been allocated by value, rather than weight. In response to Carmiel's assertion that it followed the Department's instructions, we note that the Department's August 3, 1994 deficiency questionnaire, at page 4, instructed respondent to allocate expenses on the basis that they are incurred. Since these expenses are incurred by value, they should be allocated on such basis. Accordingly, we have reallocated marine insurance and agents fees by value.

Comment 7

Petitioner states that the payment date for one home market invoice should be corrected based on findings at verification.

Carmiel notes that, while several payment dates were found to be incorrect at verification, the payment date problems were minor and resulted from the fact that its records are not computerized. Therefore, correcting the payment dates will not have a significant effect. Nonetheless, respondent states that all of the verified payment dates should be corrected.

DOC Position

We agree with both petitioner and respondent. It would be inappropriate to use payment dates which we know to be incorrect for the final determination. Therefore, we have corrected the misreported payment dates on the verified sales. We have used these corrected payment dates to calculate the home market credit adjustment.

Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of butt-weld pipe fittings from Israel, as defined in the ''Scope of Investigation'' section of this notice, that are produced and sold by Carmiel and that are entered, or withdrawn from warehouse, for consumption on or after October 4, 1994.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Margin (percent)
Pipe Fittings Carmiel, Inc.	8.84
All Others	8.84

Adjustment of Deposit Rate for Countervailing Duties

Article VI, paragraph 5 of the General Agreement on Tariffs and Trade provides that ''[no] product * * * shall be subject to both antidumping and countervailing duties to compensate for the same situation for dumping or export subsidization.'' This provision is implemented by section 772(d)(1)(D) of the Act. Since antidumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no basis to require a cash deposit or bond for that amount.

Accordingly, the level of export subsidies as determined in the final affirmative determination in the concurrent countervailing duty investigation of certain carbon steel butt-weld pipe fittings from Israel, which was 2.26 percent, will be subtracted from the margin for cash deposit or bonding purposes. This results in a deposit rate of 6.58 percent for Carmiel and a deposit rate of 6.58 percent for all others.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notice to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: February 16, 1995.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 95–4725 Filed 2–24–95; 8:45 am]

BILLING CODE 3510–S–P

[A–533–811]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From India

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Sue Strumbel, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1442.

Final Determination

We determine that certain carbon steel butt-weld pipe fittings from India are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the ''Act''). The estimated margins shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the publication of the preliminary determination in the Federal Register on October 4, 1994 (59 FR 50562), the following events have occurred:

On October 5, 1994, Sivanandha Pipe Fittings Ltd. (Sivanandha) and Karmen Steels of India (Karmen), requested that the final determination in this case be postponed. On November 14, 1994, the Department published in the Federal Register a notice postponing the publication of the final determination in this case until February 16, 1995 (59 FR 56461).

From October 31 to November 5, 1994, we verified Sivanandha's and Karmen's sales information in Madras, India.

We received case and rebuttal briefs on January 23 and January 30, 1995, respectively, from petitioner and respondents.

Scope of the Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (*e.g.*, threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include ''elbows,'' ''tees,'' ''caps,'' and ''reducers.'' The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the ''bead'' of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is

provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Karmen's Exports of Refurbished Pipe Fittings

Karmen reported that it has an arrangement with a Singaporean company, under which the Singaporean company supplies Karmen with rusty pipe fittings. Karmen reconditions and refurbishes these pipe fittings and sends them to the Singaporean company's U.S. customer. Petitioner and Karmen agree with the Department's preliminary determination that these ''sales'' of refurbished pipe fittings are not subject to this investigation.

For purposes of this final determination, we are continuing to treat these ''sales'' as outside the scope of our investigation and, hence, not subject to any potential antidumping order on butt-weld pipe fittings from India. Karmen essentially performs a tolling service for its Singaporean customer. Moreover, Karmen does not ''substantially transform'' these pipe fittings.

