only (excluding the use of partial-year 1994 data). As we stated in *Oil Country Tubular Goods,* the Department's methodology for G&A expenses intends to smooth out fluctuations and capture a representative picture of respondent's G&A costs. MRM's G&A expenses are based on the cost of goods sold over the POR which include 1993 and the first seven months of 1994. At verification, we examined MRM's costs over the entire POR to ensure that respondent properly included all relevant costs in the calculation of its G&A expense. We tied the cost of goods sold to MRM's financial records and statements and determined that both the numerator and denominator in the G&A equation were correct and that the costs were not distortive.

We agree with MRM's interpretation of *Oil Country Tubular Goods from Argentina* where the Department stated that its long-standing practice is to calculate G&A expenses from the audited financial statements which most closely correspond to the POI. The Department's position is also explained in Furfuryl Alcohol (see, *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From Thailand*, 60 FR 22557, 22560, May 8, 1995) where the Department determined that the G&A rate should be calculated from the annual audited financial statements. Since the Department confirmed the accuracy of MRM's G&A

expenses and tied the expenses to both its 1993 and 1994 audited financial statements, we will use MRM's G&A costs for the final results.

Stelco

Comment 31: Stelco states that on August 11, 1995, it advised the Department of a significant error contained in the computer program used to calculate the antidumping margin calculation. Stelco maintains that the Department's computer error resulted in the exclusion of more than 60 percent of Stelco's U.S. sales from the antidumping margin calculation.

Department's Position: We agree with respondent and have corrected our calculations for the final results of review.

Comment 32: Petitioners state that the Department must apply BIA for Stelco's sales of prime corrosion-resistant merchandise with missing product characteristics. Petitioners state that the Department's methodology for matching prime sales with missing product characteristics violates three provisions of the antidumping statute. Petitioners contend that the statute requires the Department to determine FMV based on the price at which ''such or similar merchandise'' is sold in the home market. ''Such or similar merchandise,'' say petitioners, is defined by the statute as merchandise that is ''identical in physical characteristics'' or ''like that merchandise in component material or materials.'' Petitioners contend that these provisions compel the Department to match sales based on actual physical characteristics of the products and do not permit the Department to exclude sales with missing physical characteristics or to assume that missing characteristics are the same as reported for missing characteristics on matching sales.

Petitioners continue that the antidumping statute requires the Department to make adjustments to FMV to take into account the differing costs that are present when matched products are similar but not identical.

Petitioners conclude that the Department must use BIA if the respondent is unable to provide the adequate information, citing *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France et al.,* (57 FR 28360, 28379 June 24, 1992). By failing to report full product characteristics for a number of prime home market and U.S. sales, petitioners state that Stelco made it impossible to accurately perform the model match with respect to these sales or to determine accurate costs of these products. Petitioners assert that the Department is required to use BIA whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation. Petitioners recommend that to ensure that respondents are encouraged to provide complete information, the Department should apply to the relevant transactions the higher of second-tier BIA or the highest non-aberrant margin found on any Stelco sale. Petitioners indicate that this degree of BIA should be applied to all U.S. prime sales with missing product characteristics as well as to all U.S. sales whose best match could have been a home market sale with missing characteristics.

Stelco contends that it did not fail to report any information available to it, nor did it misrepresent any information. Respondent indicates that Stelco informed the Department that there were a few sales for which it was not able to identify all of the product characteristics requested by the Department, and that a majority of these were sales of secondary merchandise and that the remainder were excess prime sales. Stelco explains these sales of seconds and excess prime had lost their ''mill order number'' and the company then lost track of the characteristics of the merchandise and does not know all of the manufacturing processes.

Respondent maintains that petitioners overstate the significance of limited-characteristic sales. Respondent states that these sales equal .04 percent of total U.S. sales volume. Additionally, Stelco reasserts that given its inability to calculate exact costs for excess prime products, it applied its most reasonable surrogate: The average cost of production for all products having those same characteristics.

