Committee will be held February 20, 1996, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street between Constitution & Pennsylvania Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Public Session

1. Opening remarks by the Chairman.
2. Presentation of public papers or comments.
3. Review of status of New Forum negotiations.
4. Report on status of Export Administration Regulations (EAR) reform and changes that impact aerospace industry.
5. Update on status of interagency satellite and gas turbine engine jurisdiction discussions.
6. Report on licensing issues that impact support of U.S. origin systems.
7. Update on status of Missile Technology Control Regime.
8. Review of Executive Order for the Administration of Export Controls.

Closed Session

9. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA, Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 22, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For further information or copies of the minutes call (202) 482–2583.

Dated: January 23, 1996.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 96–1449 Filed 1–26–96; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–405–802]

Certain Cut-To-Length Carbon Steel Plate From Finland: 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 18, 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 Finland. 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: January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Robin Gray, 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 18, 1995, the Department published in the Federal Register (60 FR 36776) the preliminary results of the administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Finland (58 FR 44165, 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 This Review

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 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 POR is February 4, 1993, through July 31, 1994. This review covers entries

of certain cut-to-length carbon steel plate by Rautaruukki Oy (Rautaruukki).

Consumption 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 of the United States, 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 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 case and rebuttal briefs from Rautaruukki (the respondent) and petitioners. Petitioners requested a public hearing but subsequently withdrew their request for a hearing. Therefore, no hearing was held.

Comment 1: Petitioners argue that best information available (BIA) must be used for Finnsteel's costs. According to petitioners, Rautaruukki admitted that Finnsteel, its U.S. selling subsidiary, was involved in the U.S. sales of subject merchandise. Petitioners claim that nonetheless Rautaruukki failed to report any of Finnsteel's costs on sales of subject merchandise. Although Rautaruukki subsequently claimed that Finnsteel is not actively involved in the sales to the U.S. of the subject merchandise, petitioners note Rautaruukki could not substantiate its claim at verification. Petitioners argue that the Department failed to include Finnsteel's costs in calculating the preliminary results. Petitioners contend that expenses were incurred by Finnsteel as a direct result of specific sales. Finnsteel would not perform such activities absent specific sales of subject merchandise. Petitioners argue that the expenses could have been tied to specific sales—if Rautaruukki and Finnsteel had kept adequate records. Rautaruukki should have separated and reported Finnsteel's direct expenses for these services. Since it failed to do so, the Department cannot determine which of Finnsteel's costs are direct. Since at least some of Finnsteel's costs were direct selling expenses, the Department must assign BIA to those unreported expenses. The Department should follow its standard practice and assume all of Finnsteel's expenses were direct expenses. Since Finnsteel's selling expenses were either not reported or not reported separately, the Department should use the reported indirect selling expense as BIA for direct selling expenses.

Respondent counters that there is no evidence on the record that Finnsteel is actively involved in the sales of the subject merchandise in this administrative review. Rautaruukki explained in its response that its U.S. sales during the POR were made directly from Rautaruukki's Raahe Steel Works to the unrelated customer. Respondent notes the verification report states that Rautaruukki reported that it handled all of the transactions and all activity related to the sale of subject merchandise from Finland. Respondent also notes that the Department also found that all documentation examined at verification only listed Rautaruukki and the U.S. customer. Also, the unrelated U.S. customer submitted a sworn affidavit confirming that it purchased the subject merchandise directly from Rautaruukki during the POR. Respondent notes that although Finnsteel acted as a ''communications link'' for sales of subject merchandise during the POR, Finnsteel's role did not rise to the level of active participation in the sales process to warrant treating the U.S. sales as exporter's sales price (ESP) transactions. Respondent argues that the record in this administrative review clearly demonstrates that Finnsteel acted only as a communications link with the unrelated customer. Therefore, the U.S. sales in this administrative review were purchase price, and no further adjustment is warranted.

