Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by a denied person, or service any item, of whatever origin, that is owned, possessed or controlled by a denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that after notice and opportunity for comment as provided in § 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that a copy of this Order shall be served on Ace and BXA, and shall be published in the **Federal Register**.

This Order, which constitutes final agency action in this matter, is effective immediately.

Dated: August 8, 1997.

William A. Reinsch,

Under Secretary for Export Administration.

[FR Doc. 97–21453 Filed 8–13–97; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Certain Circular Welded Carbon Steel Pipes and Tubes From Thailand

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

EFFECTIVE DATE: August 14, 1997.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the antidumping duty administrative review for the antidumping order on Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand, pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

FOR FURTHER INFORMATION CONTACT: John Totaro or Dorothy Woster, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–1398 or 482–3362, respectively.

SUPPLEMENTARY INFORMATION: Under § 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the Department has determined that it is not practicable to complete this review within the statutory time limit. See Memorandum from Joseph A. Spetrini to Robert S. LaRussa (August 7, 1997).

Because it is not practicable to complete this review within the time limits mandated by the Act (245 days from the last day of the anniversary month for preliminary results, 120 days after publication of the preliminary determination for final results), in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the final results until October 7, 1997.

Dated: August 8, 1997.

Roland L. MacDonald,

Executive Director, AD/CVD Enforcement Office VII.

[FR Doc. 97–21582 Filed 8–13–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–820]

Notice of Final Results of Antidumping Duty Administrative Review: Ferrosilicon From Brazil

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

SUMMARY: On April 8, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on Ferrosilicon from Brazil. This review covers exports of this merchandise to the United States by two manufacturers/exporters, Companhia Brasileria Carbureto de Calcio (''CBCC'') and Companhia Ferroligas Minas Gerais-Minasligas (''Minasligas''), during the period March 1, 1995, through February 29, 1996.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and the correction of certain clerical and computer programming errors, we have changed our results from those presented in our preliminary results, as described below in the comment section of this notice. The final results are listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: August 14, 1997.

FOR FURTHER INFORMATION CONTACT: Cameron Werker or Sal Tauhidi, AD/CVD Enforcement Group II, Office Four, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3874 and (202) 482–4851, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 C.F.R. part 353 (April 1, 1996).

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1997, the Department of Commerce (the Department) published in the **Federal Register** (67 FR 16763) the preliminary results of review of the antidumping duty order on ferrosilicon from Brazil (March 14, 1994, 59 FR 11769). On May 8, 1997 and May 15, 1997, we received case and rebuttal briefs from the respondents, CBCC and Minasligas, and from petitioners, SKW Metals & Alloys, Inc. and Aimcor Inc. At the request of both petitioners and respondents, we held a hearing on May 22, 1997. In response to questions raised by the Department at the hearing, the petitioners submitted additional information on June 11, 1997, regarding the Department's product concordance program with respect to the distinction between lumps and fines. (For more information on lumps and fines, see *Comment 1* below.) The Department has now completed this administrative review in accordance with section 751(a) of the Act.

Scope of Review

The merchandise subject to this review is ferrosilicon, a ferro alloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element. Ferrosilicon is a ferro alloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant.

Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages by weight of contained silicon and other minor elements. Ferrosilicon is most commonly sold to the iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon. Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of this review. Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon, and 28 to 32 percent calcium. Ferrocalcium silicon is a ferro alloy containing, by weight, not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferro alloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium.

Ferrosilicon is currently classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this review is dispositive. Ferrosilicon in the form of slag is included within the scope of this order if it meets, in general, the chemical content definition stated above and is capable of being used as ferrosilicon. Parties that believe their importations of ferrosilicon slag do not meet these definitions should contact the Department and request a scope determination.

Product Comparison

In accordance with section 771(16) of the Act, we considered all products produced by CBCC and Minasligas, covered by the description in the ''Scope of the Review'' section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product based on the following criteria: (1) The grade of ferrosilicon (*i.e.*, standard, high purity and low aluminum); (2) the percentage range, by weight, of silicon content; and (3) the sieve size.

Although we have used the sieve size category as a matching criterion in past reviews, we reconsidered the matching criteria for CBCC and Minasligas in light of additional data on the record in this review. Although cost differences among sieve size categories do not exist, we considered whether the merchandise was a ''lump'' or a ''fine'' in making our product comparisons because sales of ferrosilicon fines command significantly lower market prices than sales of ferrosilicon lumps. In addition, it appears that the two products have different end-uses. Lumps are defined as having a minimum dimension of equal to or greater than one millimeter and fines as having a minimum dimension of less than one millimeter. We did not consider any difference in sieve size ranges within the lump or fine categories in determining the most appropriate product comparison because significant price differences within the lump or fine sieve size category did not exist.

Verification

As provided in section 782(i) if the Act, on February 17 through 28, 1997, we verified information provided by CBCC and Minasligas by using standard verification procedures, including onsite inspection of one of the respondent's production facilities (CBCC), the examination of relevant sales and financial records, and original documentation containing relevant information. The results of those verifications are outlined in the public versions of the verification reports dated March 19, 1997, on file in room B–099 of the main Commerce building.

Comment 1: Fines and Lumps. The petitioners contend that the dimensions used by the Department to define lumps and fines in the preliminary results were confusing and left gaps because the Department defined lumps and fines based on a minimum and maximum dimension, respectively. As a result, the petitioners claim that merchandise with one dimension smaller or larger than the established maximum and minimum ranges cannot be classified as either lumps or fines. The petitioners argue that in the final results, the Department should use a distinction that defines lumps and fines based only on a maximum or a minimum dimension. Consistent with their argument, petitioners noted at the May 22, 1997, hearing, that the Department's use of the minimum dimension to define both lumps and fines in the product concordance program, was in fact, correct.

CBCC states that although the criteria chosen by the Department for defining fines are not perfect, it agrees that the Department's criteria generally makes sense from a market point of view. Citing the Department's April 1, 1997 Concurrence Memorandum, CBCC contends that because the selling price of ferrosilicon of less than 1mm in diameter is lower than ferrosilicon of 1mm higher in diameter, the criteria used by the Department in this review appear to be reasonable.

