circumstances review, will continue unless and until it is modified pursuant to the final results of this changed-circumstances review.

This notice is in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.221.

Dated: January 4, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–631 Filed 1–10–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–817]

Oil Country Tubular Goods From Mexico; 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 September 9, 1999, the Department of Commerce (''the Department'') published the preliminary results of its administrative review of the antidumping order on oil country tubular goods (''OCTG'') from Mexico covering exports of this merchandise to the United States by one manufacturer, Tubos de Acero de Mexico, S.A. (''TAMSA''). Oil Country Tubular Goods from Mexico; Preliminary Results of Administrative Review (''Preliminary Results''), 64 FR 48983. We invited interested parties to comment on the Preliminary Results. We received comments from TAMSA and rebuttal comments from petitioners. We have now completed our final results of review and determine that the results have not changed.

EFFECTIVE DATE: January 11, 2000.

FOR FURTHER INFORMATION CONTACT: Dena Aliadinov, John Drury, or Linda Ludwig, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone (202) 482–2667 (Aliadinov), (202) 482–0195 (Drury), or (202) 482–3833 (Ludwig).

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1998).

Background

The Department published a final determination of sales at less than fair value for OCTG from Mexico on June 28, 1995 (60 FR 33567), and subsequently published the antidumping order on August 11, 1995 (60 FR 41056). The Department published a notice of ''Opportunity to Request Administrative Review'' of the antidumping order for the 1997/1998 review period on August 11, 1998 (63 FR 42821). Upon receiving a request for an administrative review from TAMSA, we published a notice of initiation of the review on September 29, 1998 (63 FR 51893).

Scope of the Review

Imports covered by this review are oil country tubular goods, hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers:
7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Review

The period of review (''POR'') is August 1, 1997 through July 31, 1998. The Department is conducting this review in accordance within section 751 of the Act, as amended.

Analysis of Comments Received

We invited parties to comment on the preliminary results of the review. We received comments from TAMSA and rebuttal comments from the petitioners. The following is a summary of these comments.

Comment 1: EP/CEP

TAMSA argues that the Department incorrectly treated its sole U.S. sale as a constructed export price (''CEP'') transaction in the preliminary results of this review. *See* Preliminary Results, 64 FR at 48984. Regarding whether sales should be classified as EP sales despite some involvement by a U.S. affiliate, the Department uses the following criteria: (1) Whether the merchandise was shipped directly to the unaffiliated buyer, without being introduced into the affiliated selling agent's inventory; (2) whether this is the customary sales channel between the parties; and (3) whether the affiliated selling agent located in the United States acts only as a processor of documentation and a communications link between the foreign producer and the unaffiliated buyer. *See, e.g.*, Notice of Final Determination of Sales at Less Than Fair Value: Newspaper Printing Presses From Germany, 61 FR 38175 (July 23, 1996).

TAMSA argues that the Department relied solely on the third criterion for its CEP determination, and did not properly address the first two criteria. TAMSA claims that its sale meets the first two criteria for indirect EP sales because the merchandise in question is not introduced into the physical inventory of the affiliated selling agent, and direct shipment to the customer is the customary commercial channel for sales of this merchandise. TAMSA also claims that it, in fact, meets the third criterion because its affiliated selling agent in the United States, Siderca Corp., had an ''ancillary'' role.

According to TAMSA, setting price is the only U.S. selling activity the existence of which would justify CEP treatment. Referring to Certain Corrosion-Resistant Carbon Steel Flat Products & Certain Cut-to-Length Carbon Steel Plate from Canada: Final Results of Antidumping Duty Administrative Reviews (''Canadian Steel''), 63 FR 12738 (March 16, 1998); Certain Welded Stainless Steel Pipe from Taiwan: Final Results of Administrative Reviews (''Taiwan Pipe''), 63 FR 38382, 38385 (July 16, 1998); Stainless Steel Wire Rod From Korea: Final Determination of Sales at Less Than Fair Value (''Korean Wire Rod''), 63 FR 40418 (July 29, 1998); and Notice of Final Determination of Sales at Less Than Fair Value: Beryllium Metal and High Beryllium Alloys From the Republic of Kazakhstan (''Beryllium Metal''), 62 FR 2648, 2649 (January 17, 1997), TAMSA points out that the Department categorized sales as EP sales when the affiliates in these cases had limited or no pricing authority. Additionally, TAMSA claims that *U.S. Steel Group* v. *United States*, 15 F. Supp. 2d 892 (CIT 1998) (''U.S. Steel Group'') strengthens its argument, because the Court's ruling in that case looked to the existence of sale or contract negotiations. TAMSA also relies upon *AK Steel* v. *United States* (''AK Steel''), 34 F. Supp. 2d 756, 762 (CIT 1998), in which the affiliate negotiated the initial price, but within certain limitations set by the exporter. TAMSA states that the Court in AK Steel upheld the Department's decision to treat the sales at issue as EP sales, even though the U.S. affiliate found customers, negotiated price based upon predetermined factors, and maintained contact with the customer. TAMSA concludes that the Department must therefore reconsider the nature of Siderca Corp.'s activities in the light of AK Steel.