Department's Position: We agree with respondent. Respondent reported that normally transactions are handled through Finnsteel; however, sales of subject merchandise made to the U.S. during the POR were exclusively handled by Rautaruukki. At verification, we found no evidence of Finnsteel's involvement in the sales of subject merchandise during the POR. All documents examined supported the conclusion that Finnsteel did not participate in these transactions. Sales were made directly from Rautaruukki to the U.S. customer. Because of the lack of evidence of Finnsteel's involvement, we cannot assume Finnsteel incurred costs on the sales of subject merchandise to the United States during the POR. Therefore, the Department is

not making a sales adjustment for Finnsteel's costs in these final results.

Comment 2: Petitioners argue that the Department must correct two errors in the margin calculation program. Due to one of the errors, the Department's sales below cost test for the preliminary results used a cost of manufacture (COM) that was only a fraction of the true COM. One line read ''TOTCOM2 = FOREX = TOTCOM1'', while it should have read ''TOTCOM2 = FOREX + TOTCOM1''. The second error occurred in the calculation of home market selling expenses for use in cost (SELLCOP). Petitioners contend the Department failed to include certain expenses, which were reported in the other expense field, in the calculation of SELLCOP.

Respondent argues that the Department's margin calculation program is correct. The Department gave interested parties a chance to comment on the proposed programming language in October 1994. Petitioners submitted comments in that same month. The petitioners' attempt to present new comments regarding the Department's computer programming language is untimely and should be rejected on that basis. Moreover, the Department's margin calculation program is correct and needs no adjustments.

Department's Position: We agree with the petitioners. The programming language that was released for comments in October 1994 was preliminary and was not company specific. Both of the errors that the petitioners have claimed are related to company specific programming. In these final results, we have changed the program to read ''TOTCOM2 = FOREX + TOTCOM1''. This error resulted in incorrect cost test results. However, the Department's May 18, 1995, analysis memo and the Federal Register notice of the preliminary results in this administrative review did not reflect the incorrect cost results. After correcting the errors, the Department did in fact find sales below cost for Rautaruukki in this administrative review. Therefore, the discussion of sales below cost found in the preliminary notice and the May 18, 1995 analysis memo is consistent with the corrected, final cost test results. Finally, while we have not allowed a direct sales adjustment for the other expense field as discussed in the preliminary results, we have included this other expense field in the calculation of SELLCOP for these final results because these are costs incurred.

Comment 3: Petitioners argue that Rautaruukki incorrectly reported its general and administrative expenses (G&A). The Department has a long-standing practice of requiring G&A expenses to be reported as a percentage of cost of sales. Also, the G&A factor is normally calculated using G&A recorded in the company's audited financial statements for the year that most closely corresponds to the POR (see Furfuryl Alcohol from Thailand, 60 FR 22557, 22560–61 (May 8, 1995)). Petitioners argue that Rautaruukki did not use the regular methodology accepted by the Department. It based G&A on 1993 data and data from eight months of 1994, and it calculated a per ton G&A amount. Petitioners maintain this is erroneous in two respects. First, it did not use data from the audited financial statements (the 1994 data was from an interim financial statement which was not audited). The 1994 data constitutes the type of part-year data the Department does not use because G&A expenses are incurred sporadically throughout the fiscal year or are based on estimates that are adjusted to actual at year-end. Second, the calculation is a per ton G&A amount, rather than a factor that is a percentage of cost, as required by the questionnaire and Department practice. The Department should recalculate the G&A expense using Rautaruukki's 1993 audited financial statements and other verified 1993 information.

Respondent argues that it correctly reported G&A expenses and that the cost verification report states that the Department verified all appropriate expenses for Raahe were included in G&A and that the appropriate methodologies were applied. Furthermore, respondent claims the Department found no discrepancies between the Group profit and loss report and the reported consolidated financial statements. Respondent notes in support of its argument for using an annual G&A factor, petitioners reference cases which are antidumping investigations and not administrative reviews. Respondent contends that petitioners reliance on these investigations is misplaced when applied to this administrative review. In an investigation where sales span a six-month period, the Department generally looks to a full-year period in computing G&A, because such a period encompasses operating results over a longer time span than the period of investigation and typically reports the results of at least one business cycle. In this administrative review, the POR covers an eighteen month period, and Rautaruukki provided annual and interim financial reports which are prepared in the ordinary course of business. Respondent claims these reports cover the entirety of the POR; therefore, they represent the most complete and accurate information available, and they exceed the standard of Furfuryl Alcohol from Thailand.

