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

Dated: April 9, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–9972 Filed 4–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–810]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; 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; certain hot-rolled lead and bismuth carbon steel products from the United Kingdom.

SUMMARY: On December 10, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom. The review covers one manufacturer/exporter and the period March 1, 1995 through February 29, 1996.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, and the correction of certain clerical errors, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

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 current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On December 10, 1996, the Department published in the **Federal Register** (61 FR 65022) the preliminary results of its administrative review of the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom (58 FR 15324, March 22, 1993). The Department has now completed the review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this review are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1(f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this order remains dispositive.

This review covers one manufacturer/exporter of certain hot-rolled lead and bismuth steel products, British Steel Engineering Steels limited (BSES), formerly United Engineering Steels Limited (UES), and the period March 1, 1995 through February 29, 1996.

Duty Absorption

As part of this review, we are considering, in accordance with section 751(a)(4) of the Act, whether BSES absorbed antidumping duties. See the preliminary results of this review (61 FR 65022, December 10, 1996). For these final results of review, we find that antidumping duties have been absorbed by BSES. For a further discussion of this issue, see comments 1 and 2 below.

Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received comments and rebuttal comments from the petitioner, Inland Steel Bar Co., and BSES.

Comment 1: BSES contends that the Department lacks the authority to conduct a duty absorption inquiry in this, the third administrative review of this case, because the Act only permits such inquiries to be made in the second and fourth administrative reviews after the order is published.

Petitioner maintains that the Department was correct in conducting this duty absorption inquiry. Petitioner contends that BSES ignores the fact that, because this order was in effect on January 1, 1995, it is a transition order under the Act. Petitioner argues that the issue date for transition orders, as prescribed by the Act for the interpretation of sunset-related deadlines, is not the date of the original **Federal Register** publication, but rather the effective date of the World Trade Organization (WTO) agreement, January 1, 1995. As support for its argument, petitioner cites the URAA, Statement of Administrative Action (SAA) in H.R. Doc. No. 316, 103d Cong., 2nd Sess. (1994) at 882.

Petitioner also contends that section 351.213(j) of the Department's proposed antidumping regulations follows this timing interpretation and provides that for transition orders, if requested, the Department will make an absorption inquiry for administrative reviews initiated in 1996. According to petitioner, the preamble to the proposed antidumping regulations states explicitly that, for transition orders, ''reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year.''

Department's Position: We disagree with BSES that the Department lacks the authority to conduct a duty absorption inquiry in this review. Because the order for the subject merchandise was in existence as of the date the WTO agreement entered into force with respect to the United States, it is deemed to be a transition order. See section 751(c)(6)(C) of the Act. See also the SAA at 882. With respect to transition orders, section 351.213(j)(2) of the Department's proposed antidumping regulations explains that the Department will conduct a duty

absorption inquiry, if requested, beginning in the second year of review of such orders. See 61 FR 7307, 7366 (February 27, 1996). The preamble to the proposed antidumping regulations states that, for transition orders, ''reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year.'' 61 FR at 7317. (Although these proposed antidumping regulations are not yet binding upon the Department, they do constitute a public statement of how the Department expects to proceed in construing section 751(a)(4) of the amended statute. Because this review was initiated in 1996, the Department's duty absorption is deemed to be undertaken in the second year of review.)

Comment 2: BSES maintains that, if the Department declines to terminate the absorption inquiry, it must find that BSES has not absorbed antidumping duties. BSES further maintains that the existence of dumping margins does not necessarily mean that duty absorption has occurred. If this were the case, then the Department's obligation to conduct an absorption review would be meaningless, and there would be no need for a separate inquiry by the Department and the International Trade Commission (ITC).

BSES further maintains that the question of liability for antidumping duties is fundamentally different from the question of absorption in that the absorption inquiry involves at least two very distinct concepts that differentiate it from the ordinary dumping analysis. First, the absorption inquiry is intended to provide information to the ITC for consideration in a future sunset review. See sections 751(a)(4) and 752(a)(1)(D) of the Act. Secondly, BSES maintains that the Department should recognize that the small dumping margins that BSES has not yet succeeded in eliminating are not evidence of absorption.

