the Department has determined that it is appropriate to adopt the ''new shipper'' rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical errors as a result of litigation) as the ''all others'' rate for the purposes of establishing cash deposits in all current and future administrative reviews (*see*, e.g., *Final Results of Antidumping Duty Administrative Review of Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan*, 58 FR 64720, (December 9, 1993)).

Therefore, the ''all others'' rate applied is the rate of 3.9 percent from *Viscose Rayon Staple Fiber From Finland, Final Results of Administrative Review of Antidumping Finding* (46 FR 19844, April 1, 1981), the first review conducted by the Department in which a ''new shipper'' rate (or in this case, a rate for all shipments of the subject merchandise, including new shippers) was established.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a 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 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–15872 Filed 6–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–502]

Certain Welded Carbon Steel Pipes and Tubes From India; 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 February 9, 1998, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on certain welded carbon steel pipes and tubes from India. The review covers two manufacturers/exporters. The period of review is May 1, 1996, through April 30, 1997.

Based on our analysis of the comments received, we have made changes, including corrections of certain inadvertent programming and clerical errors, in the margin calculation. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margin is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: June 16, 1998.

FOR FURTHER INFORMATION CONTACT: Davina Hashmi, at (202) 482–5760, or Greg Thompson, at (202) 482–0410, of the Import Administration, International Trade Administration, U.S. Department of Commerce.

SUPPLEMENTARY INFORMATION:

The 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 to 19 CFR Part 353 (1997).

Background

On February 9, 1998, the Department of Commerce (the Department) published the *Preliminary Results of Administrative Review of the Antidumping Duty Order on Certain Welded Carbon Steel Pipes and Tubes from India*, 63 FR 6531. The review covers two manufacturers/exporters. The period of review (POR) is May 1, 1996, through April 30, 1997. We invited interested parties to comment on the preliminary results of review. At the request of one respondent, Rajinder Pipes Ltd. and Rajinder Steel Ltd. (collectively called ''RSL''), we held a public hearing on April 6, 1998. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Reviews

The products covered by this review include circular welded non-alloy steel pipes and tubes, of circular cross-section, with an outside diameter of 0.372 inch or more but not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon-steel pipes and tubes within the physical description outlined above are included in the scope of this order, except for line pipe, oil-country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.

Imports of the products covered by this review are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain corrections that changed our preliminary results. A discussion of the arguments raised in the case and rebuttal briefs submitted to the

Department is contained in the following section entitled, ''Analysis of Comments Received.''

Analysis of Comments Received

Comment 1: The petitioners argue that the Department should apply facts available to those selling expenses and costs that could not be verified due to Rajinder's failure to prepare for verification properly. Specifically, the petitioners posit that the Department should disallow the deduction from normal value (NV) certain unverified home-market (HM) selling expenses and should deduct from the price in the United States the highest reported expense for certain unverified U.S. selling expenses.

The petitioners state that, in accordance with sections 776 and 782(i) of the Act and *Olympic Adhesive Inc.* v. *United States* (899 F.2d 1565, 1572 (Fed. Cir. 1990)), the Department may disregard respondent's information if such information cannot be verified and where manipulation of the margins may occur because a respondent may provide information selectively that the Department requested. The petitioners argue that there is no justification for Rajinder's failure to prepare for verification properly and for the frequent delays the Department encountered at verification. The petitioners point out that Rajinder had been given, in advance, an itinerary of the topics to be covered during verification and posit that Rajinder had ample time to prepare adequately for the verification. The petitioners also note that Rajinder has previous verification experience and, therefore, should have known what was needed and expected.

Finally, the petitioners state that it is Department practice to make an adverse inference and to apply facts available in cases where respondent impedes the progress of the review and fails to act to the best of its ability to comply with the Department's request for information. The petitioners contend that, in the instant proceeding, the situation warrants the application of adverse facts available.

Rajinder refutes the petitioners' argument that facts available should be applied to certain HM and U.S. selling expenses and argues that the petitioners have distorted the facts as they relate to the HM verification. Rajinder contends that, although it could have been better prepared for verification, its lack of preparation does not warrant the use of facts available, nor does it suggest that Rajinder in any way has impeded this review or failed to cooperate with the Department. Rajinder states that, on the contrary, most of the claimed adjustments were verified with very few discrepancies. Rajinder points to the verification report as support for the number of tests performed and the number of adjustments the verifiers examined, most of which had no discrepancies and some of which had discrepancies that were disadvantageous to Rajinder.

Rajinder also refutes the petitioners' assertion that it provided requested information selectively. Rajinder explains that, with respect to those adjustments that the Department did not examine at verification, the verifiers were simply not able to cover those topics in the time allotted for the verification. Rajinder argues that, had it wanted to select adjustments that it did not want the Department to verify, it would have selected the large adjustments, not the minor ones.

Department's Position: We agree with the respondent in part. With the exception of HM indirect selling expenses and duty drawback (see comment 4), we have accepted all of Rajinder's submitted information. Our determination in this regard is consistent with the statute and our practice. We have concluded, in accordance with section 776(a) of the Act, that the use of facts available for Rajinder's HM indirect selling expenses is appropriate because we were unable to verify the accuracy of the information Rajinder submitted despite numerous requests on our part to obtain the data. By not providing certain basic verification documents that were essential to the establishment of the accuracy of the data submitted, Rajinder did not cooperate to the best of its ability to comply with our requests for such information. Accordingly, we are using an adverse inference with respect to this item in full accordance with law. See section 776(b) of the Act. While we have determined that Rajinder did not cooperate to the best of its ability with respect to the HM indirect selling expenses, we do not find that this undermines the credibility of the other information Rajinder submitted during this review. See *Monsanto Co.* v. *United States*, 698 F. Supp. 275 281 (CIT 1988). Accordingly, we have calculated Rajinder's margin using all the data it submitted with the exception of the two items mentioned above.

