Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3758 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–006]

Steel Jacks From Canada; 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 October 16, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding on steel jacks from Canada. The review covers two manufacturers/exporters of this merchandise to the United States, New-Form Manufacturing Co., Ltd. (NFM) and Seeburn Metal Products (Seeburn). The period covered is September 1, 1993 through August 31, 1994. The review indicates the existence of dumping margins for this period.

We gave interested parties an opportunity to comment on our preliminary results. We have adjusted NFM's margin for these final results, based on our analysis of the comments received and as a result of a changed treatment of home market consumption taxes, as explained below.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1995, the Department published in the Federal Register (60 FR 53584) the preliminary results of its 1993–94 administrative review of the antidumping finding on steel jacks from Canada (31 FR 7485, May 17, 1966).

Applicable Statute and Regulations

The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are multi-purpose hand-operated heavy-duty steel jacks, used for lifting, pulling, and pushing, measuring from 36 inches to 64 inches high, assembled, semi-assembled and unassembled, including jack parts, from Canada. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item number 8425.49.00. The HTS number is provided for convenience and Customs purposes. The written description remains dispositive.

This review covers two manufacturers/exporters, NFM and Seeburn. The period of review (POR) is September 1, 1993 through August 31, 1994.

Home Market Consumption Taxes

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 (USP) 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 Electronics Corp.* v. *United States*, 988 F. 2d 1573, 1577 (Fed. Cir. 1993), (*Zenith*), 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 USP by multiplying the adjusted USP 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 GATT. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to USP, 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 USP 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.

Seeburn

On February 3, 1995, the Department determined that the products exported by Seeburn were automobile tire jacks outside the scope of the antidumping finding on steel jacks from Canada (see February 3, 1995 Memorandum of Final Scope Ruling). Therefore, because Seeburn had no shipments of subject merchandise during the POR and Seeburn has never before been reviewed, we are assigning Seeburn the ''all others'' rate.

Analysis of Comments Received

We received comments from the petitioner, Bloomfield Manufacturing Co., Inc. (Bloomfield).

Comment 1: Bloomfield argues that the Department was correct in adding U.S. direct selling expenses (two commissions and credit expenses) to

foreign market value (FMV) since the U.S. sales were purchase price (PP) transactions. However, according to the petitioner, the Department used incorrect amounts for these expenses for certain U.S. sales.

Department's Position: In the preliminary review results, for certain U.S. sales we incorrectly divided per-unit, rather than total, expense amounts by the total quantity sold. Therefore, we agree with Bloomfield, and for these final results we have used the correct expense amounts for these sales.

Comment 2: The petitioner claims that the Department should have included in its analysis home market and U.S. sales of product 1020, and a missing U.S. sale of product 1120.

Department's Position: We agree with the petitioner. These sales were inadvertently omitted from the preliminary analysis. We have included them in these final results.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margins exist:

Review period	Manufacturer/Exporter	Margin (percent)
9/1/93–8/31/94	NFM	22.63
	Seeburn .	*28.35

*No shipments or sales subject to this review; because this firm has never been reviewed, the rate is the all others rate explained in (4) below.

Individual differences between the USP and FMV may vary from the above percentages. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Act, and will remain in effect until the final results of the next administrative review:

(1) The cash deposit rates for the reviewed companies will be the rates listed 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, a prior review, or the original less-than-fair-value (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 or any previous review conducted by the Department, the cash deposit rate will be 28.35 percent, the ''all others'' rate established in the first final results of review published by the Department (52 FR 32957, September 1, 1987).

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 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 19 CFR § 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review 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: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3755 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

Continuous Electron Beam Accelerator Facility, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–087. *Applicant:* Continuous Electron Beam Accelerator Facility, Newport News, VA 23606. *Instrument:* Field Mapping Equipment for Hall A Quadrupole Magnets. *Manufacturer:* CEA/DSM, France. *Intended Use:* See notice at 60 FR 54337, October 23, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the applicant. The National Institutes of Health advises in its memorandum dated November 30, 1995, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–3752 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–F

Florida International University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–092. *Applicant:* Florida International University, Miami, FL 33199. *Instrument:* Elemental Analyzer and Automated Interface Upgrade for IR Mass Spectrometer. *Manufacturer:* Europa Scientific, United Kingdom. *Intended Use:* See notice at 60 FR 54338, October 23, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant. The National Institutes of Health advises in its memorandum dated December 4, 1995, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.