Furthermore, respondent objects to petitioners' allegation that Stelco purposefully failed to report product characteristics to conceal high-priced home market sales to circumvent the antidumping law. Stelco states that its inability to provide complete characteristics represents an unintended consequence of the characteristics of the company's normal product invoicing system.

Respondent states that petitioners' assertion that the Department's comparison of these sales violates three provisions of the antidumping statute is based on a fundamentally flawed concept of the law. Respondent maintains that there is nothing in the statute that defines ''identical'' as meaning ''identical in every respect,'' that the interpretation of what is identical is up to the Department, and that the Department's comparison of limited-characteristic merchandise is the only reasonable policy in this case.

Department's Position: We disagree with petitioners. The Department has the authority to determine what merchandise qualifies as such or similar for the purposes of the statute. *United Engineering & Forging* v. *the United States,* 779 F. Supp. 1375, 1380–82 (CIT1991); *NTN Bearing Corp.* v. *United States,* 747 F. Supp. 726, 735–36 (CIT 1990); *Kerr-McGee Chem. Corp.* v. *United States,* 741 F. Supp. 947, 951–52 (CIT 1990); *Monsanto Co.* v. *the United States,* 698 F. Supp. 275, 277–278 (CIT 1988); *Timken Co.* v. *United States (Timken I),* 630 F. Supp. 1327, 1338 (CIT 1986).

Stelco's sales of excess prime represent a very small portion of its home market and United States sales and consist of one or more of the following types of merchandise: (1) Material downgraded from use in exposed portions of automobiles to use in unexposed portions; (2) merchandise resulting from production overruns; (3) leftover materials after customers cancel orders; and (4) merchandise with coil weights less than that required by the customer. The Department verified that Stelco customarily effects these sales by offering the customer a list of products it has ready for sale at specific prices, and the customer returns the offer either accepted, rejected or with a counteroffer. The sales process for this merchandise differs significantly from sales of other prime merchandise because under usual circumstances, the buyer and Stelco discuss quantity, quality and price before the merchandise is produced.

The few prime sales Stelco made that did not have complete physical characteristics were orders for which the mill order number had been lost. The Department verified that Stelco designates prime sales lacking complete characteristics as excess prime sales before the product is sold. Stelco then finds customers for this merchandise. Although the material in question is prime, Stelco reported and the Department verified that it is sold at a reduced price, and in the vast majority of cases to distributors. While this merchandise is not defective, full and complete physical characteristics were not needed to make the sale to the customer. The end uses of such material are applications for which knowledge of certain of the product's characteristics was unimportant.

The use of BIA is not appropriate in this case, because Department methodology properly matches sales based on the information Stelco reported. The Department verified that because of the way that Stelco keeps its records Stelco could not report the full physical characteristics of the small number of sales in question. Petitioners' reference to *AFB's from France* is not precisely relevant, because in that case, the Department used the BIA cited by petitioners as total BIA for companies that either failed to respond to the Department's questionnaire or were unable to complete verification. In this case, Stelco cooperated with the Department and provided all the product matching physical characteristics that it could report. In addition, the Department could use the information that Stelco provided for matching purposes. Consequently, the use of total BIA in this circumstance is unwarranted.

The Department's model match methodology uses a series of matching product characteristics to find such or similar matches. Using these product characteristics, the Department can reasonably find an ''identical'' match although the merchandise may not be identical in every physical characteristic. We note that the Department used the same matching methodology in the LTFV investigation. (See *Memorandum from Roland MacDonald to Joseph Spetrini,* A–100–003, April 19, 1995).

Therefore, because Stelco sold this merchandise in both markets, because the missing physical characteristics were not important to Stelco's customers and because we verified that respondent reported all physical characteristics it could, the Department matched this merchandise based on the limited physical characteristics reported. Since these were the only physical characteristics relevant to the way the product was sold, we conclude that we may make appropriate matches on the basis of only these physical characteristics in this limited circumstance.