As for the petitioners' concerns that Rajinder manipulated the process, it should be noted that, from the outset of verification, we selected adjustments out of the order from which they were listed in the verification outline. In other words, we conducted a ''spot check'' of various expense items which would preclude Rajinder from ''manipulating'' the process and selectively providing information to certain adjustments. In this manner, we were able to ensure that all items we selected were covered in time.

Comment 2: The petitioners argue that certain letters Rajinder submitted to the Department (dated January 13, 14, 15, 20, and 26, 1998) were untimely filed and should be removed from the official record in this review and not considered by the Department for the final results of this review. The petitioners also contend that the verifying officials did not request information contained in the respective January letters as stated by the respondents. The petitioners state further that even the first of the series of January letters (dated January 13, 1998) was submitted beyond the normal seven-day period for submitting information after the date on which verification is completed.

Rajinder contends that the January submissions with which the petitioners take issue should not be removed from the official record. Rajinder states that the letter dated January 13, 1998, was submitted at the request of the Department for the purpose of clarifying Rajinder's calculations for its reported variable costs of manufacture. Rajinder also states that, in accordance with 19 CFR 353.31(b)(1), the Department may solicit information from respondents at any time. Rajinder states further that the letters dated January 14, 15, and 20, 1998, pertain to information contained in Rajinder's Duty Exemption Entitlement Certificate (DEEC) book which was in the possession of the Customs Authority at the time of verification. Rajinder contends that, with respect to the letter dated January 26, 1998, the content of the letter was already examined at verification and that Rajinder should not be penalized for submitting a document that was not in existence at the time of verification. Rajinder points out, however, that, in the event that the Department rejects the letters dated January 14, 15, 20, and 26, 1998, that these letters are not necessary to demonstrate the validity of Rajinder's duty-drawback claim.

Department's Position: In accordance with 19 CFR 353.31(a)(2) we have rejected the January 14, 15, 20, and 26, 1998, letters because they were untimely and we did not request the information they contained. See letters to the respondent's counsel dated February 12, 1998, and April 16, 1998. We accepted Rajinder's January 13 letter because the information contained in that letter was submitted at our request.

Comment 3: The petitioners contend that the Department erroneously found two levels of trade (LOTs) in the HM and argue that the Department should

rescind the LOT adjustment it granted Rajinder in the preliminary results of review. The petitioners argue that Rajinder prevented the examination of the existence of two HM LOTs at verification, despite the Department's intention to examine this topic, and therefore, the information upon which the Department based its findings of two HM LOTs is unsupported.

The petitioners take issue with the Department's reasoning behind its categorization of Rajinder's customers into two channels of distribution and assert that such reasoning does not establish two HM LOTs. The petitioners argue that, rather than base the determination of different LOTs in the HM properly on selling activities of the producer, the Department instead considered the selling functions of the purchaser. The petitioners also assert that the record does not support qualitatively or quantitatively the differences in selling activities and functions made between Channel One (sales to government agencies, OEMs, and end-users) and Channel Two (sales to local distributors and trading companies) customers.

In addition, the petitioners assert that, if the Department finds that two HM LOTs exist, Rajinder has not fulfilled its burden of providing evidence that established the claimed price differential between sales at the different LOTs, citing the URAA, the Statement of Administrative Action (103d Cong. 2d Session, House Doc. 103–316 at 829 (1994)), and *Koyo Seiko Co. Ltd.* v. *United States*, 18 ITRD 1867 at 1870 (CIT June 19, 1996). The petitioners point out that the CIT has upheld the Department's decision to deny respondent's claimed price differential where a respondent fails to provide such information (citing *NTN Bearing Corp.* v. *United States*, 905 F. Supp. 1083, 1093–4 (Ct. Int'l Trade 1995)).

The petitioners also argue that Rajinder has not demonstrated a causal link between the reported selling functions and the claimed differences in price. The petitioners argue further that, on a model-specific basis, Rajinder's data reveals a highly inconsistent and disparate pattern of price differences across different models which, the petitioners assert, cannot be attributed to differences in the claimed LOTs. The petitioners assert that such disparate price differences are attributable to premiums that the Indian government is willing to pay for such merchandise. The petitioners argue further that an analysis of the weighted-average HM prices of Channels One and Two sales are not commensurate with the number of selling activities associated with each LOT. For instance, petitioners argue that, given the large number of selling activities associated with Channel One sales, it does not make sense that the HM prices for Channel Two sales are higher than the HM prices for Channel One sales. The petitioners state that, because Rajinder has not provided evidence demonstrating a consistent pattern of price differences attributable to Rajinder's claimed LOTs, the Department should not grant Rajinder a LOT adjustment for the final results of review.

Rajinder argues that, contrary to the petitioners' assertion, the record does support a finding of two HM LOTs. Rajinder refutes the petitioners' argument that it prevented the Department from examining LOT information at verification and asserts that the petitioners mischaracterized the events that took place at verification. Rajinder notes that, because nearly every adjustment the Department examined at verification was accurate with no discrepancies found, there is no reason to question the selling activities listed in Rajinder's selling-functions chart.