Department's Position: We agree with petitioners. It is our standard practice to base G&A on an amount derived from annual audited financial statements and to calculate it as a percentage of cost rather than a per ton amount. See Final Determination of LTFV: 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 37099 (July 9, 1993)(Comment #43). The fact that this is an administrative review, rather than an investigation, has no relevance. The 1994 data used by Rautaruukki is still partial year data based on unaudited financial statements. We do not use partial year data because G&A expenses are often incurred sporadically throughout the year and are often accrued based on estimates until they are adjusted to actual at year-end. It is also our standard practice to calculate G&A based on a percentage of cost, rather than a per ton amount because G&A expenses are more closely associated with costs than with weight. Id. Therefore, we have recalculated G&A for Rautaruukki as a percentage of cost using only 1993 data from Rautaruukki's audited financial statements. Regarding Rautaruukki's argument that the Department verified their G&A expense, the Department's verification confirmed that all appropriate expenses were included in the reported G&A. The verification report statements that the allocation methodology was verified only indicated that the figures and methodology reported by Rautaruukki accurately traced to their books and records. This allocation methodology is not that traditionally utilized by the Department in allocating G&A.

Comment 4: Petitioners argue that the interest expense factor was calculated using the same methodology used for the G&A factor, and thus suffers from the same flaws as the G&A factor. Additionally the unaudited 1994 amount used in the interest expense calculation suffers from an additional flaw—it is incorrect because Rautaruukki erroneously deducted short-term interest that it paid. Instead, petitioners argue the Department should take Rautaruukki's 1993 consolidated interest expense less dividend income, divided by total cost of goods sold less selling expenses. Petitioners claim this is a conservative interest expense factor highly favorable to Rautaruukki because it assumes all interest income is short-

term, which the Department did not verify, and only Rautaruukki's G&A (rather than consolidated G&A, which is not on the record) is deducted, which results in a larger denominator and thus a lower factor.

Respondent argues that it correctly reported its interest expenses. For the reasons stated in Comment three above, Rautaruukki correctly reported its interest expenses by providing the Department with the most complete and accurate information available. Additionally, petitioners' interest expense factor calculation is flawed. The net financial expense figure is grossly overstated because petitioners' figure includes currency exchange differences as interest expenses.

Department's Position: We agree with petitioners in part. As with G&A expenses, it is our standard practice to base interest expense on an amount derived from audited consolidated annual financial statements and to calculate interest expense as a percentage of cost See e.g. Preliminary Determination of Sales at LTFV: Grain-Oriented Electrical Steel from Italy, 59 FR 5991 (1994). Furthermore, the choice of allocation methodologies is left to the Department's discretion. See PPG Industries v. United States 746 F. Supp. 119 (CIT 1990). The 1994 data used by Rautaruukki is partial year data based on unaudited financial statements. Therefore, we have recalculated interest expense for Rautaruukki using only 1993 data.

We also agree with respondent in part that the petitioners' figure is overstated because it contains currency exchange differences as interest expense. To calculate interest expense for the final results, we have used the interest expense examined at verification, which is based on the consolidated financial statements, divided by consolidated cost of sales taken directly from the consolidated financial statements in the annual report.

Comment 5: Respondent argues that the Department erred in collapsing home market control numbers (CONNUMHs) IO6X and TA6X and thereby made incorrect product matches. The questionnaire established a hierarchy of product characteristics that the Department would use in identifying individual plate products. Each unique combination of these characteristics is treated as a distinct product. The Department discovered instances where multiple control numbers were being assigned to the same set of product characteristics. The Department collapsed CONNUMHs IO6X and TA6X, which it understood had identical product characteristics. These were matched to the U.S. sales of CONNUMU IO6X. In doing so, the Department mistakenly matched sales of beveled plate to sales of plate which had not undergone the further manufacturing process required to produce beveled plate. In terms of quality, the two product control numbers are identical. CONNUMs starting with IO through LL represent basic cut-to-length plates which are not painted, and CONNUMs starting with RA through UX represent plates with a beveled edge. Beveled plate is produced only after an additional manufacturing process, which is performed on a separate production line. It incurs additional costs which must be taken into consideration in Rautaruukki's pricing decisions. These additional costs are reflected in Rautaruukki's home market database. In collapsing these control numbers, respondent argues the Department incorrectly collapsed two products with different product characteristics. In so doing, respondent claims the Department incorrectly compared sales of beveled plate in the home market with sales of normal plate in the U.S. market.