Comment 33: Petitioners contend that Stelco incorrectly reported gross unit prices for corrosion resistant and cut-to-length plate sales in both markets and that they should be rejected. Petitioners state that Stelco directly adjusted its reported gross unit prices for various clerical billing errors or other price adjustments. These adjustments were not made on a transaction-specific basis but were allocated over all invoices referenced on a particular credit or debit memo. Furthermore, say petitioners, Stelco's reporting made it unfeasible to decide what adjustments were made to particular sales, because allocated debits and credits were applied directly to gross unit price and not in a separate computer field, as required by the Department. Petitioners maintain that because it is not possible to determine the actual prices for sales to which price adjustments were assigned, the Department must reject Stelco's information with respect to these sales.

Petitioners argue that it is the Department's practice to require respondents to attribute price adjustments to the precise transactions that lead to the adjustments on a transaction-specific basis, citing *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France et al., Final Results of Antidumping Administrative Review,* (58 FR 39729, 39759 July 26, 1993) (*AFBs from France* (1993)). Despite the fact that the Department rejected Stelco's reporting of allocated price adjustments in the original investigation, and although both the CIT and a U.S.—Canada Binational Panel have specifically upheld the Department's policy with respect to price adjustments, Stelco reported allocated price adjustments in this review, declare petitioners.

Petitioners maintain that in the case in which a respondent improperly allocates adjustments, the Department's normal practice is to treat the adjustments as indirect selling expenses in the home market, and to use the highest reported price adjustment as BIA in the U.S. market. Petitioners conclude that Stelco's improper reporting of its price adjustments merits this application of partial BIA, because it did not list these in the manner required by the Department. When a respondent fails to provide usable information for certain sales, the Department's practice is to use second-tier BIA for the misreported U.S. sales, as well as the U.S. sales whose matching FMV is affected by misreported home market sales, maintain petitioners.

Respondent states that as verified by the Department through each selected sale, Stelco's credit and debit notes reference the specific invoice or invoices to which the credit or debit applies. Respondent continues that in the original investigation, adjustments for clerical errors were made on a customer and product-specific basis only. Respondent indicates that this means that in the investigation they allocated the total of all credit and debit notes issued to a customer on subject merchandise over all sales of subject merchandise to that customer: there was no tying of the adjustments to the individual invoices that they referenced in the adjustments. However, respondent states that for this review Stelco matched each credit and debit note to the specific invoice or invoices to which the note applies. Therefore, concludes respondent, the adjustments are no longer customer and product-specific, but are transaction-specific.

Respondent additionally argues that Stelco correctly reported adjustments for clerical errors in billing. Respondent states that Stelco did not report these errors in a separate computer field for ''rebates'' or ''discounts,'' because they do not meet that definition. Respondent concludes that at verification, the Department reviewed numerous transactions involving adjustments for clerical errors and noted in the verification report that ''all values had been entered correctly and that all adjustments had been calculated properly.''

Department's Position: We agree with respondent. The verification report states that the Department examined documentation concerning Stelco's adjustments to price and we determined that Stelco properly allocated debit and credit notes on a transaction-specific basis. *In AFB's from France,* the Department made direct adjustments for reported home market discounts, rebates, and price adjustments if they were calculated on a transaction-specific basis and were not based on allocations. Petitioners' reliance on *AFB's from France,* as the basis for the Department to determine that Stelco incorrectly reported its gross unit sales prices is therefore unfounded because Stelco reported the majority of these expenses on a transaction-specific basis. However, on occasion, Stelco allocated debit and credit notes for a particular customer over more than one invoice. While the Department prefers that discounts, rebates and other price adjustments be reported on a transaction-specific basis, the Department has long recognized that some price adjustments are not granted on that basis, and thus cannot be reported on that basis.