In addition, Rajinder argues that both its original and supplemental questionnaire responses demonstrate that a price differential at the two claimed LOTs does exist. Rajinder argues further that it has explained the causal link between the reported selling functions and the claimed differences in price. Regarding the petitioners' model-specific analysis, Rajinder notes that this analysis incorporates sales that took place over a number of months. Rajinder points out that variances in price differences across different models over time is a normal phenomenon. Rajinder notes further that its sales made to the government involve state government agencies which desire lower prices and therefore would not pay premiums as alleged by the petitioners.

Rajinder argues that, with respect to the petitioners' assertion that its HM weighted-average prices are not commensurate with the number of selling activities associated with each LOT, the petitioners' analysis is flawed. Rajinder contends that the wrong months and, thus, the incorrect sales were used in the analysis. Rajinder states that, because its sales were made in months that have nearly six-month intervals between the sales compared, it is likely that prices will vary. Finally, Rajinder argues that the petitioners used net HM prices which distorted their analysis. Rajinder concludes that, because the petitioners' analysis is flawed and is therefore invalid, the Department should maintain its finding of two LOTs in the HM and make a LOT adjustment for the final results of review.

Department's Position: We disagree with the petitioners. For the final results of review, we have granted Rajinder a LOT adjustment. Although we did not specifically examine the issue of LOT at verification, the record supports Rajinder's claim of two channels of distribution in the HM. As noted previously, the purpose of verification is to ensure that a respondent reported the information the Department requested accurately (see our response to comment 1). In any given proceeding, the information we request from a respondent can be extensive. The examination of such information subject to verification is an extensive process, particularly given that a HM verification of a company's sales or cost information is normally conducted within a period of one week or less. The Department, therefore, cannot examine each and every adjustment that is included in the verification outline. *See Monsanto Co.* v. *United States*, 698 F. Supp. 275 281 (CIT 1988). In the instant case, Department officials selected adjustments to examine randomly and Rajinder was never put in a position to control the Department's verification of its response. Furthermore, the adjustments we examined at verification were accurate, with a few minor exceptions. The fact that we did not examine the issue of LOT does not lead us to question the validity of Rajinder's selling activities, channels of distribution, or the narrative response discussing such selling functions.

We also disagree with the petitioners' claim that the record lacks evidence of two separate LOTs in the HM. In its narrative response, Rajinder explained that it sells the foreign like product through two channels of distribution (Channel One and Channel Two). In our preliminary analysis memorandum, we stated that we grouped Rajinder's reported customer categories into two channels of distribution for the following reasons: (1) the level of involvement, selling functions and expenses for the two categories of customers are significantly different; (2) a number of OEM and end-user customers are departments within the Indian government and, therefore, we found that it is appropriate to place these customers in the same category as state government agencies; and (3) Channel One customers use merchandise for their own consumption, whereas Channel Two customers resell the merchandise purchased from Rajinder. The

petitioners argue factors two and three do not establish different LOTs. However, the categorization of such customers into two channels of distribution does not, in and of itself, establish two different LOTs. Rather, the three factors emphasize similarities between different customer types so that they can be placed in categories for the purpose of determining whether different LOTs exist. Further, while the significance of the three factors may vary across customer types, we have determined, based on an analysis of these three factors, that the customers fall into two distinct groups.

The petitioners' argument that LOT is determined by the selling activity of the producer, not the selling functions of the purchasers, is true, but misplaced. In order to determine the LOT of U.S. sales and comparison sales, we review and compare distribution systems that include not only selling activities of the producer, but also the class of its customer (point in the distribution chain). Furthermore, there is a direct relationship between the classification of a given entity and the function of that entity. Therefore, as part of our LOT analysis, we classify the producer's customers (*e.g.*, wholesaler, retailer) based on the activities they perform in selling the product under review. We do not, however, consider the selling functions of the customer when determining whether different LOTs exist.

We have accepted the selling-function chart Rajinder provided as part of its verified questionnaire response. As we stated in preliminary results of review, we used six of the listed functions to make a distinction between selling activities associated with Channels One and Two: market research, professional services and business systems development, engineering services, agent coordination, research and development, and advertising. As the chart that the petitioners included in their brief shows, there is a marked difference between the selling functions being performed in the two channels of distribution.

Based on the above factors, we determined that there are two LOTs in the HM. One of these (Channel Two) is equivalent to the sales made at the constructed export price (CEP). However, since some of our U.S. sales matched to the other LOT we reviewed the data to determine if a LOT adjustment was appropriate.

Sales at the other channel are made at a more advanced level; therefore, we next determined whether there was a pattern of consistent price differences between the two HM LOTs and whether a LOT adjustment was appropriate. The analysis we performed on Rajinder's information indicated that an adjustment was appropriate. The petitioners' argument regarding causation is misguided. The statute requires that the price differences be ''wholly or partly due'' to differences in LOTs; it does not require a determination of the exact price effect caused by LOT differences and it would not be possible to do so, given the variety of market forces that affect the sales price of each transaction we review (*see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France et.al: Final Results of Antidumping Duty Administrative Reviews,* 62 FR 2081, 2108 (January 15, 1997) (*AFBs*)).