DOC Position: We agree with the petitioners. While the product concordance program developed by the Department in the preliminary results defined lumps and fines in terms of minimum dimensions, we stated in the **Federal Register** notice that we used a maximum dimension to define fines and a minimum dimension to define lumps (see Notice of Preliminary Results of Antidumping Duty Administrative Review: Ferrosilicon from Brazil, 62 FR 16763 (April 8, 1997)). We agree that this inconsistency in the parameters defining lumps and fines was confusing, and that we should use the same parameters in the narrative definition and the product concordance program. Since none of the parties dispute that our product concordance program accurately matched lumps and fines to the appropriate comparison products, we have revised the language in the ''Product Comparisons'' section of this notice rather than alter the concordance program. *See* the ''Product Comparisons'' section, above.

Comment 2: The Sales Below Cost Test. Minasligas and CBCC contend that the Department overstated the quantity of home market sales below cost by comparing a domestic price that was exclusive of value added taxes (VAT) to a cost of production (COP) which was inclusive of VAT. Minasligas and CBCC argue that such a comparison results in an inequitable comparison and creates below cost sales where none would have otherwise existed. Minasligas and CBCC further maintain that in order to produce a fair comparison, it is the Department's practice to compare COP and the domestic price on the same basis. To support their claim, Minasligas and CBCC cite the Department's practice of comparing the net COP and the net home-market prices on the same basis in Ferrosilicon from Brazil: Final Results of Administrative Review, 61 FR 59407, 59410 (November 22, 1996) (Ferrosilicon from Brazil 96). Minasligas and CBCC further contend that the Department's Import Policy Bulletin at 94.6 states that ''both the net COP and the net home market prices should be on the same basis.''

Petitioners agree that if the Department excludes VAT from the home market net prices that are compared to COP, it is proper to exclude VAT paid on material inputs from COP in order to make an ''apples-to-apples'' comparison. However, petitioners contend that the Department should include in COP the amounts for PIS (Program Intergracao Social) and COFINS (Social Contributions on Gross Sales) taxes that CBCC excluded from the direct materials costs that the Department used for the preliminary results calculations. Citing Silicon Metal from Brazil: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part, 62 FR 1976 (January 14, 1997) (Silicon Metal from Brazil 97), the petitioners contend that the Department determined that PIS and COFINS taxes are gross revenue taxes and, therefore, are not taxes that a buyer pays directly when purchasing materials. In order for the COP to reflect the full purchase price of the materials, petitioners claim that the Department's policy is to add to CBCC's reported material costs the hypothetical values that CBCC reported as PIS and COFINS taxes on its material inputs.

For these reasons, the petitioners contend that for the final results, the Department should exclude VAT from the cost of manufacture (COM) used to calculate COP, but should include PIS and COFINS taxes. In addition, petitioners maintain that PIS and COFINS taxes should be included in the calculation of constructed value (CV) for the same reasons explained above.

DOC Position: We agree with petitioners and respondents that we incorrectly compared COPs inclusive of VAT to VAT-exclusive home market prices for purposes of the preliminary results. Therefore, for purposes of the final results, we excluded VAT (ICMS and IPI) taxes from the calculation of COP for purposes of performing the sales below cost test, as we excluded these taxes from the home market prices.

In addition, for reasons fully explained in Comments 8 and 26 of Silicon Metal from Brazil: Final Results of Antidumping Duty Review 61 FR 4673, 46764 (September 5,1996) (Silicon Metal from Brazil 96) and also in *Comment* 4 below, we agree with the petitioners that the Department should not reduce materials costs in COP and CV by amounts for PIS and COFINS taxes claimed by CBCC and Minasligas. As stated in Silicon Metal from Brazil 96, ''PIS and COFINS taxes are gross revenue taxes, and therefore are not taxes that a buyer pays directly when purchasing materials. For this reason, in order for COP to reflect the complete cost of materials, the costs the Department uses in its calculation of COP must not be net of any hypothetical tax amounts that are presumably imbedded within the purchase price of the materials.'' Furthermore, we note that PIS and COFINS are internal taxes. In this review, these taxes are paid by the supplier on the revenue generated from the sale of material inputs. As such, in order for the COP to reflect the full purchase price of the materials, we must add to its reported material costs the hypothetical values that CBCC reported as PIS and COFINS taxes on its material inputs. Thus, in accordance with our determination in Silicon Metal from Brazil 96, we determine that these taxes are not imposed directly upon the merchandise or components thereof, and as a result have no statutory basis to deduct them from the cost of manufacture used to calculate COP and CV. (See also Silicon Metal from Argentina, Final Determination of Sales at Less Than Fair Value, 56 FR 37891, 37893 (August 9, 1991) (Silicon Metal from Argentina 91)).

However, we disagree with petitioners that CBCC excluded PIS and COFINS taxes from its direct materials cost. Although CBCC provided these taxes separately in its questionnaire response, we found at verification that the direct material costs reported by CBCC included both PIS and COFINS taxes. Similarly, Minasligas also reported, and we verified, that its direct material costs were inclusive of PIS and COFINS. Therefore, for purposes of the preliminary results, the COP for both respondents was calculated inclusive of PIS and COFINS. We have made no changes in the final results for PIS and COFINS taxes.

Comment 3: Advance Exchange Contracts (ACCs) on U.S. Sales. Minasligas claims that by using ACCs to finance its export sales, the company obtains payment prior to shipment. Minasligas argues that in the final results the Department should recognize the economic benefit arising from prepayment and allow Minasligas to offset its imputed credit expenses with negative imputed credit expenses or credit revenue resulting from prepayment. Specifically, Minasligas contends the following:

(1) The ACCs are directly related to U.S. sales. Minasligas maintains that the Department was able to identify exactly which ACCs were associated with each U.S. sale and the product is fixed at the time the ACC is signed and cannot be changed. Therefore, Minasligas asserts that the ACCs are secured in advance for export sales of ferrosilicon;

(2) The Department found that bank charges incurred between the date Minasligas receives an ACC and the date the merchandise is shipped from the plant were directly related to the U.S. sales and subsequently used these expenses to calculate imputed credit costs in the preliminary results. Minasligas argues that this demonstrates a direct relationship between the ''credit revenue'' reported by Minasligas and the U.S. sales;

(3) The Department's rejection of Minasligas' negative imputed credit expense contradicts the Department's regulations which state that the Department will make a circumstance-of-sale (COS) adjustment for selling expenses ''which bear a direct

relationship to the sales compared.'' Minasligas contends that the negative credit expenses are a direct result of a specific U.S. sale of ferrosilicon because without a U.S. sale there would be no credit revenue; and

(4) The Department's treatment of ACCs is contrary to its treatment of identical credit expenses in prior and parallel proceedings involving Minasligas.