Petitioners counter that the Department correctly collapsed CONNUMHs IO6X and TA6X. Nowhere in its brief does Rautaruukki identify the product characteristics which it believes are different for the two CONNUMHs. This is because there are no product characteristics that are different. According to petitioners a review of the products in IO6X and TA6X shows that they are identical for the eight physical characteristics identified by the questionnaire. By separating the products in CONNUMHs IO6X and TA6X, Rautaruukki introduced into a primary place in the hierarchy a product characteristic—beveling—that was not selected by the Department. Petitioners argue such unilateral modification of the Department's hierarchy should not be permitted. When the Department gave interested parties an opportunity to comment on the model match hierarchy in August 1994, Rautaruukki submitted comments. Those comments did not contain a single reference to beveling. In fact, no interested parties identified beveling as a physical characteristic that ought to be included in the plate hierarchy. Petitioners contend Rautaruukki had ample opportunity to suggest any modifications it believed to be necessary and suggest Rautaruukki simply ignored the Department's hierarchy and created its own. In doing so, petitioners argue Rautaruukki attempted to usurp the Department's statutory duty to determine what constitutes identical merchandise.

Department's Position: We agree with petitioners. On August 12, 1994, the Department solicited comments on the proposed model matching criteria. On August 26, 1994, Rautaruukki filed comments. However, Rautaruukki's comments did not propose beveling as a relevant characteristic to use in product matching. Furthermore, in its questionnaire response and supplemental response Rautaruukki failed to establish the relevance of beveling as a product matching criteria. Therefore, the Department has no basis upon which to differentiate beveled plate from non-beveled plate for matching and price comparison purposes. The Department has broad discretion to devise the methodology for determining the model match methodology as confirmed by the Courts in *Torrington Co.* v. *United States*, 881 F. Supp. 622, 635 (CIT 1995) and *Smith-Corona Group* v. *United States*, 713 F.2d 1568 (Fed. Cir. 1983), *cert. denied*, 465 U.S. 1022 (1984). Furthermore, beveled plate does not possess physical characteristics which make it unique from non-beveled plate with regard to applications and uses. We have therefore continued to collapse IO6X and TA6X.

Comment 6: Respondent argues the Department should compare U.S. sales to a trading company to home market sales to end-users. In its preliminary results, the Department reclassified the levels of trade in the home market database by collapsing sales to and sales through wholesalers into a single lot. It matched this collapsed level of trade with the level of trade reported in the U.S. market (sales to a trading company). Respondent claims the Department should have compared U.S. sales to home market sales to end-users for the following reasons: Rautaruukki has a closer relationship with the wholesalers/distributors in the home market; the home market wholesalers/distributors have a common inventory system whereas for U.S. sales, Rautaruukki does not know the ultimate customer in the United States, and therefore no common inventory system can exist; the home market wholesalers/distributors hold and fill orders from inventory unlike either the U.S. customer or the home market end-user; home market wholesalers/distributors are eligible for certain rebates, for which the U.S. customer and home market end-users are not; respondent argues the sales verification report states that since there is no inventory for purchase price sales to the U.S., the customer level of trade for the two markets should be

different; since respondent claims it does not know the ultimate customer, it considers its U.S. customer as an end-user; and plate with identical CONNUMs were sold both to the U.S. customer and to end-users in the home market.