Comment 4: Rajinder argues that the Department's denial of its claimed duty-drawback adjustment is unreasonable. Rajinder contends that it met both parts of the Department's test: (a) Whether the import duty and rebate are directly linked to, and dependent upon, one another; and (b) whether the company claiming the adjustment can show that there were sufficient imports of the imported raw materials to account for the drawback received on the exported product. Rajinder contends further that, for the purpose of satisfying part one of the Department's two-part test, it provided record evidence demonstrating how the import duty and the duty drawback are related to one another. Rajinder indicates that it explained on the record how India's Advanced Licensing system operates and that India's duty-exemption schemes are well known by the Department and points to several administrative reviews involving Indian companies that subscribe to India's Advanced Licensing system. In addition, Rajinder indicates that it provided both the duty-drawback calculation methodology it used to calculate the adjustment and the respective advanced licenses under which it could import raw materials free of duty, provided such materials were used in the production of the exported product.

Rajinder points to the verification report and accompanying exhibits as evidence of its eligibility for exemption from customs duties. Rajinder states that the advanced licenses state explicitly that the respective materials would be ''eligible'' for exemption from customs duties and that the underlying licenses are replete with the term ''Duty Exemption.'' Rajinder contends that the verification team did not indicate that additional information was necessary to satisfy part one of the Department's two-part test. Rajinder also argues that it supplemented the record with the very information that prompted the Department to deny the claimed duty-drawback adjustment for the *Final Results of the New Shippers Antidumping Duty Administrative Review* 62 FR 47632, (September 10, 1997).

Rajinder contends further that it satisfied part two of the Department's two-part test. Rajinder points to the verification report and accompanying exhibits which it asserts demonstrate that it imported sufficient amounts of hot-rolled coil and steel to qualify for duty drawback. Rajinder refers to the check marks and notations on the verification exhibits that the Department's verifiers made which, Rajinder asserts, is an indication that the Department verified the quantities of hot-rolled coil Rajinder imported.

Rajinder argues that the Department misstated the purpose of Rajinder's January 20, 1998, submission of Rajinder's DEEC book. Rajinder indicates that, in the preliminary analysis memorandum, the Department stated that the purpose of submitting the DEEC book was to provide evidence that sufficient imports of raw materials were received for the final exported product. Rajinder contends that, contrary to the Department's statement regarding the purpose of the DEEC book, the actual purpose of submitting this book was merely to corroborate the data already on the record. Rajinder argues that the relevant verification exhibit already demonstrates the sufficiency of import quantities.

Rajinder states that it submitted the DEEC book for the record because the Department requested it at verification. Rajinder points out that it explained to the verifiers that only the completed DEEC book, which was at that time in the possession of the Indian Customs Service, would satisfy the additional information they sought.

The petitioners contend that the Department denied Rajinder's claimed duty-drawback adjustment correctly because Rajinder failed to meet either part of the Department's two-part test. The petitioners assert that, despite the fact that Rajinder was on notice from the *New Shippers Review* as to the information necessary to demonstrate its claimed duty-drawback adjustment adequately, Rajinder missed the opportunities to supplement the record with the necessary information. The petitioners point out that, throughout this review, the Department informed Rajinder of its need to provide additional information to satisfy the two-part test. The petitioners state, however, that in accordance with the

Department's regulations and practice, Rajinder failed to provide the necessary evidence to satisfy the requirements of its claimed duty drawback, citing *Nachi-Fujikoshi* v. *U.S.*, 890 F. Supp. 1008, 1015 (1992).

The petitioners argue that the fact that the Department recognizes India's Advanced Licensing scheme is irrelevant to the instant case. The petitioners contend that Rajinder merely provided a general description of the Advanced Licensing scheme and that the possession of the advanced licenses alone does not demonstrate the linkage between the import duty and the drawback.

The petitioners indicate their support for the Department's decision to require Rajinder to provide historical documentation demonstrating how Rajinder received advanced licenses and satisfied the requirements of those licenses. The petitioners point out that the advanced licenses stipulate the submission of quarterly reports to the government of India and that such reports should provide detail of the goods imported against the licenses. The petitioners assert that such reports or other similar documentation demonstrating that Rajinder fulfilled the obligations of the advanced license could have been submitted as proof of entitlement to the claimed duty drawback. The petitioners explain further that, because importation of raw materials may occur before or after exportation, historical records documenting how the program was applied to a specific company and product are necessary to demonstrate linkage. The petitioners contend that the advanced licenses alone do not serve as proof that the drawback was received, but instead establish the right to import raw materials.

The petitioners argue that Rajinder also failed to satisfy the second part of the Department's two-part test. With respect to the verification exhibit with which Rajinder claims the Department was satisfied, given the check marks placed on it, the petitioners assert that the check marks are merely indications that the numbers on the respective worksheets reconciled with the reported figures. The petitioners also argue that the record does not demonstrate adequately that the amount of steel coil Rajinder claims to have imported qualified for duty-free status under the advanced license.

In addition, the petitioners argue that, even if the Department permits Rajinder's steel duty-drawback adjustment, it should deny Rajinder's claim for the zinc duty-drawback adjustment. The petitioners argue that Rajinder did not import zinc during the POR and, instead, used the calculation it provided in the previous New Shippers Review. The petitioners contend that the zinc information submitted in January constitutes new information, which was illegible and should have been submitted prior to verification if Rajinder desired due consideration of the information. The petitioners contend further that Rajinder has not provided any evidence that the imports of zinc met the Department's two-part test. Specifically, the petitioner states that Rajinder did not provide any evidence that sufficient quantities of zinc were imported to cover the zinc incorporated into the pipe or that qualifying inputs of zinc were made within twelve months of the date of issuance of its advanced licenses.