Minasligas and CBCC argue that in the event the Department determines not to use the negative credit expenses or credit revenue reported by the companies for its imputed U.S. credit calculation, the credit calculation used by the Department in the preliminary results contains several errors:

First, Minasligas and CBCC argue that the bank charges overstate the credit period. Specifically, Minasligas and CBCC claim that the bank charges represent the interest expense incurred between the date a company receives an advance under an ACC and the date of payment by the U.S. customer. Because the date of receipt of the advance can predate the date of shipment from the plant, Minasligas and CBCC contend that the bank charges overstate the imputed credit expense (an expense which is intended to capture the cost of extending credit between the date the merchandise is shipped to the customer and the date the respondent receives payment from the customer). Minasligas and CBCC contend that the Department should calculate imputed credit expenses using the actual period between the date of shipment and the date of payment. Furthermore, Minasligas asserts that in its preliminary results the Department inadvertently double-counted the bank charges in the calculation of normal value (NV). The bank charges were added both as part of the reported direct selling expenses and as the imputed credit expense. Finally, Minasligas argues that the Department erred by calculating credit expenses based on a U.S. price which was inclusive of VAT. Minasligas contends that it is the Department's practice to calculate credit expenses on a price exclusive of VAT.

Petitioners agree with the Department's decision in the preliminary results to disregard Minasligas' reported imputed credit revenue based on the finding that ACCs are not directly tied to specific export sales. The petitioners argue that the Department's preliminary finding was correct because: (1) The export value of the sale was not fixed on the date the ACC was signed; (2) the ACCs were obtained prior to the U.S. date of sale for all of CBCC's U.S. sales and certain sales made by Minasligas, and thus not directly tied to a specific U.S. sale for future unspecified shipments; (3) the amount borrowed under certain ACCs did not correspond exactly with the value of the U.S. sale which was later shipped; (4) in certain cases, more than one ACC was used to finance a single U.S. transaction; and (5) certain ACCs were used to finance more than one U.S. export.

Moreover, the petitioners agree with Minasligas and CBCC that the Department's practice to use the interest and bank charges Minasligas paid for the ACCs to determine U.S. imputed credit expenses for each U.S. sale is inconsistent with the Department's determination that ACCs are not directly related to U.S. sales. For this reason, petitioners argue that the Department should calculate U.S. imputed credit expenses for Minasligas and CBCC in accordance with its established practice (*i.e.*, based on the period from the date of shipment from Minasligas's plant to the date of payment by the U.S. customer).

DOC Position: We agree with petitioners that ACCs are not directly tied to specific export sales at the time the ACC is opened, and therefore, we determine that the advance resulting from the ACC does not represent prepayment for an export sale. In fact, all parties agree that, as of the date an ACC is opened with a bank, no tie exists between an ACC and specific export sales. The link between ACC and sale does not occur until the respondents present the issuing bank with the export documentation for a given sale. Until that time, each respondent is able to use the money from the ACC to finance any export sale of ferrosilicon to any export market.

This fact pattern is similar to that of the Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Brazil, 55 FR 23,120 (June 6, 1990) (''Nitrocellulose''). (Upheld by the CIT, March 2, 1995.) In Nitrocellulose, the Department disallowed a negative credit expense adjustment because the respondent ''borrowed money which was to be repaid with the proceeds from future unspecified export sales'' and the Department found ''that the U.S. sales were not paid for in advance.'' Therefore, for purposes of the final results, the Department finds that the ACC bank loans are not directly related to the U.S. sales. We have therefore continued to disallow the claimed negative credit expenses and/or interest revenue.

Regarding the calculation of imputed credit expenses, we agree with all parties that by using the reported bank charges, we calculated credit using a period longer than that period normally captured by our imputed credit calculation (*i.e.*, the period between the date of shipment from the plant and the date of payment from the customer). Therefore, for purposes of the final results, we have calculated imputed credit based on a credit period between the date of shipment from the plant and the date of payment from the customer. In addition, we have used the average ACC interest rates derived from the ACCs examined at verification for each of the respondents. These interest rates represent the actual interest rates received by each respondent for U.S. dollar-denominated short-term loans. (See the Sales Calculation Memorandums from Cameron Werker to the File for both CBCC and Minasligas, each dated August 6, 1997, for further discussion of the calculations of credit periods and interest rates.)

We also agree with CBCC and Minasligas that we double-counted bank charges in the preliminary results. It is inappropriate to use bank charges as a surrogate for credit expenses for specific U.S. sales having determined that there is no direct link between an ACC and a sale at the time the sale is made. In addition, the money received from opening an ACC is used by each of the respondents as working capital to finance future, unspecified export sales. As a result, each respondent is then responsible for paying the bank interest on the loan. It is reasonable to assume that these interest payments are captured by each respondent in their respective ''Interest'' accounts. Therefore, the Department has already captured these expenses as part of our interest calculation, and thus, we have made no further adjustments for these expenses (*i.e.*, we did not include them as direct selling expenses).

Finally, regarding Minasligas contention that the Department calculated credit expenses based on U.S. prices inclusive of VAT, we note that at verification Minasligas was unable to substantiate its claim that VAT charges are passed along to U.S. customers and are included in the reported prices. Therefore, we have not made a deduction from U.S. price for VAT.

Comment 4: Treatment of Taxes in the Calculation of Normal Value(NV). A. PIS/OFINS Taxes. Minasligas and CBCC contend that the Department's failure to deduct the PIS and COFINS taxes from NV for price-to-price comparisons in accordance with 19 U.S.C. 1677b (a)(6)(C)(iii) led to an unfair comparison since these taxes are paid on home market sales but not on U.S. sales.

Minasligas and CBCC assert that these taxes are directly related to home market sales since they are generated directly by sales of ferrosilicon in the home market. Minasligas and CBCC further assert that the Department should account for these taxes in the final results by making a circumstance of sale (COS) adjustment as directed by 19 U.S.C. 1677b(a)(6)(C)(iii), or an adjustment to NV under 19 U.S.C. 1677b (a)(6)(B)(iii).