The respondent further argues that in an antidumping investigation, the Department normally calculates foreign market value (FMV) and U.S. price (USP) based on the same commercial level of trade. The Department normally asks if the levels of trade reported by the respondent are in fact distinct and discernable, based on the respondent's explanation of their functions. Respondent notes that while the Department often matches according to customer type (see Stainless Steel Hollow Products from Sweden, 58 FR 69,332), this is not always the case (see Antifriction Bearings from France, 58 FR 39,768). In the instant case, the respondent argues that the U.S. customer is the functional equivalent to an end-user in the home market because: (1) Rautaruukki does not know the ultimate customer in the U.S. market; (2) the same product is sold to home market end-users and to the U.S. customer; (3) neither the home market end-users nor the U.S. customer qualify for the rebate; and (4) the home market end-users and the U.S. customer do not hold inventory or share a common inventory system. In Stainless Steel Bar from Spain (59 FR 66931), the Department accepted level of trade classifications based upon when the customer wanted delivery. These were distinguished by which party bore the costs and risks of maintaining a finished goods inventory. In the instant administrative review, respondent argues that sales to the United States should be compared with sales to home market end-users because, unlike wholesales/distributors in the home market, neither bears the cost of maintaining inventory.

Petitioners argue that Rautaruukki's complaints are without merit. The criteria for determining level of trade comparability are the extent to which the customers: (1) perform equivalent functions in their respective markets, and/or (2) are positioned in equivalent positions in the chain of distribution from the manufacturer to the ultimate customer (see Disposable Pocket Lighters from Thailand, 60 FR 14263, 14264 (March 16, 1995)). By these criteria, petitioners maintain there is clearly a close correspondence between the U.S. trading company and the home market wholesalers/distributors—both are Rautaruukki's first unrelated customer in a particular market, and both sell directly to the ultimate customer. In both cases, petitioners note that Rautaruukki invoices the distributor, which then in turn separately invoices its own customer (the end-user). The nearly congruent function and position of the U.S. trading company and the home market wholesalers/distributors are illustrated in Rautaruukki's own distribution channel flow charts for the two markets. They are virtually carbon copies of each other, and at one point, the U.S. trading company is referred to as a distributor. Given the verified facts, petitioners maintain the Department was correct in its decision, which was in accordance with its long-standing practice and regulations that require the FMV/USP comparisons to be made at the same or most comparable level of trade.

Petitioners further argue that it is the respondent's burden to show there are discernable functions that would make its proposed matching level a better choice than the Department's choice. Of the four points raised by the respondent in making their argument, the first three do not relate in any way to the functions performed by the buyer and, therefore are irrelevant to the determination of level of trade. The fact that Rautaruukki does not know its distributor's end-user customers in the United States says nothing about the distributor's functions, or those of home market end-users. Even if the point were relevant, Rautaruukki also does not know the end-user purchaser on many of its sales to home market distributors. There is no precedent for the payment of rebates being relevant to the functions of a customer or its position in the chain of distribution. The fact that plate with the same CONNUMs was sold to both the U.S. customer and to end-users in the home market is in no way indicative of the functions performed by any customer. Moreover, sales of identical merchandise were also made to distributors in the home market.

Petitioners continue that this reduces Rautaruukki's argument to the claim that home market end-users and the U.S. customer do not hold inventory or share a common inventory system. Even if true, this claim alone would not be a basis to reverse the Department's decision. In any event, the facts on the record do not support Rautaruukki's assertion that the U.S. buyer does not hold inventory. There is no reason for the Department to reverse its decision.

Department's Position: We agree with the petitioners. The Department's practice in finding similar levels of trade in each market requires a comparison of customers in each of the markets to determine whether they perform equivalent functions in their respective markets, and/or are in equivalent positions in the chain of distribution from the manufacturer to the ultimate customer. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Review, and Revocation in Part of Antidumping Duty Orders, 60 FR 10900, 10940–41 (February 28, 1995) (Issue 9, Comment 3). For Rautaruukki, the U.S. trading company and the home market wholesalers/distributors function at similar levels of trade. They are the first unrelated customer and both sell directly to the ultimate customer. For both markets, Rautaruukki's distributor invoices the end-user, while Rautaruukki invoices the distributor. The respondent did not demonstrate any functions, which differentiate the level of trade for wholesalers/distributors in the home market and the trading company in the U.S., to illustrate an alternate level of trade is necessary. The first three factors cited by the respondent are not elements normally considered by the Department in determining level of trade. Nor does the respondent provide any compelling reason why the Department should consider those factors in this instance. The respondent's first issue, that Rautaruukki does not know the U.S. trading company's end-user customers, does not illustrate the functions of the U.S. trading company or the home market end-users. In fact, Rautaruukki also claims it does not know the end-user purchasers on many of its sales to home market distributors yet Rautaruukki argues that these sales would be at a different level of trade. With regard to the third point, the Department does not consider either rebates or the fact that the same products are sold to home market end-users and to the U.S. customer as relevant to the functions of a customer or its position in the chain of distribution. As for the fourth point, while the U.S. customer may not have a common inventory system, there is nothing on the record to indicate that the U.S. customer does not hold any inventory. Therefore, we are continuing to match U.S. sales to the trading company with home market sales to/through wholesalers/distributors.