Substantial transformation generally refers to a degree of processing or manufacturing resulting in a new and different article. Through that transformation, the new article becomes a product of the country in which it was processed or manufactured. See Cold-Rolled Steel from Argentina, 58 FR 37062, 37065 (1993) (Appendix I). Commerce makes these determinations on a case-by-case-basis. See, e.g., Certain Fresh Cut Flowers from Colombia, 55 FR 20291, 20299 (1990); Limousines from Canada, 55 FR 11036, 11040 (1990).

In determining whether Karmen substantially transformed these pipe fittings, we examined whether the degree of processing or manufacturing resulted in a new and different article. Karmen receives rusty pipe fittings from Singapore, it removes the rust, paints the fitting, and forwards it to the Singaporean company's customer. We do not consider this refurbishing process as substantially transforming the subject merchandise because it remains a pipe fitting after refurbishment. Therefore, because Karmen does not substantially transform the merchandise, we do not consider it as falling within the scope of this proceeding.

Period of Investigation

The period of investigation (POI) is September 1, 1993 through February 28, 1994, for Sivanandha and August 1, 1993 through February 28, 1994, for Karmen. The preliminary determination in this investigation provides an explanation regarding the different POIs for each company.

Such or Similar Comparisons

For Sivanandha, in making our fair value comparisons, we first compared merchandise identical in all respects in accordance with the Department's standard methodology. If no identical merchandise was sold, we compared the most similar merchandise, as determined by the model-matching criteria contained in Appendix V of the questionnaire (Appendix V) (on file in Room B–099 of the main building of the Department of Commerce (Public File)). For the U.S. sales compared to sales of similar merchandise, we made an adjustment, pursuant to 19 CFR 353.57, for physical differences in merchandise.

Karmen did not make home market or third country sales of the subject merchandise. Therefore, we based foreign market value (FMV) on constructed value (CV), in accordance with section 773(a)(2) of the Act.

Fair Value Comparisons

To determine whether Sivanandha's and Karmen's sales for export to the United States were made at less than fair value, we compared the United States price (USP) to the FMV, as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice.

We made revisions to Sivanandha's and Karmen's reported data, where appropriate, based on verification findings.

United States Price

Because Sivanandha's and Karmen's U.S. sales of subject merchandise were made to unrelated purchasers prior to importation into the United States, and exporter's sales price methodology was not indicated by other circumstances, we based USP on the purchase price (PP) sales methodology in accordance with section 772(b) of the Act.

We calculated Sivanandha's USP based on packed, CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, containerization, ocean freight, and marine insurance.

We recalculated Sivanandha's marine insurance expense, so it is allocated on a value basis instead of a weight basis.

For Sivanandha, in accordance with Section 772(d)(1)(B) of the Act, we added the amount of import duties imposed on inputs which were subsequently rebated upon exportation of the finished merchandise to the United States.

We also made an adjustment for taxes paid on the comparison sales in India, in accordance with our practice, pursuant to the Court of International Trade (CIT) decision in Federal-Mogul, et al v. United States, 834 F. Supp. 1993. See, Color Negative Photographic Paper and Chemical Components Thereof from Japan, 59 FR 16177, 16179, April 6, 1994 for an explanation of this tax methodology.

We calculated Karmen's USP based on packed, CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, containerization, ocean freight, and marine insurance. We recalculated Karmen's marine insurance expense, so it is allocated on a value basis instead of a weight basis.

Foreign Market Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating Sivanandha's FMV, we compared the volume of home market sales of subject merchandise to the volume of third country sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Based on this comparison, we determined that Sivanandha's home market was viable.

For Sivanandha, we calculated FMV based on delivered prices, inclusive of packing to home market customers. From these prices, we deducted commission, where appropriate.

In light of the Court of Appeals for the Federal Circuit's decision in *Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement* v. *United States*, 13 F. 3d 398 (Fed. Cir., January 5, 1994), the Department no longer can deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust for those expenses under the circumstance-of-sale (COS) provision of 19 CFR 353.56(a). Accordingly, in the present case, we adjusted for post-sale home market movement charges under the COS provision of 19 CFR 353.56(a). This adjustment included home market inland freight.