The Department does not agree that Stelco's methodology is sufficient to warrant application of BIA under the policy as discussed in *AFBs from France* (1993) 58 FR at 39759. In that case, the Department contrasted preferred, transaction-specific reporting with customer- or product-specific reporting. In this case, the amount of ''allocation'' is limited to a few specific transactions, all to the same customer, and typically within a very limited period of time. Thus the danger of allocation, which is the averaging effect on prices, is extremely limited in this case. This case is similar to situations, permitted by the Department as direct adjustments, in which a rebate is granted on a limited number of purchases by a single customer. Because Stelco's method of reporting these adjustments is reasonable, the Department has allowed it as a direct adjustment.

Comment 34: Petitioners assert that the Department should use BIA with respect to Stelco's reported cash discounts for corrosion-resistant sales citing *AFBs from France* and *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et al., Final Results of Antidumping Administrative Review,* (60 FR 10,929 February 28, 1995). Petitioners state that the Department should treat these discounts as indirect selling expenses in the home market, and should use the highest reported discount as BIA in the U.S. market for all sales which incurred discounts because Stelco failed to report its early payment discounts on a transaction-specific basis.

Respondent maintains that the Department's decision to accept Stelco's calculation of cash discounts is reasonable and is supported by evidence on the record. To calculate the adjustment for discounts, Stelco calculated total monthly sales and the total cash discount taken per month for each eligible customer. Stelco then calculated the actual percentage of cash discounts taken by each customer for each month. They then applied these percentages to the gross unit price. Stelco thus calculated the most precise early payment discount adjustment that it could from the information it had available from its computerized accounting system.

Department's Position: We agree with petitioners. Although Stelco's submission of January 9, 1995 indicated that it granted the discounts on a transaction-specific basis, due to accounting restraints, Stelco could not report the actual discount amount, if any, granted on each transaction. Consequently, the Department has no basis to treat this discount as a direct selling expense. Consistent with our practice as outlined in *AFBs from France,* we are treating these discounts as indirect selling expenses in the home market and as direct selling expenses in the U.S. market as best information available.

Comment 35: Petitioners maintain that the Department should not make a particular adjustment for certain U.S. sales of corrosion-resistant carbon steel products.

Respondent agrees that if petitioners' allegation is valid, that the Department should carefully examine its program to confirm that the claimed double-counting in fact occurs under the Department's program.

Department's Position: We agree with petitioner and respondent that the adjustment results in double-counting and therefore the Department will not make this adjustment for the final results. Further explanation of this adjustment would reveal business proprietary information. (See Analysis Memorandum).

Comment 36: Petitioners argue that the Department must deduct antidumping duties paid by the respondent or related parties paid on imports. Section 1677a(d) (1994) states that the purchase price and exporter's sales price shall be reduced by United States import duties. Petitioners continue that antidumping duties are ''incident to bringing the subject merchandise from the place of shipment in the country of exportation to the place of delivery in the United States'' and are therefore properly classified as import duties. Furthermore, petitioners claim that ''duties'' or ''import duties'' in trade laws are to be read as antidumping or countervailing duties unless the provision specifically suggests otherwise.

Respondent maintains that the Department has consistently refused to deduct antidumping duties from U.S. price and that it should continue to do so. Respondent asserts that petitioners argue that 19 U.S.C. 1677a(d) requires the Department to deduct antidumping duties from United States price. Respondent cites *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.* 60 FR 10900 (1995) and *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et al.* 58 FR 39726 (1993) stating that to make an additional deduction from ESP for the same antidumping duties that correct this price discrimination results in double counting, and that the amount of antidumping duties assessed on imports of subject merchandise constitutes a selling expense, and therefore, should be deducted from ESP.

Respondent continues that as recently as a month ago, the Department rejected almost identical arguments in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Plate from the United Kingdom* 60 FR 44009 (1995). In that case, the Department rejected petitioners' arguments and refused to make an adjustment for antidumping duties in its calculation. Respondent concludes, therefore, that the Department should reject petitioners' arguments in this case and continue to deduct antidumping duties from USP.

Department's Position: We disagree with petitioners. For a more detailed explanation, please see Comment 23.