Petitioners contend that the Department was correct in using a NV that was not reduced by PIS and COFINS taxes. Citing section 773(a)(6)(B)(iii) of the Act, the petitioners argue that NV may only be reduced by taxes imposed directly upon the foreign like product or components thereof. The petitioners further contend that this language is identical to that of section 772(d)(1)(C), the parallel provision in effect prior to the enactment of the URAA, which they claim provided for an upward adjustment to the U.S. price.

To support their argument, petitioners cite Silicon Metal from Argentina 91. In that case, petitioners contend that the Department determined that taxes similar to the PIS and COFINS taxes were not taxes directly imposed upon the merchandise or components thereof and, therefore, did not qualify for an adjustment to U.S. price. As in Silicon Metal from Argentina 91, petitioners maintain that the taxes at issue in this case do not qualify for a COS adjustment pursuant to 773(a)(6)(C)(iii) of the Act for the same reason that they do not qualify for an adjustment to NV. Petitioners state that the Department's regulations specify that the Department will limit allowances for differences in the circumstances of sales "to those circumstances which bear a direct relationship to the sales compared" (*see* 19 CFR section 353.56(a)(1)). In this instance, petitioners argue that the PIS and COFINS taxes are not imposed on ferrosilicon sales transactions, but instead, are assessed on gross receipts from operations, including sales and other revenues, but excluding revenues from export sales. Consistent with the Department's determinations in the 1993–1994 and 1994–1995 administrative reviews on silicon metal from Brazil, petitioners maintain that PIS and COFINS are not directly related to specific sales and do not qualify for a COS adjustment. For these reasons and for the similar reasons presented in *Comment 2,* the petitioners argue that the Department was correct not to adjust NV or U.S. price by PIS and COFINS taxes.

DOC Position: We agree with petitioners. As stated in *Comment 2* above, information on the record demonstrates that the PIS and COFINS taxes are taxes on gross revenue exclusive of export revenue. Thus, these taxes are not imposed on the merchandise or components thereof. Therefore, because these taxes cannot be tied directly to ferrosilicon sales, we have no statutory basis to deduct them from NV. This position is consistent with our practice in Silicon Metal from Argentina 91 at *Comment 8* and *Comment 26.* We also agree with petitioners that because the PIS and COFINS taxes are gross revenue taxes, they do not bear a direct relationship to home market sales and, therefore, do not qualify for a COS adjustment. Therefore, for the purposes of these final results, we have not made an adjustment to NV for PIS and COFINS taxes.

B. VAT Incurred on Material Inputs. CBCC argues that the Department improperly included VAT (ICMS and IPI) in the calculation of CV. CBCC maintains that CV inclusive of VAT incurred on the purchase of material inputs led to an unfair comparison in the preliminary results. CBCC contends that in a tax scheme such as Brazil's, a respondent may be able to show that VAT on inputs did not in fact constitute a cost of materials for the exported product within the meaning of 19 U.S.C. 1677b(e)(1)(A). Citing Silicon Metal from Brazil 96, CBCC contends that Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code requires that dumping assessments be tax neutral and that this requirement has continued under the Agreement on Implementation of Article VI of the GATT. CBCC further contends that the above-referenced cite states that the URAA explicitly amended the antidumping law to remove consumption taxes from the home market price and eliminated the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. CBCC also contends that the Statement of Administrative Action states that this amendment was intended to result in tax neutrality which is the Department's guiding principle for dealing with VAT. For these reasons, CBCC asserts that it is improper for the Department to compare CV inclusive of VAT to a U.S. price exclusive of VAT, without first determining whether the VAT paid on the material inputs is a cost of materials for the exported product.

The petitioners argue that the Department was correct in including VAT (ICMS and IPI) paid on ferrosilicon material inputs in CV. Petitioners contend that the source of the language on tax neutrality that CBCC refers to in Silicon Metal from Brazil 96 only addresses adjustments for taxes paid on sales of the final product in price-based margin calculations but does not address taxes paid on inputs and the treatment of those taxes in CV-based margin calculations. Rather, petitioners contend that the Department's treatment of taxes on inputs used to produce exported merchandise in calculating CV is directly governed by the statute. Petitioners state that section 773(e)(1) of the Act provides that the CV of imported merchandise shall be an amount equal to the sum of the cost of materials. Furthermore, petitioners argue that section 773(e) provides that "* * * that the cost of materials shall be determined without regard to an internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation of the subject merchandises produced from such materials."

Therefore, petitioners contend, the plain language of the statute states that a home market tax that is directly applicable to materials used in the manufacture of merchandise exported to the United States constitutes an actual cost of producing the exported merchandise unless, and only if, the tax is remitted or refunded upon the subsequent exportation of that merchandise. Petitioners argue that it is undisputed that CBCC paid ICMS and IPI taxes on inputs it used to produce exported ferrosilicon and that these taxes were not remitted or refunded upon exportation. As a result, petitioners maintain that the Department followed its established practice (see Silicon Metal from Brazil 96) of including ICMS and IPI taxes in CV.

The petitioners further assert that CBCC's claim that the Department must determine whether CBCC paid more VAT on inputs used to produce exported ferrosilicon than it collected on home market sales of ferrosilicon has already been rejected by the Department. Again citing Silicon Metal from Brazil 96, petitioners argue that the Department, in accordance with section 773(e) of the Tariff Act, did not account for the reimbursement to the respondents of ICMS and IPI taxes by means of home market sales of silicon metal.

DOC Position: We made only price-to-price comparisons for purposes of these final results. Therefore, since we did not resort to the use of CV, it was not necessary to address the above issue.

Comment 5: Home Market Credit Expenses. Minasligas argues that because Minasligas did not have short-term borrowings during the POR, the Department understated the short-term borrowing rate used to calculate home market credit expenses by utilizing the ''taxa referential'' (TR). However, Minasligas contends that the TR rate is only a reference rate published by the Brazilian Central Bank and that Brazilian companies do not have access to this rate. In addition, Minasligas asserts that the TR rate is unrealistically low when compared to other short-term rates offered by commercial banks during the POR. For the final results, Minasligas contends that the Department should calculate home market credit expenses using a rate obtained from a commercial lender in effect during the POR such as those contained on the record in this proceeding. Minasligas contends that this practice is consistent with the Department's treatment of home market credit expenses calculated for Ferbasa in Ferrosilicon from Brazil 96.