For Sivanandha, we also made COS adjustments for differences in quality inspection charges, and credit. In accordance with 19 CFR 353.56(b)(1), we added U.S. indirect selling expenses as an offset to the home market commission, but capped this addition by the amount of the home market commission. Finally, we deducted home market packing expenses and added U.S. packing expenses to Sivanandha's

FMV, in accordance with section 773(a)(1) of the Act.

For Karmen, because it sells the subject merchandise only in the United States, we used CV, pursuant to section 773(e) of the Act. We calculated CV as the sum of the cost of materials, fabrication, general expenses, U.S. packing costs, and profit. We relied upon the submitted CV data but made the following changes where we determined costs were not appropriately quantified or valued: (1) We adjusted the cost of manufacturing to include the cost of excluded electricity expenses; (2) we recalculated finance expense on an annual basis as a percentage of cost of goods sold; (3) we increased SG&A expenses for excluded partner's salary, audit fees and bank charges and recalculated SG&A expense on an annual basis as a percentage of fabrication cost of goods sold; (4) we reduced the manufactured fittings per unit of fabrication cost for amounts that relate to the refurbished fittings; and (5) we reduced the submitted indirect selling expense for the verified overstated amounts. In accordance with section 773(e)(1)(B)(i) and (ii) of the Act, we: (1) Included the greater of either Karmen's reported general expenses or the statutory minimum of ten percent of the cost of manufacture (COM), as appropriate; and (2) used the statutory minimum of eight percent of the sum of COM and general expenses for profit because actual profit was less than eight percent.

In our preliminary determination, we were unable to properly allocate labor and variable manufacturing overhead costs between refurbished pipe fittings and new pipe fittings. However, based on verified information, we are now able to allocate the labor and variable manufacturing overhead costs between refurbished and new pipe fittings. Therefore, for purposes of this final determination, Karmen's CV includes only those costs allocable to new pipe fittings.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. *See* 19 CFR 353.60.

Verification

As provided in section 776(b) of the Act, we verified information provided by the respondent using standard verification procedures, including the examination of relevant sales, cost and financial records, and selection of original source documentation.

Interested Party Comments

Comment 1: Karmen and Sivanandha argue that they are not related parties for purposes of this antidumping duty investigation. They contend that, although one individual has a common interest in both companies, in all other respects the two companies are separate.

Petitioner disagrees with respondents' argument. It states that, although the Department verified that Karmen and Sivanandha are separate legal entities, the relationship between the two companies satisfies many of the criteria considered by the Department when deciding whether to ''collapse'' companies.

DOC's Position: We agree with respondents. In general, Commerce will not consider parties related where the ownership interest is less than five percent. *See, e.g.,* Certain Forged Steel Crankshafts from Japan, 52 FR 36984 (1987). This is consistent with Commerce's ''general practice not to collapse related parties except in certain relatively unusual situations, where the type and degree of relationship is so significant that we find there is a strong possibility of price manipulation.'' Antifriction Bearings (Other Than Tapered Roller Bearings: and Parts Thereof from Germany, 54 FR 18992, 19089 (1989). Based on Karmen's supplemental response and our analysis at verification, we confirmed that the ownership between Karmen and Sivanandha is insignificant and that no other factors suggested a strong possibility of price manipulation. (*See* the February 16, 1995, Memorandum from Team to Barbara Stafford for a full discussion of our analysis of this subject.)

Comment 2: Karmen argues that it should be allowed to reduce its cost of manufacturing for the POI to account for the advance import license it purchased from the Indian government. Karmen notes that it originally purchased the license in order to import steel pipe for pipe fittings at duty-free prices. Karmen maintains that it did not use the import license but, instead, produced and exported the subject merchandise using higher-priced domestic pipe inputs. Because it can still import duty-free pipe under the license, Karmen argues that it should be allowed to reduce its production costs by an amount representing the estimated future savings on imported pipe used to manufacture pipe fittings.

Petitioner argues that we should not reduce Karmen's production costs by the potential savings on future duty free imports. Petitioner states that in calculating constructed value, the Department uses the cost of materials incurred at a time preceding the date of exportation of the subject merchandise. Also, the Department's CV questionnaire clearly states that the respondent is to report costs incurred during the POI for purposes of constructed value. Petitioner further claims that the advance license held by Karmen was not used during the POI and, therefore, the future potential savings, if they are realized, will affect costs after the date of exportation of the subject merchandise. Finally, petitioner argues that if the license is used in the future, the effect of the license on Karmen's costs of manufacturing would be taken into account in a future administrative review.