Comment 37: Petitioners contend that Stelco U.S.A.'s slitting expenses must be treated as further manufacturing costs for purposes of calculating ESP. According to petitioners, respondent reported slitting expenses in the fields OTHEXP1U and OTHEXP2U but did not report these expenses in the fields for further manufacturing costs, nor were they treated as further manufacturing costs by the Department in its preliminary results. Instead, argue petitioners, the Department directly deducted these costs as selling expenses in calculating ESP. Petitioners state that Stelco U.S.A.'s slitting constitutes increased value resulting from a process of manufacture performed after importation. Therefore, petitioners assert that the Department must treat these expenses as further manufacturing costs for purposes of the final results.

Respondent maintains that the Department's questionnaire instructs respondents to consider slitting expenses as selling expenses and that Stelco was required to treat these expenses as such for the sales listing, and not as a manufacturing cost. Additionally, continues respondent, the Department decided that Stelco's slitting expenses did not change an ESP sale into a further manufacturing (FMG) sale, but used the slitting expenses as an additional expense to ESP sales.

Department's Position: We agree with petitioners. Stelco U.S.A. arranges for slitting services to be performed by unrelated parties prior to shipment or sale to its customers. Section 772 (e)(3) requires that adjustments to U.S. price be made for ''any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on the imported merchandise after importation of the merchandise and before its sale to a person who is not the exporter of the merchandise.'' The Department does not agree with Stelco's argument that the fact that further manufacturing expenses are requested in the sales section of the questionnaire gives any indication that such expenses will be treated as selling expenses. Accordingly, the Department is treating this slitting expense as further manufacturing for purposes of the final determination.

Comment 38: Petitioners assert that respondent reported mistaken amounts in the field for variable manufacturing costs. Instead of reporting the correct variable costs amounts from the cost database, Stelco used the total cost of manufacture for each control number in the sales listing, state petitioners. Petitioners maintain that the Department must correct this error for the final results.

Department's Position: We agree with petitioners and have corrected this error.

Comment 39: Petitioners state that the Department made several errors in its margin calculation programs that should be corrected for the final results. Petitioners list the following as the mistakes in the program for corrosion-resistant products: (A) The Department set various U.S. adjustments to ''0''; (B) the Department placed price adjustments in the field for U.S. direct expenses, and should have included them with other discounts and rebates to be deducted from U.S. price; (C) the Department's program treats credit expenses as indirect selling expenses in calculating ESP; (D) the program fails to convert the fields RCOM, RGNA, and RINTEX into U.S. dollars in calculating the foreign manufacturing costs of imported goods; and (E) the program fails to include technical services in the calculation of purchase price for U.S. sales. Additionally, the program also leaves out the variables for inventory carrying costs and market warehousing expenses in calculating indirect expenses for purchase price sales, contend petitioners. With respect to the program for plate, petitioners state that the Department's program incorrectly treats inventory carrying costs in the home market as a direct expense.

Respondent did not comment on A, and agrees with petitioners on comments B, C, and D and provided additional coding to rectify price adjustments in the field for U.S. direct expenses in the corrosion-resistant margin calculation program. With respect to comment E, respondent states that technical services should be treated as direct expenses and therefore should receive the same treatment in all calculations of net prices involving both corrosion-resistant and cut to length carbon steel plate. Regarding petitioners' comment on the treatment of inventory carrying costs, warehousing, and U.S. indirect expenses, Stelco alleges that contrary to petitioners' request, indirect selling expenses are not deducted from purchase price sales, and that the Department should not deduct such expenses from these sales. Respondent also agrees with petitioners' comments regarding plate and provided coding to correct the claimed inaccuracies.

Department's Position: We agree with petitioners on comment A. We agree with petitioners and respondents on comments B, C, D and E. We also agree with respondents that inventory carrying costs, warehousing and U.S. indirect expenses are not deducted from purchase price sales. We agree with petitioners and respondents regarding the alleged inaccuracies regarding the margin calculation for plate. (See Analysis Memorandum).