The petitioners contend that the Department's use of the TR rate to calculate home market credit expenses and inventory carrying cost is consistent with the Department's previous practice. In this regard, petitioners cite Certain Cut-to-Length Carbon Steel Plate from Brazil: Final Results of Antidumping Duty Administrative Review (62 FR 18,486, 18,487 (April 15, 1997)) (Cut-to-Length Plate from Brazil) where the Department determined that the TR rate is a benchmark comparable to a prime rate published by the Bank of Brazil and, therefore, used the TR rate to calculate home market credit expenses. Petitioners further claim that Minasligas itself stated that the TR rate was established to measure the cost of credit and that it is also the rate most widely used by companies in Brazil to determine the interest rate for short-term borrowing. (See Final Redetermination on Remand: Ferrosilicon from Brazil, LFTV Investigation (January 17, 1996) (Final Redetermination on Remand).)

Further, the petitioners argue that under established Department practice, ''it is up to a respondent to substantiate and document any adjustment or claim to the Department.'' (See Silicon Metal From Brazil 97.) Petitioners maintain that Minasligas failed to provide the Department with any evidence that the alternative interest rates on the record constitute ''published commercial bank prime short-term lending rates.'' The petitioners contend that Minasligas' submission of the monthly short-term borrowing rates of a commercial bank, BEMGE, that were in effect during the POR, were in fact only a fax listing 30-day interest rates for the period December 1994 through May 1996. Petitioners assert that Minasligas failed to provide any evidence that the listed rates were published or that they constitute prime rates. Similarly, petitioners also contend that no evidence exists to support Minasligas' claim that the bank lending rate published by the International Monetary Fund (IMF) constitutes prime rates or commercial bank interest rates for business loans. Rather, petitioners assert that the IMF rate is not a published commercial interest rate for short-term business loans, but rather a rate at which banks, not companies, can borrow. For these reasons, the petitioners argue that the Department properly used the TR rate in calculating Minasligas' home market imputed credit expenses.

DOC Position: We agree with petitioners. Consistent with Cut-to-Length Plate from Brazil, we determine that the TR rate is a benchmark comparable to a prime rate published by the Bank of Brazil. Therefore, in the absence of actual home market short-term borrowings and the lack of substantiated evidence that Minasligas could have borrowed at the interest rates provided at verification, we have used the TR rate as the interest rate in the calculation of imputed home market credit. Further, in response to Minasligas' argument that the Department did not use the TR rate in the preceding review of this case, we note that the company in question had actual home market short-term borrowings and, therefore, it was not necessary to resort to the use of the TR rate.

Comment 6: Date of Sale. Minasligas submits six arguments on the date of sale. First, Minasligas contends that the Department erred when it changed the date of sale for one U.S. sale reported as sold prior to the POR to within the POR. Minasligas argues that there is no sales document on the record justifying the use of a sale date within the POR for the sale in question. Moreover, Minasligas asserts that by using the date within the POR as the date of sale, the Department incorrectly used a date of sale that was subsequent to the date of shipment from the plant. Minasligas maintains that, as stated in the questionnaire, the date of sale cannot occur after the date of shipment. Therefore, Minasligas contends that the sale was improperly included in the calculation of export price in the preliminary results.

Second, Minasligas contends that the Department's position to exclude several U.S. sales of merchandise produced by Minasligas from the calculation of export price is supported by past Department practice. (See Silicon Metal from Brazil 96 and Silicon Metal From Brazil 97.)

Third, Minasligas contends that the issue as to whether to conduct a review and what sales to consider within the POR for dumping purposes are two different determinations which involve the two different concepts of entry and sale. In reviews where a respondent had one or more entries during the POR, Minasligas asserts that the Department's practice is to review the respondent's sales to determine the antidumping duty margin and, in accordance with section 751(a)(2), use this margin to assess the entries during the POR. In reviews where the respondent had no entries during the POR, Minasligas contends that the Department normally conducts a no shipment review.

Fourth, Minasligas contends that the Department is not required to tie sales to entries. (See Silicon Metal from Brazil 96.) Minasligas further contends that when the Department reviews all sales to an importer during the POR, the Department relies on the date of such sales to determine whether they are within the POR. The date of entry is of no relevance because the date of sale is the date on which the basic terms of the sale, particularly price and quantity, are agreed upon by the buyer and the seller. (*See* Department's 1996 Questionnaire, Appendix 1 at 5, Glossary of Terms.)

Fifth, Minasligas further argues that petitioners' arguments repeat that which was already rejected by the Department in the above-referenced final determinations. Finally, Minasligas also notes that all the determinations cited by the petitioners in support of their argument predate the determinations cited by Minasligas. For all of these reasons, Minasligas asserts that for the final results, the Department should determine Minasligas' antidumping duty rate based on Minasligas' sales during the POR and exclude from its dumping analysis sales which fall outside the POR.

Petitioners argue that regardless of the date of sale, the statute, legislative history, intended purpose of administrative reviews, and established Department practice require that the margin calculations in administrative reviews be based on entries that were made into the U.S. Customs territory during the POR. According to petitioners, the quantity, the ship date, and the name of the consignee of at least one of the sales in question is identical to the Piers Import/Export Reporting Service data indicating that this sale entered the United States during the POR. The petitioners, therefore, conclude that the Department should include the sale in question in the final results margin calculations.

Morever, the petitioners argue that although these sales had dates of sale prior to the POR, these sales entered the U.S. customs territory during the POR and should therefore be included in the calculation of export price (see e.g., High-Tenacity Rayon Filament Yarn from Germany: Final Results of Antidumping Duty Administrative Review, 61 FR 51,421, 51,422 (October 2, 1996)). The petitioners argue that these entries have never been reviewed and that by excluding these sales, Minasligas' dumping margin for the preliminary results was understated.

DOC Position: We agree with Minasligas regarding its first point, that the Department erred when it changed the date of sale for one U.S. sale reported as sold prior to the POR to within the POR. After reviewing the sales documentation for this sale, we found that the verification report was incorrect with respect to the actual date of sale for this transaction. As a result, we determine that Minasligas correctly reported the date of sale for this transaction in its sales listing. However, we have included this sale in our final analysis based on the fact that this sale was shipped during the POR.