DOC's Position: We believe that the advance import license provides a benefit to Karmen which accrued to the company during the POI due to the fact that it met its export commitment under the license through the use of domestically-purchased pipe inputs. In this case, the benefit from the license relates directly to production and sale of the subject fittings during the POI. Thus, in order to achieve an appropriate matching of production costs and sales revenues for the subject merchandise, we have offset material costs by an amount representing the benefit obtained from the unused import license.

Comment 3: Petitioner argues that the Department should not adjust Karmen's material costs by the income generated by sales of scrap, because subcontractors to Karmen retain the scrap and presumably lower their prices to Karmen to reflect the value of the scrap.

DOC's Position: The Department verified that Karmen permits its subcontractors to keep all scrap generated from the production processes they perform. Hence, Karmen did not sell any scrap during the POI and is not entitled to the scrap adjustment it claimed. We agree with petitioner that the value of the scrap is likely accounted for in the price the subcontractors charge Karmen. Therefore, allowing the adjustment claimed by Karmen would double count the value of scrap.

Comment 4: Regarding the salary of its director, Karmen argues that since the director is an owner, his income is a partner's draw and should not be included in Karmen's total salary expense. Respondent also contends that if the Department determines that the draw must be included in SG&A costs, the Department should only include the amount of the draw that would be comparable to a reasonable salary for management.

Petitioner argues that the director's entire salary should be included as a cost because it is treated as a cost by Karmen in its financial statements and in calculating taxable income. Also, petitioner contends that there is no factual basis by which the Department can establish an amount that would be reasonable salary for management.

DOC's Position: We agree with petitioner. During verification, we discovered that Karmen did not include its director's salary in its reported costs. Karmen's director is not a passive investor; he takes an active role in the company's management. Moreover, the payments made to him during the POI were classified as salary in Karmen's books and records. There is no evidence on the record to indicate that these payments were for anything other than salary. Accordingly, we included the full amount paid to the director in SG&A costs for purposes of the final determination.

Comment 5: Karmen argues that the Department should use verified information to allocate Karmen's labor and variable overhead costs between the pipe fittings it refurbishes and the pipe fittings it manufactures. Respondent further contends that the Department should allocate certain other costs, such as grinding and painting, to both types of fittings since these costs were incurred on both types of pipe fittings.

Petitioner agrees that allocation of a portion of verified costs to refurbished fittings may be appropriate. However, petitioner disagrees that the Department should allocate any expenses for grinding to refurbished pipe fittings because Karmen has not previously indicated that any grinding is involved in the refurbishing process. Petitioner contends that grinding is associated with the beveling process, which is a production step performed before Karmen acquires the rusty pipe fittings.

DOC's Position: The Department verified that shotblasting, punching, painting and grinding costs were incurred by Karmen to refurbish certain of its pipe fittings. Therefore, the Department has allocated a portion of these expenses to the cost of the refurbished fittings.

Comment 6: Karmen argues that SG&A should be allocated to refurbished and manufactured pipe fittings on the basis of weight. Since there are no material costs associated with the refurbished pipe, an allocation based on cost of goods sold would assign too great an amount to manufactured pipe fittings.

Petitioner argues that the Department should deny Karmen's request to allocate SG&A costs by weight instead of cost. Petitioner contends that it is the Department's practice to calculate SG&A costs as a percentage of cost of sales. Petitioner further contends that with respect to the refurbished fittings, Karmen does not manufacture or ''sell'' these fittings. Because Karmen contributes so little value to the refurbished fittings, using product weight to allocate SG&A is plainly distorting.

DOC's Position: We have determined that SG&A expenses should be allocated based on cost of sales rather than on the weight of finished pipe fittings. However, since there are no material costs associated with the refurbished fittings and hence, no material costs were reflected in these ''sales'', we removed material costs related to the manufactured fittings from cost of sales in order to establish an equitable allocation.