Department's Position: For both steel and zinc, we agree with the petitioners that Rajinder has not satisfied either part of our test. While Rajinder is correct in stating that we found the figures in the verification exhibits we reviewed to be accurate, the figures did not establish a direct link between the import duty and the drawback Rajinder claimed it received. Based on our understanding of the system, as explained at verification, the imported goods may enter free of duties, but the company must prove to Indian Customs that the goods were used in a product that was or will be exported or the importer of the goods will be liable for the foregone duty. This is why we requested documentation from the DEEC book. Without such information there is no established link between the import duty and the drawback. Inasmuch as Rajinder knew that it would not have the documents needed to establish this link at verification, Rajinder should have explained to us in advance that we would not be able to review such documents until after verification. Rajinder's arguments concerning part two of the test are irrelevant since both parts of the test must be met in order to receive the adjustment.

Comment 5: Rajinder contends that the model-match methodology that the Department employed in the preliminary results is inaccurate and does not provide a fair comparison between U.S. and HM models. Rajinder argues that it provided the Department with the best possible matches between HM and U.S. models sold during the POR subject to the Department's model-match hierarchy set forth in the Department's original questionnaire. Rajinder argues, however, that the Department disregarded its own hierarchical model-match methodology and instead grouped certain models into ''families'' based on the model's nominal pipe size. Rajinder contends that the Department's family model-match methodology is unfair because it includes models that are not the most similar to the products sold to the United States.

Rajinder also points out that the Department did not provide an explanation as to why its family model-match methodology provides better results and the Department did not explain why it did not use the model matches Rajinder provided in its response. Rajinder asserts further that grouping models into families has never been employed in other standard pipe and tube cases and was not the approach employed in the previous New Shippers Review in which Rajinder participated. In addition, Rajinder asserts that the Department's model-match methodology does not provide the most similar comparisons and is contrary to antidumping law and to the CIT's ruling that comparisons should be based on the most similar merchandise, absent identical merchandise sold in either the home or U.S. markets (citing *Torrington Co.* v. *United States*, 881 F. Supp. 622, 634 (Ct. Int'l Trade 1995)).

In addition, Rajinder argues that the Department is using only one physical attribute, the nominal pipe size, as the basis for model matching and is disregarding another significant attribute, wall thickness, which, in the Department's model-match hierarchy, is one of the most important factors next to nominal pipe size. Rajinder asserts that matching models using only the nominal pipe size rather than including wall thickness as an important criterion by which to find the most similar matches produces an apples-to-oranges comparison.

Rajinder asserts further that the Department apparently selected HM models as matches to U.S. models based on size of the difference-in-merchandise adjustments associated with the selected models. Rajinder contends that differences in costs are not physical characteristics and that such figures should not be relied upon for the purpose of matching models. Moreover, Rajinder argues that the HM models that the Department selected as matches to U.S. models did not produce the smallest difference-in-merchandise adjustments.

Rajinder also points out that pipes sold in India are categorized by light, medium, and heavy pipe which is reflective of the wall thickness. Rajinder explains that the uses of the pipes are a direct determinant of whether light,

medium, or heavy pipe is necessary. Rajinder explains further that a light pipe cannot be compared with a medium pipe, as was done in the preliminary results.

For the above-mentioned reasons, Rajinder argues that the Department should use the models that Rajinder selected as the most similar HM models to the models sold in United States for the final results of review.

The petitioners claim that the Department's model-match methodology is not unreasonable and is not contrary to the statute. The petitioners assert that there is no reason for the Department to alter its approach for the final results of review. The petitioners argue that, in accordance with section 771(16) of the Act, the HM models the Department selected as potential matches meet the definition of foreign like product. The petitioners also argue that, although this model-match methodology deviates from that employed in other standard pipe cases, the Department has wide discretion in determining model matches in antidumping cases (citing *Torrington Co.* v. *United States*, 881 F. Supp. 622 at 634 (Ct. Int'l Trade 1995); (*Smith-Corona v. United States*, 713 F. 2d 1568, 1571 (Fed Cir. 1983), cert. denied, 465 U.S. 1022(1984)). The petitioners explain that the Department's methodology selects the most similar models that match as closely as possible the five physical characteristics in the hierarchy, classifies models into families on the basis of nominal pipe size, and selects the models that produce the smallest difference-in-merchandise adjustment. The petitioners point out that selecting model matches on the basis of difference-in-merchandise takes into account a combination of physical characteristics and, moreover, it is in accordance with section 771 (16)) of the Act, which calls for finding the closest possible match.

The petitioners contend that, although the Department's model-match methodology is different from the methodology employed in the previous New Shippers Review and other pipe cases, the use of this methodology in the instant case does not preclude it from being a reasonable model-matching approach. The petitioners contend further that, while controversy has arisen in the antifriction bearings proceedings regarding the family model-match methodology, such controversy is irrelevant given that the methodology was approved by the Court of International Trade, citing *Torrington Co.* v. *United States*, 881 F. Supp. 622 (CIT 1995). The petitioners note that the Department's model matching meets the statutory goal of matching products with the most similar characteristics.

The petitioners also rebut Rajinder's claim that the Department disregarded wall thickness that Rajinder claims to be the most important factor. The petitioners point out that determining whether certain characteristics are more important over others has been an ongoing controversial topic between the Department and certain domestic interested parties and various respondents in other proceedings. The petitioners note that the Department's methodology takes into account a combination of physical characteristics, including wall thickness.