We agree with petitioners regarding the review of sales entered during the POR in export price situations. It has been the Department's practice to calculate dumping margins for export price sales based on sales entered during the POR. In fact, the antidumping questionnaire issued in this review specifically required companies to ''report each U.S. sale of merchandise entered for consumption during the POR, except: (1) For EP sales, if you do not know the entry dates, report each transaction involving merchandise shipped during the POR. * * *'' We note that, in response to these questionnaire instructions, Minasligas reported certain sales with dates of sale prior to the POR. Minasligas appears, therefore, to have complied with the questionnaire instructions by reporting sales shipped or entered during the POR regardless of whether the date of sale was within the POR. Moreover, Minasligas does not deny that these sales were shipped or entered during the POR. Therefore, for these final results, we have included all such sales in our analysis.

Comment 7: The Dumping Margin Calculation. CBCC contends that the Department incorrectly calculated the dumping margin as a percentage of total U.S. sales value based on net U.S. prices, rather than gross unit prices. In doing so, CBCC claims that the Department overstated the dumping margin.

Petitioners contend that section 731(2)(B) of the Act requires that whenever the Department determines that foreign merchandise is being sold in the United States at less than fair value, there shall be imposed upon such merchandise an antidumping duty in an amount equal to the amount by which the NV exceeds the export price (or constructed export price) for the merchandise. Therefore, petitioners assert that by using the aggregate export prices for all U.S. sales as the denominator in the calculation of the dumping margin, the Department calculated CBCC's weighted-average dumping margin in accordance with the statute.

DOC Position: We disagree with CBCC. CBCC's margin was calculated in accordance with the Department's standard methodology of using aggregate value of net export prices to derive total U.S. sales value. (See Notice of Final Determination at LTFV: Certain Steel Concrete Reinforcement Bars from Turkey, 62 FR, 9737, (March 4, 1997).) Therefore, we have made no change for the final results.

Comment 8: Calculation of General and Administrative (G&A) and Interest Expense. Minasligas contends that the Department overstated the G&A used in the calculation of COP in the preliminary results. Specifically, Minasligas argues that the Department calculated a G&A rate as a percentage of the cost of sales based on the figures reported by Minasligas and Delp Enganharia Mecanica S.A. (Delp) in their financial statements and then mistakenly applied this rate to a COM which included VAT. Minasligas contends that due to the fact that VAT is neither an income nor an expense, VAT is not reflected in sales revenue or cost of sales on the income statement. To support its contention, Minasligas cites the Department's remand proceeding relating to the final determination of ferrosilicon from Brazil where the Department stated that it was incorrect to apply the calculated interest factor and profit percentage to a COM inclusive of VAT. (See Memorandum from Peter Scholl, Senior Accountant to Catherine Miller, Program Manager, January 17, 1996, Remand of July 20, 1995, Consolidated Court 90. 94–03–00182). Minasligas, therefore, contends that because VAT was not part of the cost of sales upon which the G&A rate was calculated, the Department should apply the G&A rate to a COM exclusive of VAT.

Similarly, CBCC contends that in the preliminary results the Department overstated G&A and interest expenses used in the calculation of CV. Specifically, CBCC argues that the G&A expenses and interest expenses were overstated because the Department applied these ratios on a COM that included VAT. Because the countries in which CBCC and its parent company are located (*i.e.*, Brazil and Belgium, respectively) are countries with a VAT system, CBCC asserts that for the final results the Department should deduct ICMS from COM to calculate the G&A and interest expense. CBCC provided revised calculations for G&A and interest.

Although petitioners agree with Minasligas and CBCC that the Department overstated G&A and interest expenses when it calculated those expenses using a COM inclusive of VAT paid on inputs, petitioners contend that CBCC's revised percentages are wrong. First, petitioners maintain that CBCC failed to include PIS and COFINS taxes in its calculations of CV. Second, petitioners argue that CBCC did not use the correct ratios for calculating G&A and interest.

DOC Position: We agree with all parties that it was incorrect to apply the calculated ratios for G&A and interest to a COM inclusive of VAT in the calculation of COP. However, we note that both respondents reported G&A and/or interest expenses based on a COM inclusive of VAT. Thus, for purposes of the final results, we calculated the G&A for Minasligas and G&A and interest expenses for CBCC used in the calculation of COP, based on the COM exclusive of VAT. For the reasons stated in *Comment 2* above, we have continued to include PIS and COFINS taxes in COP (see Cost Calculation Memorandums for Minasligas and CBCC, each dated July 28, 1997, for further discussion). Since we made only price-to-price comparisons for purposes of these final results, it was not necessary to address this issue with respect to CV.

Comment 9: Calculation of Depreciation Expense for Minasligas. Petitioners argue that the Department understated depreciation in its COP and CV calculations by using the amount reported by Minasligas which understated depreciation in the current period as a result of its use of accelerated depreciation in prior years. For the final results, petitioners contend that the Department should recalculate depreciation for Minasligas, eliminating any prior year's accelerated depreciation.

Minasligas argues that it has historically used accelerated depreciation in its financial records and such methodology is consistent with Brazilian GAAP. Minasligas maintains that the Department has accepted its use of accelerated depreciation in prior proceedings.

DOC Position: We disagree with petitioners that Minasligas' depreciation calculation is unacceptable because it is based on accelerated depreciation. Minasligas' methodology of depreciation is based on its financial records, which are consistent with Brazilian GAAP and do not distort actual costs. In this regard, the Department's position is consistent with the decision of the Court of International Trade, which supported the Department's calculation of depreciation based on a respondent's actual financial records which do not distort actual costs. Moreover, in previous silicon metal reviews, we have used accelerated depreciation where Minasligas has historically reported depreciation on this basis for purposes of its financial statements (see Silicon Metal From Brazil 97). Moreover, we have applied this practice in other instances (see Final Determination of Sales at Less Than Fair Value Foam Extruded PVC and Polystyrene Framing Stock from the United Kingdom; 61 FR 51411, 51418 (October 2, 1996)) and *Laclede Steel Co.* v. *United States,* 18 CIT 965, 975 (1994)). Therefore, for purposes of these final results of review, we have continued to use Minasligas' reported depreciation in calculating COP and CV.

Comment 10: Calculation of G&A Expenses. Petitioners claim that the Department failed to include amounts for social contributions in the reported G&A expense despite the fact that the Department has a longstanding practice of including social payments such as severance, social security or pension expenses in the G&A expense. Petitioners argue that the Department should include provisions for social contributions in the calculation of the G&A expense.