TAMSA claims that information in its Section A questionnaire response supports its claim that it, and not Siderca Corp., has the authority to set price and sales terms and therefore that its U.S. sale meets the third criterion. *See* TAMSA November 4, 1998 Section A Response, at A–20–21. According to TAMSA, the Department does not have any facts to support its conclusion that Siderca Corp. brought the customer to TAMSA. On the contrary, TAMSA argues that Siderca Corp. acted merely as a communications link and processor of documentation.

TAMSA also disputes that the existence of a commercial agreement constitutes sufficient grounds for concluding that a transaction is a CEP sale. Citing Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands: Final Results of Antidumping Duty Administrative Review (''Dutch Steel''), 64 FR 11825 (March 10, 1999), TAMSA argues that Siderca Corp.'s selling functions are not sufficient for Commerce to classify its POR sale as a CEP sale. TAMSA supports its argument by stating that Siderca Corp. stopped its OCTG selling and marketing activities in the United States at or around the time of the antidumping order in this case, making the sales agency agreement ''meaningless.'' *See* TAMSA Supplemental Response, February 2, 1999, at 9–10.

The petitioners counter that TAMSA has not provided sufficient evidence for the Department to change its position, and that the respondent bears the burden of proving that all three EP criteria have been met. The petitioners state that Siderca Corp. may not have total autonomy in setting final sales terms, but its role in the sales process is not ''ancillary.''

With regard to U.S. Steel Group and AK Steel, the petitioners argue that the former supports CEP classification for TAMSA because Siderca had the freedom to negotiate prices, and the latter has limited relevance because the Department sought a remand to reconsider EP classification. Furthermore, the petitioners assert that, as was the case in U.S. Steel, Siderca Corp.'s additional selling functions—*i.e.*, taking title to the merchandise, using its insurance policy to cover shipment, etc.—add weight to the other factors in this case, supporting CEP classification.

The petitioners argue that TAMSA has not proven that Siderca Corp. did not play any role in determining price; therefore, even greater weight must be accorded to the sales agency agreement between TAMSA and Siderca Corp. TAMSA may have set the minimum price, according to the petitioners' analysis of the sales agency agreement, but Siderca played a substantial role in negotiating the price with the customer. The petitioners further assert that a U.S. affiliate does not need to make independent pricing decisions for its role to be more than ''incidental or ancillary.'' See Industrial Nitrocellulose from the United Kingdom: Final Results of Antidumping Duty Administrative Review (''Industrial Nitrocellulose''), 64 FR 6609, 6611 (February 10, 1999).

The petitioners maintain that signed contracts among parties are more important than internal communications, such as the e-mails relied upon by TAMSA. *See* Section A Response at Attachment A–10 (APO Version). The petitioners contend that the e-mails do not provide evidence that TAMSA authorized this sale or that this sale would have been made without Siderca Corp.'s contacts with the U.S. customer. Furthermore, the petitioners disagree with TAMSA's assertion that its sales and marketing agreement is not dispositive with respect to this case. In fact, according to the petitioners, Siderca Corp. has exclusive rights to market and sell TAMSA's product in the United States, demonstrating Siderca's pivotal, primary role.

Referring to Dutch Steel, the petitioners disagree with TAMSA's allegation that failure to solicit new customers invalidates the agency agreement. The petitioners state that TAMSA has not proven that its sale in the instant review was to the same customer as the sale in the previous review. Additionally, the petitioners disagree with TAMSA's claim that the agreement became ''meaningless'' because TAMSA discontinued OCTG exports to the United States after the antidumping order, and Siderca Corp. did not take part in OCTG selling or marketing activities for nearly two years. The petitioners argue that the sales and marketing agreement never ceased to exist and, in fact, was renewed after the antidumping order was issued. According to the petitioners, this proves that TAMSA continued to sell to the United States. Furthermore, Siderca Corp. received payment and compensation for its U.S. sale and maintained a sales staff for OCTG, according to the terms of the agreement.