Final Results of Reviews

As a result of our reviews, we have determined that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Corrosion-Resistant Steel		
Dofasco, Inc	2/4/93–7/31/94	1.65
Continuous Colour Coat	2/4/93–7/31/94	1.96
Stelco, Inc	2/4/93–7/31/94	0.19
Cut-to-Length Plate		
Algoma Steel Inc	2/4/93–7/31/94	1.82
Manitoba Rolling Mills	2/4/93–7/31/94	0.02
Stelco, Inc	2/4/93–7/31/94	0.92

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service. Stelco's rate for corrosion-resistant and Manitoba Rolling Mill's rate for plate are *de minimis.*

Furthermore, the following deposit requirements will be effective, upon publication of this notice of final results of review for all shipments of certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates for those firms as stated above (except that if the rate for a particular product is *de minimis i.e.*, less than 0.5 percent, a cash deposit rate of zero will be required for that company); (2) for previously 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 this review, or the original 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 18.71 percent for corrosion-resistant steel and 61.88 percent for cut-to-length plate, the all others rate established in the LTFV investigations. See *Amended Final Determination,* 60 FR 49582 (September 26, 1995).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. 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 notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: March 20, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7462 Filed 3–27–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–428–816]

Certain Cut-To-Length Carbon Steel Plate From Germany: Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 13, 1995, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Germany. This review covers one manufacturer/exporter of the subject merchandise to the United States during the period of review (POR), February 4, 1993, through July 31, 1994. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Linda Ludwig, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 1995, the Department published in the Federal Register (60 FR 36105) the preliminary results of the administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Germany (58 FR 44170, August 19, 1993). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of These Reviews

The products covered by this administrative review constitute one ‘‘class or kind’’ of merchandise: Certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ‘‘worked after rolling’’)—for example, products which have been bevelled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The POR is February 4, 1993, through July 31, 1994. This review covers entries of certain cut-to-length carbon steel plate by AG der Dillinger Hüttenwerke (Dillinger).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case and rebuttal briefs from the respondent (Dillinger) and petitioners (Bethlehem Steel Corporation, U.S. Steel Company a Unit of USX Corporation, Inland Steel Industries, Inc., Geneva Steel, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and Lukens Steel Company). Dillinger requested a hearing then subsequently withdrew its request; therefore, no hearing was held.

Comment 1: Petitioners assert that based on the overwhelming number of problems with Dillinger's information, the Department has no choice but to apply total best information available (BIA). Petitioners base their assertion on a claim that, despite an inordinate number of opportunities to correct its deficient submissions, Dillinger has still failed to provide reliable data on even the most fundamental elements of the Department's analysis. According to petitioners, the Department's verification reports and exhibits demonstrate Dillinger failed verification. Petitioners assert that problems with Dillinger's data include: a majority of Dillinger's home market sales transactions examined at verification contained erroneous data; Dillinger's product coding contains systemic problems; Dillinger failed to demonstrate complete reporting of U.S. sales for 1994 and home market sales for 1992 and 1994; Dillinger failed to resolve a discrepancy between verification documentation and reported U.S. sales quantities; Dillinger did not provide the necessary actual to theoretical weight conversion factors for cost of production (COP), constructed value (CV), and differences in merchandise (DIFMER) adjustment; Dillinger miscoded customer levels of trade; Dillinger failed to demonstrate that certain freight services provided by related parties were at arm's-length; Dillinger failed to demonstrate that commissions paid to related parties were at arm's-length; Dillinger failed to provide information regarding 500 related companies thus preventing the Department from verifying whether they provide Dillinger with services related to subject merchandise; Dillinger extensively misreported dates of sale and failed to demonstrate to the Department that its reported sales took into account changes in price and payment date; Dillinger reported as date of payment the date on which payment was due to it rather than the actual date on which payment for home market sales was received; and Dillinger's data contains numerous additional inaccuracies and omissions.

Petitioners cite the Department's recent decision to assign total (uncooperative) BIA to Mannesmannrohren-Werke AG (MRW)