Minasligas argues that petitioners misinterpreted Minasligas' financial statements because the social contributions are not a cost of producing the merchandise, but a federal tax similar to the income tax levied by the government as a percentage of profit. Minasligas further argues that the social contributions are not social payments such as social security or pension expenses which were properly reported either as part of direct labor costs or as part of the G&A expenses for administrative employees.

DOC Position: We agree with Minasligas. The social contributions at issue are a type of federal income tax which is deducted from profit. All other social charges and fringe benefits were properly accounted for either as part of direct labor costs or as part of G&A expenses. Accordingly, no adjustment has been made for the final results.

Comment 11: Calculation of Indirect Selling Expenses. Petitioners contend that the Department determined per-unit indirect selling expenses for Minasligas by multiplying the gross-unit price for home market sales by an indirect selling expense ratio. Petitioners state that, in calculating the ratio, the Department divided the sum of the monthly company-wide indirect selling expenses by the sum of the monthly sales values for all products during the POR. However, the petitioners claim that in calculating the monthly values, the Department incorrectly added rather than subtracted the value of returned merchandise. In doing so, petitioners argue that the Department overstated the denominator of the indirect selling expense ratio, thus understating the ratio, which in turn understated the calculated per-unit indirect selling expenses.

Regarding CBCC, the petitioners claim that CBCC allocated indirect selling expenses among its products to the relative sales volume of those products. Petitioners note that the Department's verification report in this proceeding states that ''because indirect selling expenses are a value-based expense, CBCC should have allocated the total commercial department expenses over the value of merchandise sold during the POR, not the tonnage sold.'' Petitioners further note that, while at verification, the Department did not collect data regarding the total value of CBCC's sales of silicon metal and calcium carbide during January and February 1996. As a result, it is not possible to perform the proper allocation of indirect selling expenses based on sales value. Therefore, petitioners argue that the Department should request CBCC to provide a worksheet and supporting documentation showing the total sales value of the above products for January and February 1996.

DOC Position: We made only price-to-price comparisons for purposes of these final results. Therefore, since we did not resort to the use of CV, it was not necessary to address the above issues.

Comment 12: Conversion of U.S. Sales Prices Denominated in U.S. Dollars. The petitioners contend that the prices for Minasligas' U.S. sales were negotiated in U.S. dollars and paid for in U.S. dollars. However, Minasligas reported the gross unit price for its U.S. sales in Brazilian reais. Petitioners maintain that the Department used these Brazilian-currency prices in its preliminary results margin calculations. Petitioners cite Silicon from Brazil 96 and 97, as the Department's established practice of using the actual U.S. price in the currency in which it was originally denominated on the date of sale, and to avoid any unnecessary currency conversion. Therefore, for the final results, the petitioners contend that the Department should use U.S. dollar-denominated gross prices reported in the sales listing, rather than the Brazilian-reais denominated gross unit prices, as the starting U.S. price for calculating the dumping margin.

DOC Position: We agree in part with petitioners. It is established Department policy to use the actual U.S. price in the currency in which it was originally denominated on the date of sale and to avoid any unnecessary currency conversion. (See Ferrosilicon from Brazil, (January 14, 1997).) In this case, Minasligas reported its U.S. sales in Brazilian currency rather than U.S. dollars. However, at verification, we were able to confirm the accuracy of the Brazilian currency amounts reported by Minasligas because, in addition to the commercial invoice (denominated in U.S. dollars), Minasligas also issues a Brazilian-denominated invoice which we examined for selected U.S. sales. Further, for purposes of the preliminary results, we did convert the U.S. sales prices reported in Brazilian currency to U.S. dollars on the date of sale for purposes of calculating Minasligas' margin. We have continued this practice for these final results as Minasligas' U.S. dollar prices are not on the record.

Comment 13: Calculation of Depreciation for CBCC. The petitioners argue that in its preliminary results, the Department failed to take into account idle asset depreciation for a certain number of furnaces. The petitioners contend that record evidence indicates that the furnaces were idle during a portion of the POR. Therefore, petitioners maintain that the Department should include in COP/CV the total depreciation expenses for the furnaces for the periods during which those furnaces were idle.

CBCC claims that the furnaces which were idle during the POR are fully depreciated since they were built in 1934 and 1947. CBCC states that there is no factual justification for allocating depreciation expense for idle assets which were fully depreciated.

DOC Position: We agree with CBCC. At verification, we confirmed that the furnaces at issue were fully depreciated long before the POR. Accordingly, we determine that the adjustment to COP proposed by the petitioners is not warranted here. Since we made only price-to-price adjustments or purposes of these final results, it was not necessary to address this issue with regards to CV.

Comment 14: Calculation of Interest Expense. The petitioners argue that in the preliminary results the Department incorrectly calculated CBCC's financial expenses based on the consolidated financial statement of its Belgian parent company, Solvay & Cie. The petitioners claim that it was incorrect to use the consolidated financial statements because Solvay & Cie's actual financial expense is less than one half of the financial expense actually incurred by CBCC. Therefore, the petitioners contend that calculating financial expenses using a ratio based on Solvay & Cie's consolidated financial statements resulted in a gross understatement of the financial expenses actually incurred by CBCC. Thus, for the final results, the petitioners assert that the Department should calculate financial expenses based on CBCC's financial statements.

DOC Position: We disagree with the petitioner. The Department's established policy is to calculate interest expense incurred on behalf of the consolidated group of companies to which the respondent belongs, based on consolidated financial statements, regardless of whether or not the respondent's financial expense is higher than that of the controlling entity. This practice recognizes two facts: (1) The fungible nature of invested capital resources such as debt and equity of the controlling entity within a consolidated group of companies, and (2) the controlling entity within a consolidated group has the power to determine the capital structure of each member country within its group. (See Aramid Fiber Formed of Poly ParaPhneylene Terephthalamide From the Netherlands; Final Results of Antidumping Administrative Review, 62 FR 136 (July 16, 1997), Silicon Metal From Brazil 97, Final Determination at Less Than Fair Value: Ferrosilicon from Brazil: 59 FR 732, 736 (January 6, 1994) and *Cambargo Correa Metais, S.A.* v. *United States*, Slip Op. 93–163 (CIT August 13, 1993.) Therefore, for these final results, we have calculated CBCC's net interest expense based on the consolidated financial statements of its parent company, Solvay & Cie.