BSES contends that, in determining whether a respondent's pricing policies demonstrate an intent to pass on or absorb duties, the Department may and should consider a respondent's sales prices in the aggregate and thus should offset the sale-specific dumping margins found in the review by the negative margins found in the review. BSES notes that the Department's preliminary review results found that BSES had a very low dumping margin and argues that the Department should recognize that BSES's pattern of pricing shows that it has conscientiously raised its prices and reduced its margin and thus has not absorbed antidumping duties.

BSES recognizes the Department's traditional methodology of setting negative dumping margins at zero in the calculation of the weighted-average dumping margin, but argues that there is no policy reason to ignore negative margins in duty absorption inquiries, and that there certainly is no such requirement in the statute or regulations.

Petitioner maintains that, during the debates over the URAA, the domestic industry pointed out that the full remedial impact of dumping duties was not always reflected in the marketplace. Petitioner argues that, although 19 CFR 353.26 (1994) prohibited an exporter from reimbursing an importer of record for antidumping duties, nothing prohibited a respondent from acting as an importer of record, and thereby absorbing underpayment of duties. As a result, Congress amended the statute to direct the Department to identify these instances of duty absorption because they could be relevant in the Commission's sunset review determination on the likelihood of continuing or recurring material injury if an antidumping order is revoked.

Department's Position: We disagree with BSES. An investigation as to whether there is duty absorption does not simply involve reading the margin of the final results. As the Department noted in the preliminary results of this review, the determination that duty absorption exists is also based on the lack of any information on the record that the first unrelated customer will be responsible for paying the duty that is ultimately assessed. Absent such an irrevocable agreement between the affiliated U.S. respondent and the first unrelated customer, there is no basis for the Department to conclude that the duty attributable to the margin is not being absorbed by the respondent.

This is an instance where the existence of a margin raises an initial presumption that the respondent is, in fact, absorbing the duty. As such, the burden of producing evidence to the contrary shifts to the respondent. See *Creswell Trading Co., Inc.* v. *United States*, 15 F.3d 1054 (Fed. Cir. 1994). Here, the respondent has failed to place evidence on the record in support of its position that it is not absorbing the duties. Further, while the fact that respondent's margin has fallen indicates that the level of dumping has decreased, it does not indicate the absence of duty absorption in this review period, as there is still a positive margin.

We disagree with BSES that negative and positive margins should be aggregated. The Department treats so-called ''negative'' margins as being equal to zero in calculating a weighted-average margin because otherwise exporters would be able to mask their dumped sales with non-dumped sales. See Final Determination of Sales at Less Than Fair Value; Professional Electric Cutting Tools and Professional Electric Sanding/Grinding Tools from Japan, 58 FR 30149 (May 26, 1993). It would be inconsistent on one hand to calculate margins using positive margin sales, which is the Department's practice, and then argue, in effect, that there are no margins because credit should be given for nonmargin sales. Thus, those sales which are used to determine whether there are margins should also be used to determine whether there is duty absorption.

Whether or not respondents ''intended'' to absorb duties is also irrelevant to the Department's inquiry. The Act does not provide a basis for the Department to render judgements on the intentions of respondents, but instead to make an empirical finding as to whether absorption is occurring.

Comment 3: Petitioner claims that some grades of scrap purchased by BSES from its affiliated parties were not at arm's-length transaction prices. If the scrap price from BSES's affiliated supplier is less than the scrap price from its unaffiliated supplier, petitioner claims, it is not an arm's-length transaction. To account for such grades that were not at arm's-length prices, petitioner maintains that the Department should increase BSES's total cost of production by the difference between the price paid to affiliated parties and the price paid to unaffiliated parties. Petitioner contends that the overall average for all grades of scrap does not recognize that individual grades of scrap may not have been purchased from affiliated parties in an arm's-length transaction. As support for its argument, petitioner cites 19 U.S.C.A. 1677b(f)(2) (1996 Supp.); also, Final Results of Antidumping Duty Administrative Review; Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea, 61 FR 20216, 20221 (May 6, 1996); Final Results of Antidumping Duty Administrative Review; Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan, 56 FR 65228, 65237 (December 16, 1991); and Final Determination of Sales at Less Than Fair Value; Certain Granite Products From Italy, 53 FR 27187, 27193 (July 19, 1988).