Comment 7: Karmen claims that, although not mentioned in the CV verification report, company officials demonstrated at verification that certain indirect selling expenses had been overstated in the CV calculations. Correct amounts were provided and verified.

Petitioner claims that there is no evidence of this on record, and that the original amount should be used.

DOC's Position: Although we did not address this issue in our verification report, respondent is correct in stating that we verified Karmen's actual amount of indirect selling expenses for the POI. Additionally, there is information on the record of this investigation which supports Karmen's verified indirect selling expenses. The source document supporting this expense is in Exhibit 10 of the CV verification report.

Comment 8: Petitioner argues that the Department should use the verified packing cost information for Karmen instead of the reported amount for the final determination. Petitioner also argues that the Department should use the best information available (BIA) for Karmen's foreign inland freight expenses, since Karmen did not provide the supporting documentation requested by the Department.

Karmen argues that although it did not produce supporting documentation for its foreign inland freight expense, the Department should not resort to BIA. Respondent contends that, because the general accuracy of Karmen's responses was established at verification, the Department should use the data ascertained at verification.

DOC's Position: As stated in the Fair Value Comparisons section of this notice, we made revisions to Karmen's data, where appropriate, based on verification findings. Therefore, we have adjusted Karmen's data for packing costs based on verification.

Because Karmen did not provide source documentation for its foreign inland freight expense, we have used as BIA, the highest Indian truck freight rates as provided in a cable from the U.S. embassy in Bombay dated August 3, 1993.

Comment 9: Petitioner claims that we should apply total BIA to Sivanandha because the Department's verification revealed numerous discrepancies in Sivanandha's responses. (The specific discrepancies raised by petitioner are addressed in comments 10 through 17, below.)

Sivanandha refutes each of the discrepancies listed by petitioner and argues that total BIA is inappropriate. (*See,* comments 10 through 17 for Sivanandha's counter arguments.)

DOC's Position: We have determined to accept Sivanandha's verified information because the discrepancies discovered were minor in nature. Overall, Sivanandha's responses were accurate and presented a true picture of its manufacturing and selling processes.

Comment 10: Petitioner argues that certain home market sales reported by Sivanandha as subject merchandise (*i.e.,* seamless carbon steel butt-weld pipe fittings), were sales of welded pipe fittings, which are outside of the scope of this investigation. Petitioner contends that sales of welded pipe fittings that were actually filled with pipe fittings made of seamless pipe cannot be considered as occurring in the ordinary course of trade.

Sivanandha argues that these sales were within the ordinary course of trade and that it correctly reported all sales of the subject merchandise.

DOC's Position: We verified that all of Sivanandha's home market sales were produced using seamless carbon steel. Therefore, we agree with Sivanandha that these sales are properly included in the home market database. Although customers requested welded pipe, the orders were filled with seamless pipe. Since we are investigating sales of seamless pipe to the United States, the home market sales in question should be included for comparison purposes. While we are authorized to exclude sales not in the ordinary course of trade (*e.g.,* trial sales or sales of samples), there is no basis for treating Sivanandha's seamless pipe sales as outside the ordinary course of trade.

Comment 11: Petitioner claims that the product weights were not verified because Sivanandha used standard weights instead of actual weights. Petitioner argues that the standard

weights were not acceptable because the correlation between standard and actual weights was no better than 93 percent.

Sivanandha argues that it was appropriate to use standard weights because most invoices did not list actual weights. According to Sivanandha the 93 percent correlation between actual and standard weights derived at verification supports, rather than undermines, the use of standard weights.

DOC's Position: We disagree with petitioner that Sivanandha's use of standard weights was unreasonable. The 93 percent correlation between actual and standard weights demonstrates the reasonableness. Moreover, even if we were to adjust for the seven percent ''discrepancy'' it would have no effect on the amounts allocated to each size of pipe fitting because Sivanandha used the same methodology for both its home market and U.S. sales.

Comment 12: Petitioner states that Sivanandha did not provide documentation for the cost of gunny bags. Therefore, petitioner argues that packing was not verified. Petitioner also states that Sivanandha did not report any labor costs for packing pipe fittings sold in the home market.