In addition, the petitioners argue that differences in cost are reflective of differences in physical characteristics which is the premise behind the difference-in-merchandise adjustments. The petitioners also contend that, despite whether the pipe is light, medium, or heavy, all of the products used for comparison purposes have the same end use—the conveyance of gases and liquids and light structural uses. The petitioners argue that the Department's hierarchical approach to matching models that are most similar as set forth in its original questionnaire arbitrarily assigned a level of importance to certain characteristics and did not take into account differences in physical characteristics. The petitioners assert that a change in any one of the characteristics included in the hierarchy causes changes in other characteristics included in the hierarchy. The petitioners explain that a change in wall thickness can alter the thickness as well as the costs associated with end and surface finish, both of which are characteristics included in the hierarchy.

The petitioners point out that, under the hierarchical approach, the Department would, in ascending order, find matches at the highest level of the hierarchy and would, thereby, disregard any changes in characteristics at the lower levels as a result of finding a match at the higher level. The petitioners argue that, in essence, this approach may find matches at higher levels within the hierarchy with a higher difference-in-merchandise even though another match might yield a lower adjustment.

The petitioners argue that Rajinder has not provided evidence that the differences in wall thickness and the claimed specialized uses of the different wall thicknesses yield differences in market values. The petitioners therefore argue that, for the foregoing reasons, the Department should maintain the model-match methodology it used in the preliminary margin calculations for the final results of review.

Department's Position: We agree with Rajinder in part. We agree that we should alter the model-match methodology from what we used in the preliminary results, but we do not agree that we should automatically accept the matches that Rajinder suggested in its response. In the preliminary results, we matched each U.S. model to a ''family'' of home-market models.

Sections 771(16)(B) and (C) of the Act define foreign like product merchandise as identical products or products in the following two categories:

> (B) Produced in the same country and by the same person as the merchandise which is the subject of the investigation, like that merchandise in component material or materials and in the purposes for which used and approximately equal in commercial value to that merchandise.
>
> (C) Produced in the same country and by the same person and of the same general class or kind as the merchandise which is the subject of the investigation, like that merchandise in the purposes for which used, and which the administering authority determine may reasonably be compared with that merchandise.

In accordance with section 771(16) of the Act, we modified our matching methodology and applied the criteria as follows. We did not consider grade and finish since those categories were the same for all HM models. The remaining criteria are size, wall thickness, and end finish. For size, we agree with the respondent, as we did in the preliminary results, that the U.S. models should be matched to HM models with a size of 32 mm or 40 mm. Each of the U.S. models fell between two HM models with essentially equivalent differences in wall thickness. For these four models, we reviewed the end finishes. All of these models had the same end finish, so that was not a determinant. This left two possible HM matches for each U.S. model. For these final results, unlike the preliminary results, we compared the variable cost of manufacture for all of these products and matched those products with the smallest differences (see analysis memorandum dated May 20, 1998).

Comment 6: The petitioners argue that the Department should not make a deduction from NV for Rajinder's reported HM credit expenses. The petitioners assert that, based on Rajinder's methodology for calculating credit expenses, one cannot discern the invoice against which payment was being made because these expenses were not calculated on an order-or product-specific basis. The petitioners

also note that Rajinder used an arbitrary method for determining payment dates based on whether a certain customer owed Rajinder more or less than fifty percent of its outstanding balance which, the petitioners argue, does not correlate to a customer's actual payment history. The petitioners suggest that the Department use instead a customer-specific average credit period as it has done in the past with cases in which a respondent's system utilized revolving accounts rather than rely upon any arbitrary method for determining payment dates.

The petitioners also argue that Rajinder did not provide a reliable HM short-term interest rate. The petitioners note that, at verification, Rajinder provided the Department with statements from two of its banks that specify the short-term interest rate charged to Rajinder. However, the petitioners point out that Rajinder received a number of short-term loans from various financial institutions and that the interest rates charged by the two banks are not representative of the interest rates incurred on the short-term loans that Rajinder has outstanding with the various other financial institutions. The petitioners assert that Rajinder is therefore manipulating the interest rate used in the credit expense calculation by providing the interest rates selectively. The petitioners argue that, because the cost of working capital is fungible, the Department should calculate an average short-term interest rate from all short-term loans Rajinder has outstanding with the various financial institutions. In addition, the petitioners contend that, because Rajinder has failed to provide the Department with information necessary to calculate an average short-term interest rate, the Department should disallow an adjustment to NV for credit expenses.

Rajinder argues that credit expenses were verified with very few discrepancies and notes that the few discrepancies the Department found were disadvantageous to Rajinder. Rajinder argues, therefore, that because the credit expense calculation was verified and found to be accurate there is no reason to deny an adjustment to NV for this expense. Rajinder also refutes the petitioners' assertion that Rajinder used an arbitrary method to calculate its HM credit expenses. Rajinder points out that the calculation methodology was reasonable and consistent with the manner in which Rajinder's customers remit payment. Rajinder also states that petitioners' suggested methodology is only one of several methodologies that can be used to calculate credit expenses. Rajinder also argues that, if the Department rejects Rajinder's reported HM credit expenses, it should provide Rajinder with an opportunity to use a different method.

Rajinder contends further that the short-term interest rate was verified and found to be accurate. Rajinder argues that it did not select the interest rate to be used in the calculation and there is nothing on the record or in the verification report or accompanying exhibits to suggest that it is unrepresentative of its short-term cost of borrowing. Rajinder notes that high interest rates are common in India, given the rate of inflation and devaluation. Rajinder asserts that, for the final results of review, the Department should accept Rajinder's credit expense calculation including the short-term interest rate used in the calculation.