BSES contends that scrap is not a uniform commodity with a single, stable, established price. The market is

volatile, with prices varying from period to period and from supplier to supplier. BSES claims that each month it and its suppliers assess the market and negotiate the price for each grade of scrap to be purchased in the coming month. The relationship does not affect the negotiated price. BSES further claims that both affiliated and unaffiliated suppliers sell to BSES in a tight cluster of prices that hover closely to theoretical market price, which sometimes is slightly higher than the average and sometimes slightly lower, but always dictated by the going market price. BSES notes that, out of 21 grades supplied by both affiliated and unaffiliated suppliers, affiliated suppliers' average prices were higher for 12 of these grades and unaffiliated suppliers higher for 9 grades. BSES maintains that the affiliated scrap prices for many of the grades are understated, since its most important affiliated suppliers do not include freight to BSES's location in their prices while the unaffiliated suppliers sell on a delivered basis. BSES notes that, where scrap sales were made on an ex-factory basis, BSES included its freight expense in the material cost used in the reporting of the cost of production and constructed value (CV). BSES claims that petitioner has distorted its scrap data, to conclude that the data show affiliated prices to be generally lower than unaffiliated prices.

Department's Position: We agree with BSES that scrap purchases from affiliated suppliers were made at arm's-length prices, and that therefore no adjustment to scrap prices is warranted. As BSES notes, the overall weighted-average price for all grades of scrap during the fiscal year is somewhat higher from affiliated suppliers than from unaffiliated suppliers. See memorandum to the file from Leon McNeill, April 9, 1997.

Comment 4: Petitioner argues that, for the upcoming administrative review, the Department should require respondent to allocate each individual rebate over only those sales benefitting from the rebate rather than over all sales.

BSES contends that no changes should be made to the Department's analysis in either this review or future reviews.

Department's Position: Since this comment refers to an upcoming administrative review of this order, it is not relevant to this review. Therefore, for these final results, the Department has not taken any action on this issue.

Comment 5: BSES argues that the Department failed to make a circumstance-of-sale (COS) adjustment for home market imputed credit expenses for CV comparisons. BSES notes that, in the preliminary results, the Department added imputed U.S. credit expenses to the foreign unit prices in dollars (FUPDOL). However, it failed to make a corresponding adjustment for home market credit expenses by subtracting such expenses from the CV. BSES suggests that the Department make this correction by calculating separately a weighted-average imputed home market credit expense in addition to the total actual direct selling expenses, and then deducting the weighted average home market credit expenses from CV. BSES maintains that the Department's normal value calculation methodology recognizes that home market price includes all cost and expenses, including imputed credit expense, since the Department makes a COS adjustment for this expense in price-to-price comparisons. Similarly, a COS adjustment is also required for CV, since imputed credit expenses are included in CV. BSES cites section 773(e) of the Act, which directs the Department to calculate CV as the sum of actual expenses incurred in the manufacture of the product sold in the United States, plus the actual selling expenses from the home market sales file, plus general and administrative expenses (including net interest expense), plus the actual profit realized on home market sales. BSES argues that since the Department added imputed U.S. credit to the FUPDOL, to ensure a fair comparison it must correspondingly deduct home market credit from CV. BSES contends that the Department's Office of Accounting has endorsed the methodology and it is also reflected in the following cases: Final Results of Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey, 61 FR 69067 (December 31, 1996) and Final Determination of Sales at Less Than Fair Value; Large Newspaper Printing Presses from Japan (LNPPs from Japan), 61 FR 38139, 38147–48 (July 23, 1996).

Petitioner argues that since the Department did not include home market imputed credit in CV, it is not appropriate to deduct a home market credit expense from CV. Petitioner notes that although the Department has reached the opposite conclusion in several recent cases, including LNPPs from Japan, as cited by BSES, it should apply the pre-URAA policy of adjusting CV for imputed credit expenses.