Sivanandha claims that the cost of gunny bags was verified. It also contends that the failure to report the cost of labor for packing home market sales is to its detriment. As a practical matter, Sivanandha points out that there is virtually no labor cost for home market packing since there is no crating on home market sales.

DOC's Position: Normally, the Department applies BIA whenever respondents are unable to support at verification the information provided in their responses. Although Sivanandha failed to provide at verification documentation supporting the cost of gunny bags, the Department is not compelled to apply BIA because the company's overall responses were accurate and verified, and the plausible cost of such bags is very low. Absent alternative publicly available information with respect to the cost of gunny bags, the Department has used the price reported by Sivanandha.

Comment 13: Petitioner lists the following problems with the difference in merchandise adjustment submitted by Sivanandha: incorrect product codes, standard versus actual weight of steel, average price for steel versus price for specific grades of steel, discrepancies in the manner in which Sivanandha reported its labor and variable overhead expenses. Petitioner argues that these problems led the Department to request that Sivanandha resubmit its home market and U.S. sales databases.

Sivanandha admits that it originally did not understand the Department's methodology regarding this adjustment. However, Sivanandha argues that the information was corrected at verification. Therefore, Sivanandha argues that the Department should accept these new verified databases.

DOC's Position: At verification, we discovered that the Sivanandha had not understood the Department's adjustment for differences in merchandise. However, the information required to correct Sivanandha's adjustment was readily available and we verified it. Sivanandha submitted new section B and C databases after verification, and we confirmed that they were identical to the information verified. Therefore, we are accepting Sivanandha's corrected databases.

Comment 14: Petitioner describes other discrepancies pertaining to adjustments for inland freight, credit, bank guarantees, ocean freight, marine insurance, foreign inland freight, and containerization.

Sivanandha claims that many of the costs were estimated because Sivanandha had not yet exported the merchandise to the United States. Also, certain of the discrepancies listed by petitioner were minute fractions of a cent, due to rounding errors. Sivanandha argues that company officials made every effort to supply the verification team with accurate information.

DOC's Position: We view the discrepancies described by petitioner as minor and are using the verified information. We agree with Sivanandha that the company cooperated fully with the Department's investigation and verification.

Comment 15: Petitioner claims that the sum of material, labor, and variable overhead is incorrect in Sivanandha's database, and is concerned that there are additional problems with the November 29, 1994 databases. Therefore, petitioner argues that these databases should not be used and that the Department should use BIA.

DOC's Position: The Department noted that the data was correct, but the program was missing one formula. The Department entered the correct formula, and the spreadsheet is accurate. The Department is accepting these databases for the final determination because we have checked that they match the data we verified.

Comment 16: The petitioner claims that by using the new submission the difference in merchandise adjustment for several sales exceed the 20 percent rule. Hence, for these sales, constructed value should be used.

Sivanandha believes that the petitioner's claim is incorrect. Moreover, according to Sivanandha, petitioner's allegation that the Department should use CV in these sales is untimely.

DOC's Position: Using the November 29, 1994 databases, we have determined that no difference in merchandise adjustments exceeded 20 percent. This issue is therefore moot.

Comment 17: Petitioner claims that the circumstance of sale adjustment for advertising in the home market should not be allowed because the advertising is aimed at Sivanandha's customers, not the customers' customer. Petitioner also argues that the adjustment for quality inspections should not be allowed because, even though the charge appears on the invoice, it is separate from the cost of the merchandise and, therefore, not embedded in the price.

Sivanandha claims that it would be inappropriate to ignore these adjustments because these costs were incurred solely on the home market sales and, therefore, increased the price of the home market sales. Additionally, Sivanandha claims that the quality inspections are performed only if the customer requests the services. The price charged is higher because the cost of the inspection is included in the price reported by Sivanandha.