Department's Position: We agree with Rajinder. Rajinder calculated credit periods based on the manner in which its payment system operates. Many companies have revolving lines of credit for their customers. Despite the fact that such a system may make it difficult to tie specific sales to subsequent payments from the customer, calculation of average credit periods based on such a system is not unreasonable. In fact, as the verification report alludes, Rajinder's reported figures generally erred on the conservative side.

We have also accepted Rajinder's reported interest rate. Rajinder did not, as the petitioners suggest, supply the verifiers with interest-rate information selectively for two of its bank loans. The verifiers reviewed all of Rajinder's outstanding loans (short-and long-term) and traced the short-term loans to entries in the general ledger and Rajinder's financial statements showing outstanding balances and payments. In addition, the verifiers randomly chose two of the loans and reviewed all of the supporting documentation from which the interest rates were drawn. The interest rate charged on the two loans reviewed by the Department in detail corresponded with the rate Rajinder used in its calculation of credit expenses.

Comment 7: Rajinder contends that, while the Department deducted U.S. selling expenses from U.S. prices, it failed to deduct HM indirect selling expenses from NV, creating an apples-to-oranges comparison. Rajinder states that, for the final results of review, the Department should deduct HM indirect selling expenses subject to the amount permissible under the CEP-offset provision.

The petitioners refute Rajinder's argument that HM indirect selling expenses should be deducted from NV. The petitioners argue that, because the Department made a LOT adjustment which accounts for differences in selling expenses, including indirect selling expenses, the Department cannot make a CEP offset for HM indirect selling expenses. The petitioners point out that, if the Department compared sales at the same LOT, a CEP offset could not be performed (citing *Antidumping Duties,* Final Rule, 62 FR 27296, 27372 (May 19, 1997)).

Department's Position: The statute directs us to adjust NV for HM indirect selling expenses where we are not able to make a LOT adjustment. See sections 773(a)(7)(A)(i) and (ii) and section 773(a)(7)(B) of the Act. Since we made a LOT adjustment to NV for the final results of review, we may not deduct HM indirect selling expenses from NV as an offset to U.S. indirect selling expenses.

Comment 8: The petitioners argue that, for the final results of review, the Department should not make a deduction from NV for Rajinder's claimed HM indirect selling expenses.* The petitioners contend that Rajinder has not documented these selling expenses adequately and has not clarified its calculation of how it allocated such expenses to black and galvanized pipe, despite the Department's request for additional information in its supplemental questionnaire. The petitioners also argue that company officials provided conflicting information on this subject at verification.

Rajinder argues that there is no basis for disallowing a deduction from NV for these selling expenses merely because they were not verified. Rajinder notes that, for those expenses that were examined, the Department found such expenses to be reported accurately. Rajinder argues that it did respond to the Department's request for additional information in its supplemental questionnaire response by providing a breakdown of the expenses attributable to HM indirect selling expenses, including worksheets demonstrating the calculation of pipe based on the weight and type of the pipe.

Department's Position: As discussed in our response to Comment One, we have not accepted Rajinder's HM

*Given the lack of clarity from both parties, we assume the comments in this section are referring to the use of indirect-selling expenses as the commission offset.

indirect selling expenses. Therefore, this argument is moot.

Comment 9: The petitioners contend that the Department should revise the CEP-profit ratio calculated in the preliminary results of review. The petitioners assert that the cost of goods sold (total costs minus the change in inventory) should be subtracted from the total revenues because only those products that were sold generated revenue. The petitioners point out that incorporating this change into the calculation will increase the CEP-profit ratio considerably.

Rajinder refutes the change in the numerator of the CEP-profit ratio that the petitioners propose, arguing that profit is the difference between revenue and expenses which includes the cost for inventory that has not yet been sold. Rajinder contends, however, that the CEP-profit ratio is overstated because the Department deducted an amount for imputed expenses incorrectly. Rajinder also points out that the Department deducted an incorrect figure for ''Total Costs'' which erroneously yields a profit, instead of a loss, for the period.

Department's Position: We agree with both the petitioners and Rajinder in part. We agree that the cost of goods sold should be subtracted from the total revenue (see *Calculation of Profit for Constructed Export Price Transactions Policy Bulletin*, dated September 4, 1997). The calculations that we performed added the change-in-inventory figure to the total revenue after deducting the total costs. This calculation produces the same results that the petitioners suggest.

We also agree with Rajinder that we made some arithmetic errors in the calculation. We have corrected these errors (see analysis memorandum, dated May 20, 1998).

Comment 10: Rajinder argues that the Department incorrectly included imputed credit expenses and inventory carrying costs in the CEP-profit calculation.

The petitioners agree with Rajinder that the CEP-profit calculation is incorrect and provide suggested changes to correct the calculation.

Department's Position: We disagree with both the respondent and the petitioners. The suggested approaches blur the definition of U.S. expenses, as defined in section 772(f)(2)(B) of the Act, and U.S. selling expenses, as defined in sections 772(d)(1) and (2). As we discussed in *AFBs* at 2126, sections 772(f) (1) and 772(f)(2)(D) of the Act state, the per-unit profit amount shall be an amount determined by multiplying the total actual profit by the applicable percentage (ratio of total U.S. expenses to total expenses). Specifically, the Act defines ''total actual profit'' as the total profit earned by the foreign producer, exporter, and affiliated parties described in subparagraph (C) with respect to the sale of the merchandise for which total expenses are determined under such subparagraph. In accordance with the statute, we base the calculation of the total actual profit used in calculating the per-unit profit amount for CEP sales on actual revenues and expenses recognized by the company. In calculating the per-unit cost of the U.S. sales, we have included net interest expense. Therefore, we do not need to include imputed interest expenses in the ''total actual profit'' calculation since we have already accounted for actual interest in computing this amount under section 772(f)(1) of the Act.