The petitioners also claim that TAMSA does not meet criterion two because TAMSA only had one U.S. sale, making it difficult to determine the customary commercial channel. Moreover, the merchandise associated with the U.S. sale in this review was picked up by the customer at the port, and petitioners argue that this was not the customary commercial channel established in the sales agency agreement.

Department's Position

After careful examination of the record, and based upon our analysis using the three-pronged test discussed below, the Department has determined to treat TAMSA's U.S. sale as a CEP sale, as defined in section 772(b) of the Act. Pursuant to section 772 (a) and (b) of the Act, an EP sale is a sale of merchandise for export to the United States made by a foreign producer or exporter outside the United States prior to importation. A CEP sale is a sale made in the United States before or after

importation by or for the account of the exporter/producer or by a party affiliated with the exporter or producer. In determining whether the sales activity of a U.S. affiliate rises to such a level that CEP methodology is warranted, the Department has examined the following criteria: (1) whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer (rather than being introduced into the inventory of the U.S. affiliate), (2) whether this was the customary commercial channel between the parties involved, and (3) whether the function of the U.S. affiliate is limited to that of a ''processor of sales-related documentation'' and a ''communication link'' with the unaffiliated U.S. buyer. *See, e.g.*, Canadian Steel, 63 FR at 12738. Unless *all three* criteria are met, a sale made by the U.S. affiliate will not be attributed to the exporting affiliated party and, therefore, considered an indirect EP sale.

Because the third criterion is not met in this case, we need not address the first two criteria. Our examination of the record with respect to this administrative review indicates that the fact pattern for sales to the United States is substantially similar to the pattern for sales in the previous administrative review, in which we found that sales involving Siderca Corp. were CEP sales.

Under the selling agreement between TAMSA and Siderca Corp., Siderca Corp. is the exclusive selling agent for TAMSA products in the United States and other parts of the world, and has certain rights affecting price for any sales under the agreement. In exchange for providing marketing and selling functions, and for providing other services, Siderca Corp. is entitled to receive compensation under the agreement. The record indicates that Siderca Corp. did receive, in connection with this sale, the compensation provided for under the agreement.

In addition, Siderca Corp. played the primary role in generating this sale by bringing the customer to TAMSA. The record shows that Siderca Corp. has a working relationship with the United States customer. Conversely, TAMSA itself appears to have little, if any, contact outside of Mexico with regard to the sale of its products in the United States. Indeed, under the agreement, TAMSA is precluded from soliciting or negotiating sales directly in the United States.

The judicial cases TAMSA relies upon do not support its position. Contrary to TAMSA's claim, the opinion in U.S. Steel does not suggest that the Department should classify the sale in this case as an EP sale. The Court's decision to uphold Commerce's CEP classification in that case was not based solely on the evidence that the U.S. affiliate negotiated the final sale price consistent with a floor price set by the exporter. Instead, the Court also considered the fact that the U.S. affiliate had ''flexibility'' to make decisions as to price. In this case, as well, the binding sales agreement indicates that Siderca Corp. had the exclusive right and flexibility to negotiate the price. Thus, by analogy to U.S. Steel Corp., CEP classification is also appropriate in this OCTG case.

The Court's opinion in AK Steel also does not compel the Department to adopt an EP classification for the sale in this OCTG review. Although the Court in that case denied the Department's request for a remand to reconsider its classification of certain sales as EP sales, the Court did not find that the facts of that case demanded an EP classification. Instead, the AK Steel Court held that, prior to making its determination, ''Commerce may have been free to assess the evidence differently than it did.'' 34 F. Supp. 2d at 761. The principle of finality of administrative decisions requires that once a final agency decision is made, it cannot be changed unless the decision was erroneous when made. Noting that nothing in the record showed that the U.S. sales agents were free to negotiate prices, the Court held only that (although Commerce might have reached a different conclusion), ''it was not an error'' to classify the sales as EP sales. Id. Furthermore, the facts of this OCTG case weigh more heavily in favor of a CEP classification than did those in the case underlying *AK Steel,* because in this case the administrative record does contain evidence that the U.S. subsidiary was authorized to negotiate prices.