Comment 7: The respondent argues that it correctly reported rebates which were successfully verified by the Department. However, in the preliminary results, the Department denied Rautaruukki's reported rebate to

certain home market wholesalers/distributors because Rautaruukki's computer tape reported these rebates to a different number of home market wholesalers/distributors than were identified in the narrative response. Respondent argues that part of this discrepancy is explained by the fact that certain companies merged. Respondent also argues that although certain home market wholesalers/distributors were not specifically identified in the narrative response, Rautaruukki did submit the relevant information in the home market sales database. Accordingly respondent argues the Department should allow the adjustment.

The petitioners argue that the denial of these rebates was correct. Petitioners note that the Department verified the number of companies that received this rebate as reported in the narrative response, not as reported in the home market sales tape. Accordingly, petitioners maintain Rautaruukki's argument adds nothing new to this issue—their brief cites to no evidence on the record that one of the companies received the rebate, and Rautaruukki admits that it never specifically identified another company in its narrative response. Therefore, petitioners argue the Department should continue to exclude the rebate amounts on sales to certain companies in the final results.

Department's Position: We agree with respondent that the Department should allow all rebates. Although Rautaruukki did not specifically address all rebates in its narrative, they did report all the rebates in their database. After further examination of the verification exhibits, we have determined that all rebates were accurately reported and verified by the Department and that all these parties did receive the rebates as reported.

Final Results of Review

As a result of our review, we have determined that no margin exists for Rautaruukki Oy for the period February 4, 1993, through July 31, 1994.

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.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of plate from Finland 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 company will be the rate for that firm as stated above; (2) for previously reviewed or 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 LTFV 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) if neither the exporter nor the manufacturer is a firm covered in this review, the cash rate will be 32.25 percent. This is the ''all others'' rate from the LTFV investigation. See Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon Steel Plate from Finland, 58 FR 37122 (July 9, 1993). 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 section 353.26 of the Department's regulations 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 a 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.

This administrative review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: January 19, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–1456 Filed 1–26–96; 8:45 am]

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[C–549–401]

Certain Textile Mill Products From Thailand; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of Final Results of the Countervailing Duty Administrative Review on Certain Yarn Products covered under the Suspended Investigation on Certain Textile Mill Products from Thailand.

SUMMARY: On August 2, 1995, the Department of Commerce (the Department) published in the Federal Register its preliminary results of administrative review of Certain Yarn Products covered under the agreement suspending the countervailing duty investigation on Certain Textile Mill Products from Thailand for the period May 18, 1992 through December 31, 1993 (suspension agreement). We have completed this review and have determined that the signatories were not in violation of the suspension agreement. However, we note that the Department will require that four signatories repay the Royal Thai Government (RTG), in an annual adjustment, the amount by which all tax certificates received exceeded the import duties on physically incorporated inputs.

EFFECTIVE DATE: January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Lisa Yarbrough or Jim Doyle, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 1990, the Department published in the Federal Register (55 FR 48885) a notice terminating in part the suspension agreement on Certain Textile Mill Products from Thailand (50 FR 9837, March 12, 1985). On May 9, 1992, the Court of International Trade (CIT) held that the Department's termination was not in accordance with the law because the Department failed to strictly follow 19 CFR 355.25(d)(4). The Court of Appeals for the Federal Circuit (CAFC) affirmed the decision of the CIT on October 12, 1993, and instructed the Department to reinstate the suspension agreement. Subsequently, on October 22, 1993, the Department reinstated the suspension agreement, effective May 18,