DOC's Position: We agree with the petitioner that we should not adjust Sivanandha's home market sales for advertising expenses because the costs were not directed to the customers' customer. However, we agree with Sivanandha that we should make an adjustment to its home market prices for technical services when the inspection was performed by a third party because we verified that these costs were included in Sivanandha's price.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of butt-weld pipe fittings from India, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after October 4, 1994.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market values of the subject merchandise exceed the United States prices as shown below. The suspension of liquidation will remain in effect until

further notice. The weighted-average dumping margins are as follows:

Manufacturer/ producer/ex-porter	Margin (percent)	Deposit (percent)
Karmen Steels of India	1.69	1.69
Sivanandha Pipe Fittings, Ltd	13.99	10.83
All Other	7.84	6.26

Adjustment of Deposit Rate for Countervailing Duties

Article VI, paragraph 5 of the General Agreement on Tariffs and Trade provides that ''[no] product * * * shall be subject to both antidumping and countervailing duties to compensate for the same situation for dumping or export subsidization.'' This provision is implemented by section 772(d)(1)(D) of the Act. Since antidumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no basis to require a cash deposit or bond for that amount.

Accordingly in this investigation, because Sivanandha's FMV is based on home market sales, the antidumping margin must be adjusted. In the concurrent Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings from India, we determined that Sivanandha's export subsidy was 3.16 percent *ad valorem*, which will be subtracted from the margins for cash deposit or bonding purposes. This results in a deposit rate of 10.83 percent for Sivanandha. Since Karmen only has U.S. sales, its FMV is based on CV which reflects export subsidies. Because the export subsidies were reflected in both USP and FMV, the subsidies did not affect the margin calculations using CV.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated preliminary dumping margins, as shown above. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notice to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1671(d)).

Dated: February 16, 1995.

Barbara R. Stafford,

Deputy Assistant Secretary for Investigations.

[FR Doc. 95–4723 Filed 2–24–95; 8:45 am]

BILLING CODE 3510–DS–P

(A–557–808)

Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From Malaysia

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas McGinty, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–5055.

Final Determination

The Department of Commerce (the Department) determines that certain carbon steel butt-weld pipe fittings (''pipe fittings'') from Malaysia are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d). The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Scope of Investigation

The merchandise covered by this investigation are certain carbon steel butt-weld pipe fittings (''pipe fittings'') having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (*e.g.,* threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include ''elbows,'' ''tees,'' ''caps,'' and ''reducers.'' The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accomodate the ''bead'' of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 of the *Harmonized Tariff Schedule of the United States* (''HTSUS'').

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

Period of Investigation

The period of investigation (POI) is September 1, 1994, through February 28, 1994.

Case History

Since the announcement of the preliminary determination on September 27, 1994, the following events have occurred.

On October 4, 1994, we published the notice of preliminary determination in the Federal Register (59 FR 50560). On October 20, 1994, White & Case submitted a notice of appearance on behalf of the Government of Malaysia.

On November 14, 1994, we published the postponement of final determination in the Federal Register (59 FR 56461).

Petitioner was the only interested party to file a case brief in this investigation. Petitioner did so on January 23, 1995.

Best Information Available

In accordance with section 776(c) of the Act, we have determined that the use of best information available (BIA) is appropriate for Malaysia Mining Corporation Pipe & Fitting Sdn Bhd (MMCPNF), the Malaysian company identified by both petitioner and the U.S. Embassy in Malaysia (by cable to the Department) as the primary exporter of the subject merchandise to the U.S during the POI. Given that MMCPNF did not respond to the Department's questionnaire, we find the company has not cooperated in this investigation.

Our BIA methodology for uncooperative respondents is to assign the higher of the highest margin alleged in the petition or the highest rate calculated for another respondent. Accordingly, as BIA, we are assigning the highest margin among the margins alleged in the petition, adjusted for methodological errors as explained in the Department's initiation notice. *See Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany* (54 FR 18992, 19033, May 3, 1989). The Department's methodology for assigning BIA has been upheld by the U.S. Court of Appeals of the Federal Circuit. (*See Allied Signal Aerospace Co. v. United States,* 996 F.2d 1185 (Fed. Cir. 1993)); *see also Krupp Stahl, AG et al. v. United States,* 822 F. Supp. 789 (CIT 1993)).