The administrative cases relied upon by TAMSA also do not support its claim that the sale in this case should be classified as an EP sale. For example, although both this case and the Dutch Steel case involve a sales agency agreement, the Dutch producer, Hoogovens, maintained direct communication links with its U.S. customers, often without its affiliate, HSUSA. Hoogovens' ''U.S. customers communicated directly with Hoogovens regarding post-sale price adjustments for quality defects.'' *See Dutch Steel,* 64 FR at 11829. In that case, ''the preponderance of selling functions involved in U.S. sales occurred in the Netherlands.'' *Id.* 64 FR at 11828. In this OCTG case, in contrast, the preponderance of selling functions were performed in the United States by Siderca Corp. While HSUSA had no authority to negotiate prices, Siderca Corp. had the authority to negotiate prices through its selling agreement. The agreement places the rights and responsibilities of selling and marketing TAMSA products in the United States squarely on Siderca Corp.

TAMSA's reliance on Canadian Steel, Taiwan Pipe, Korean Wire Rod, and Beryllium Metal is also misplaced. Sales at issue in those cases were deemed to be EP sales because the U.S. affiliates were not free to solicit sales, negotiate contracts or prices, or provide customer support. Siderca Corp., in contrast, was authorized to perform all of the above functions on behalf of TAMSA as well as resolving any disputes regarding the status of the order, delivery or quality, or any other customer issues.

The Department's position in the Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Spain (''Wire Rod from Spain''), 63 FR at 40394 (July 29, 1998), also supports the conclusion that TAMSA's sale is best classified as a CEP sale. In that case, the Department treated the U.S. sales as CEP sales under a similar fact pattern. Specifically, Acerinox's authority to negotiate and accept sales terms, as well as its authority to initiate contact with U.S. customers, contradicted the parent company's claim that the U.S. affiliate's activities were ancillary. Thus, the Department classified these sales as CEP sales.

Finally, although TAMSA claims that the contract was meaningless during this period of review, and that an e-mail interchange included in its submission shows that TAMSA was responsible for setting the price of this sale, there is record evidence showing that the contract remains in effect. Siderca Corp. retained its obligations under the agreement (e.g., maintaining a sales staff) and was substantially involved in the sales process for this sale. Based on the facts of the case, and their similarity to previous cases concerning the issue of whether a sale should be classified as CEP or EP, the Department has classified TAMSA's sale to the United States as a CEP sale for these final results.

Comment 2

TAMSA states that, in testing the home market sales database for below-cost sales, the Department should not compare home market sales prices that are unadjusted for inflation with costs of production that are adjusted for inflation.

Petitioners did not comment.

Department's Position

We agree with respondent and have changed the program for the final results. Circumstances do not warrant using the Department's high inflation methodology in this review. Therefore, we have deleted the inflation adjustment to costs of production.

Comment 3

TAMSA asserts that the Department's antidumping duty calculation program contained an error in line 1693. According to TAMSA, the Department underestimated selling expenses, leading to overestimated levels of profit from U.S. sales and underestimated total expenses. TAMSA requests that the Department include performance bond costs on certain home market sales when calculating home market direct selling expenses.

Petitioners did not comment.

Department's Position

We agree with respondent and have changed the program for the final results. The program now includes BONDH, a variable for performance bond costs, in the home market direct selling expenses calculation.

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margin exists:

CIRCULAR WELDED NON-ALLOY STEEL PIPES AND TUBES

Producer/manufacturer/exporter	Weighted-average margin
TAMSA	0.00

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit requirement will be effective upon publication of this notice of final results of review for all shipments of oil country tubular goods from Mexico 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 rate 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 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 review, the cash deposit rate will be 23.79 percent, the ''all others'' rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) 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 accordance with 19 CFR 351.306 of the Department's regulations. Timely written 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 sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 4, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–633 Filed 1–10–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–835]

Oil Country Tubular Goods From Japan: Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limits for final results of antidumping duty administrative review.

EFFECTIVE DATE: January 11, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0648.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1998).

Extension of Time Limit for Preliminary Results

The Department of Commerce has received a request to conduct an administrative review of the antidumping duty order on oil country tubular goods from Japan. The Department initiated this antidumping administrative review for Sumitomo Metal Industries Ltd. on September 29, 1998 (63 FR 51893) and for Okura and Company on October 29, 1998 (63 FR 58009). The review covers the period August 1, 1997 through July 31, 1998.

Because of the complexity of certain issues, it is not practicable to complete these reviews within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limit for the final results to March 5, 2000 (*see Memorandum from Joseph A. Spetrini to Robert S. LaRussa, ''Extension of Time Limit of the Administrative Antidumping Duty Review of Oil Country Tubular Goods from Japan'').* This extension of time limit is in accordance with section 751(a)(3)(A) of the Act.

Dated: January 4, 2000.

Edward Yang,

Acting Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 00–635 Filed 1–10–00; 8:45 am]

BILLING CODE 3510–DS–P