When we allocated a portion of the actual profit to each CEP sale, we have included imputed credit and inventory carrying costs as part of the total U.S. expense allocation factor. This methodology is consistent with section 772(f)(1) of the Act, which defines ''total United States Expense'' as the total expenses described under sections 772(d)(1) and (2). Such expenses include both imputed credit and inventory carrying costs. See *Certain Stainless Wire Rods from France*, 61 FR 47874, 47882 (September 11, 1996).

Comment 11: Rajinder contends that, in the Department's recalculation of HM imputed credit expenses, excise taxes should not be deducted because the amount of credit extended to the customer is inclusive of excise tax.

The petitioners contend that the Department should continue to exclude Rajinder's excise taxes in the calculation of Rajinder's HM imputed credit expense calculation because, to do otherwise, is inconsistent with and contrary to both Department policy and practice. The petitioners contend further that, because the taxes are ultimately rescinded to the government as revenue, it does not serve the purpose of the adjustment to price for imputed credit expenses.

Department's Position: We have not deducted excise taxes in the recalculation of HM imputed credit expense. This tax is included in the price Rajinder charged to the customer and is paid to the government when the goods are removed from the factory. Therefore, the amount of the tax is an imputed credit expense brought on by the sale of the pipe and, as such, is appropriate to include in the interest expense calculation.

Comment 12: Rajinder contends that the Department matched certain U.S. sales transactions to the incorrect HM sales transactions. Specifically, Rajinder argues that the Department inadvertently defined a certain computer variable, which it used for matching purposes, by the date of payment. Rajinder argues that, for the final results of review, the Department should define the variable as the sale date.

Department's Position: We agree with Rajinder and have corrected this clerical error.

Comment 13: Rajinder contends that, despite the Department's inclusion of language in the program to change the sale dates of certain U.S. sales transactions, the computer output demonstrates that such changes were not implemented. Rajinder requests that the Department make such changes for the final results of review.

The petitioners agree with Rajinder that changes to the sale dates are appropriate and provide suggestions for those changes.

Department's Position: We agree and have corrected this error for the final results (see analysis memorandum, dated May 20, 1998).

Comment 14: Rajinder contends that the Department inadvertently failed to make corrections to its reported HM shipment dates as presented at the outset of verification. Rajinder requests that the Department make these changes for the final results of review because corrections to the shipment date ultimately affect HM prices.

Department's Position: We agree with respondent and have made the necessary changes for the final results of review.

Final Results of Review

As a result of our analysis of the comments received and the correction of certain inadvertent clerical errors, we find that the following margins exist for the period May 1, 1996, through April 30, 1997:

Manufacturer/Exporter	Percentage margin
RSL	31.13
Lloyd's Metals & Engineers*	0.00

*This firm made no shipments of subject merchandise to the United States during the instant POR. Rate is from the last segment of the proceeding in which the firm had shipments/sales.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. For CEP sales, we divided the total dumping margins for the reviewed sales by the total entered value of those

reviewed sales for each importer/customer. We will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of the importer's/customer's entries during the review period. While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR.

To calculate the cash deposit rate for each exporter, we divided the total dumping margins for each exporter by the total net value (EP or CEP) for that exporter's sales of subject merchandise in the United States during the review period. The following deposit requirements will be effective for shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed companies will be the rates outlined 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) the cash deposit rate for all other manufacturers or exporters will continue to be 7.08 percent, the ''All Others'' rate made effective by the final determination of sales at LTFV, as explained in the 1995/96 New Shippers Review of this order. See *Certain Welded Carbon Steel Pipes and Tubes from India; Final Results of New Shippers Antidumping Duty Administrative Review*, 62 FR 47632, 47644 (September 10, 1997).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also 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 the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–15873 Filed 6–15–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; 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 December 8, 1997, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on circular welded non-alloy steel pipe from the Republic of Korea. This review covers imports of pipe from four producers/exporters during the period November 1, 1995 through October 31, 1996.

Based on our analysis of comments received, these final results differ from the preliminary results. In addition, we continue to find for these final results that sales of subject merchandise were made below normal value during the review period.

EFFECTIVE DATE: June 16, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai or Craig Matney, Import Administration, International Trade Administration, US Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–4087 and 482–1778, respectively.

The Applicable Statute and Regulations

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 of Commerce's (the Department's) regulations refer to the regulations, codified at 19 CFR part 353, April 1997.

Background

This review covers four manufacturers/exporters, *i.e.*, Hyundai Pipe Co. Ltd. (Hyundai), Korea Iron and Steel Co., Ltd. (KISCO) and its affiliate Union Steel Manufacturing Co., Ltd. (Union), SeAH Steel Corporation (SeAH) and Shinho Steel Co., Ltd. (Shinho), collectively referred to as ''the respondents.'' Since the publication of our *Notice of Preliminary Results of Antidumping Duty Administrative Review of Circular Welded Non-Alloy Pipe from the Republic of Korea*, (*Preliminary Results*) 62 FR 64559 (December 8, 1997), we received revised home market datasets from the respondents in December 1998. We also received case briefs from the respondents and from the petitioners on January 20, 1998, and rebuttal briefs on January 30, 1998.

Scope of Review

The merchandise subject to this review is circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other