Department's Position: We agree with BSES that a COS adjustment should be made for home market imputed credit expenses in CV comparisons. Under the URAA, for both COP and CV, the statute provides that selling, general and administrative expenses be based on actual amounts incurred by the exporter for production and sale of the foreign like product. Consistent with section 773(a)(6) of the Act, adjustments to normal value are appropriate where CV is the basis of normal value. The Department uses imputed credit expenses to measure the effect of a specific respondent's selling practices in the United States and the comparison market. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Administrative Reviews, 62 FR 2119–20 (January 15, 1997). Because export price is the basis for United States price in this review, the adjustment entails adding U.S. imputed credit to the CV, and subtracting home market imputed credit from the CV. The U.S. imputed credit was added for the preliminary results; for these final results, we have also subtracted the home market imputed credit. See section 773(a)(6)(c)(iii) of the Act.

Comment 6: BSES contends that the Department inadvertently deducted the home market quantity adjustment twice at lines 149 and 321 of the preliminary margin program.

Department's Position: We agree with BSES and have revised our computer programming language accordingly for these final results of review.

Comment 7: BSES argues that the Department erroneously applied a conversion factor to U.S. credit insurance. BSES claims that, since U.S. credit insurance is denominated in U.S. dollars, applying the conversion factor is incorrect.

Department's Position: We agree with BSES and have revised our computer programming language accordingly for these final results of review.

Comment 8: BSES maintains that the Department erred in converting U.S. packing from pounds sterling to U.S. dollars twice in calculating the FUPDOL for both price-to-price and CV comparisons.

Department's Position: We agree with BSES and have revised our computer programming language accordingly for these final results.

Comment 9: BSES claims that the Department misspelled the commission offset variable in the preliminary margin program. As a result, the commission offset was not applied to the FUPDOL for price-to-price comparisons where the U.S. commissions are greater than or equal to the home market indirect selling expenses.

Department's Position: We agree with BSES, and have revised our computer

programming language accordingly for these final results.

Comment 10: Petitioner argues that the Department inadvertently used the field MONTHU to establish the year for a concordance entry.

Department's Position: We agree with petitioner. Accordingly, for these final results, we have revised our computer programming language to make the appropriate clerical error correction.

Correction of Clerical Error

For the preliminary results, we failed to include direct selling expenses, indirect selling expenses, and U.S. packing expenses in the amount by which the profit ratio was multiplied in calculating CV profit. For these final results, we have included these expenses in the calculation of CV profit.

Final Results of Review

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

Manufacturer/exporter	Period of review	Margin (percent)
British Steel Engineering Steels Limited (BSES)(formerly United Engineering Steels Limited)	3/1/95–2/29/96	4.56

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentage stated above. Because there is a concurrent review of the countervailing duty order on the subject merchandise, final assessments for BSES will reflect the final results of the countervailing duty administrative review in accordance with 19 CFR 353.41(d)(iv). The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of certain hot-rolled lead and bismuth carbon steel products from the United Kingdom entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 25.82 percent, the ''all others'' rate established in the LTFV investigation (58 FR 6207, January 27, 1993). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

Notification to Interested Parties

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

Dated: April 9, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–810]

Oil Country Tubular Goods From Argentina; Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On September 17, 1996, the Department of Commerce (''the Department'') published in the **Federal Register** (61 FR 48882) a notice announcing the initiation of an administrative review of the antidumping duty order on oil country tubular goods (''OCTG'') from Argentina. This review covered the period June 29, 1995 through July 31, 1996 (for OCTG other than drill pipe) and August 11, 1995 through July 31, 1996 (for drill pipe). This review has now been rescinded as a result of the absence of entries into the United States of subject merchandise during the period of review.

EFFECTIVE DATE: April 17, 1997.

FOR FURTHER INFORMATION CONTACT: Alain Letort or John Kugelman, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4243 or (202) 482–0649, respectively, or fax (202) 482–1388.

SUPPLEMENTARY INFORMATION: On August 30, 1996, petitioners requested an administrative review of Siderca S.A.I.C., an Argentine producer and exporter of OCTG, and Siderca Corporation, a U.S. importer and reseller of such merchandise (collectively, ''Siderca''), with respect to the antidumping duty order published in the **Federal Register** on August 11, 1995 (60 FR 41055). We initiated this review on September 17, 1996 (61 FR 48882).

On October 4, 1996, Siderca filed a letter with the Department certifying that it did not export, directly or indirectly, subject merchandise that was entered for consumption into the United States during the period of review (''POR''). Siderca also certified that its U.S. affiliate, Siderca Corporation, did not import for U.S. consumption any of the subject merchandise during the POR.