Comment 15: Interest Income as an Offset to Interest Expenses. The petitioners argue that the Department should not make an adjustment to the reported interest expense for the amount of interest income reported on CBCC's financial statement. The petitioners claim that it is CBCC's responsibility to substantiate and document any adjustment or claim to the Department. Since CBCC provided no information in its questionnaire response regarding the interest income earned, the petitioners assert that the Department should calculate the financial expense ratio without any offset for interest income.

CBCC contends that in its questionnaire response CBCC calculated consolidated financial expenses based solely on interest expense without any deduction for interest income. CBCC argues that should the Department depart from its well-established practice of using consolidated financial expenses, CBCC requests the opportunity to submit all information needed to support its interest income.

DOC Position: As explained in our response to *Comment 14,* we have used CBCC's consolidated financial expenses. Therefore, we have made no adjustments to the reported consolidated interest for interest income as CBCC did not report interest income on a consolidated basis.

Comment 16: Alleged Errors in the Calculation of CV. Minasligas asserts that the Department did not make any price-to-CV comparisons in the preliminary results, but in the event that the Department resorts to the use of CV in the final results, Minasligas contends the following:

(1) That the Department incorrectly calculated the field CVTAX as equal to the greater of the VAT paid on inputs or the VAT collected on export sales in the computer margin program. Minasligas argues that the statute does not require that VAT collected on export sales be included in CV. Minasligas asserts that the Department's position, which is currently challenged in the Court of Appeals for the Federal Circuit (see *Aimcor et al.* v. *United States*, Slip Op. 95–130 (July 20, 1995) at 20 *et seq.*), is that only taxes on material inputs which are not remitted or refunded upon export are included in CV as a part of the cost of material. Minasligas argues that if tax collections on sales exceed payments on inputs, the Department should make the required adjustments in calculating the foreign unit price in dollars (FUPDOL).

(2) That the Department failed to deduct home market imputed credit expenses from the calculation of CV, resulting in an overstatement of the FUPDOL because the COS adjustment only added U.S. credit expenses.

(3) That the Department erred when it weight-averaged the profit rate based on sales quantity rather than sales value. Instead, Minasligas contends that the Department should have calculated the average home market profit using its normal methodology (*i.e.*, the sum of the total profit for each transaction divided by the total COP value for all the transactions). Morever, Minasligas argues that under its normal methodology, the Department calculates an overall profit rate for the transactions weighted on value rather than quantity.

With respect to the first issue, petitioners contend that the Department's margin calculations demonstrate that the Department included VAT paid on inputs in CV, not ICMS tax collected on export sales. Further, the petitioners claim that the Department properly included those taxes in CV because they are a cost of materials for the reasons presented in *Comment 4 (B).*

With respect to the third issue, the petitioners contend that a review of the profit margin calculation shows that the Department did not do what Minasligas claims the Department did and, in fact, did what Minasligas claims the Department should have done. The petitioners argue that the Department first determined the aggregate value of net home market prices for all of the above-cost sales and the aggregate COP for those sales. The Department then subtracted the aggregate COP from the aggregate value of net home market prices for above-cost sales, thereby determining the aggregate amount of profit for those sales. This aggregate profit amount was then divided by the aggregate COP to arrive at a profit ratio. Thus the petitioners assert that, contrary to Minasligas's claims, the Department properly calculated the profit ratio.

DOC Position: We made only price-to-price comparisons for purposes of these final results. Therefore, since we did not resort to the use of CV, it was not necessary to address the above issues.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margins exist for the period March 1, 1995 through February 29, 1997:

Manufacturer/exporter	Percent margin
CBCC	0.00
Minasligas	3.51

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, we have calculated importer-specific *ad valorem* duty assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total quantity of sales examined during the POR. This method has been upheld by the courts. (See e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) from France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 61 FR 2081, 2083 (January 15, 1997); FAG Kugelfischer Georg Schafer KgaAv. *United States, No. 92–07–00487,* 1995 Ct. Int'l Trade LEXIS 209, at CIT*10 (September 14, 1995), aff'd. No. 96–1074 1996 U.S. App. Lexis 11544 (Fed. Cir. May 1996).

The Department will issue appraisement instructions directly to the Customs Service. Individual differences between United States price and NV may vary from the percentages stated above. Furthermore, the following deposit requirements will be effective upon publication of these final results of review for all shipments of ferrosilicon from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act, and will remain in effect until publication of the final results of the next administrative review: (1) The cash deposit rates for the reviewed companies will be those rates listed above except for CBCC, which had a de minimis margin, and whose cash deposit rate is therefore zero; (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 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 or in the LTFV investigation conducted by the Department, the cash deposit rate will be 91.06 percent, the ''all others'' rate established in the LTFV investigation.

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 the 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. Sec. 1675(a)(1)) and 19 CFR 353.22.

Dated: August 6, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–21583 Filed 8–13–97; 8:45am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–814]

Pure Magnesium 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 May 5, 1997, the Department of Commerce (the Department) published the preliminary results of antidumping duty administrative review of the antidumping duty order on pure magnesium from Canada. The review covers one manufacturer/exporter, Norsk Hydro Canada Inc. (NHCI), of the subject merchandise to the United States for the period August 1, 1995 through July 31, 1996.

We gave interested parties an opportunity to comment on the preliminary results of review but received no comments. Therefore, these final results of review are the same as those presented in our preliminary results. The review indicates the existence of no dumping margins for NHCI during this period.

EFFECTIVE DATE: August 14, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Ross or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act.

Background

On August 31, 1992, the Department published in the **Federal Register** (57 FR 39399) the antidumping duty order on pure magnesium from Canada. On May 5, 1997, the Department published in the **Federal Register** the preliminary results of antidumping duty administrative review of this antidumping duty order (62 FR 24417). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act.

Scope of the Review

The product covered by this review is pure magnesium. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Granular and secondary magnesium are excluded from the scope currently classifiable under subheading 8104.11.0000 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and for customs purposes. The written description remains dispositive.

The review covers one Canadian manufacturer/exporter, NHCI, and the period August 1, 1995 through July 31, 1996.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results of review but received no comments. Therefore, these final results of review are the same as those presented in our preliminary results. We have determined that a margin of zero percent exists for NHCI for the period August 1, 1995 through July 31, 1996. The Department will issue appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the 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 Tariff Act: