significantly, respondents are expected to be forthcoming in their responses to the Department's requests for information. In this case, respondent failed to report fundamental information—cost data relating to one of its plants producing subject merchandise. In other words, respondent withheld information critical to verification and thus BIA is required.

Other Comments

Petitioner and respondent made additional comments on various charges and adjustments contained in MRW's home market and U.S. sales listings. However, since we are basing our final determination on BIA, we consider these comments to be moot.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, 19 USC 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of seamless pipe from Germany, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after January 27, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below for entries of seamless pipe from Germany that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percent
Mannesmannrohren-Werke AG	58.23
All Others	58.23

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or canceled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in these investigations of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 USC 1673(d)) and 19 CFR 353.20.

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14938 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–475–814]

Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Italy

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

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Dolores Peck or James Terpstra, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4929 or 482–3965, respectively.

FINAL DETERMINATION: The Department of Commerce (the Department) determines that small diameter circular seamless carbon and alloy steel, standard, line and pressure pipe (seamless pipe) from Italy is being, or is 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'') (1994). The estimated weighted-average margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since our negative preliminary determination on January 19, 1995 (60 FR 5358, January 27, 1995), the following events have occurred:

On February 1, 1995, we initiated a sales below cost investigation of the respondent, Dalmine, S.p.A. (''Dalmine''). We instructed Dalmine to respond to the complete cost questionnaire which it had previously used to only report constructed value data. Dalmine submitted its response to this questionnaire on March 7. Supplemental cost and sales responses and revisions were submitted in February, March, and April 1995.

On February 8, 1995, we postponed the final determination until not later than June 12, 1995 (60 FR 9012, February 16, 1995).

We conducted verifications of Dalmine's sales and cost questionnaire responses in Italy and the United States in March and April 1995. Verification reports were issued in May 1995.

On April 27, 1995, Koppel Steel Corporation, an interested party to this investigation, requested that it be granted co-petitioner status, which the Department granted.

The petitioner and the respondent submitted case briefs on May 18 and rebuttal briefs on May 24, 1995.

On May 22, and May 30, 1995, respectively, the Department returned the respondent's case and rebuttal briefs and instructed the respondent to refile the briefs redacting new information. The respondent did so on May 25, and June 2, 1995.

Scope of the Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the ''Scope Issues'' section below.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20,

7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5l specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

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

Scope Issues

Interested parties in these investigations have raised several issues related to the scope. We considered these issues in our preliminary determination and invited additional comments from the parties. These issues, which are discussed below, are: (A) whether to continue to include end use as a factor in defining the scope of these investigations; (B) whether the seamless pipe subject to these investigations constitutes more than one class or kind of merchandise; and (C) miscellaneous scope clarification issues and scope exclusion requests.

A. End Use

We stated in our preliminary determination that we agreed with petitioner that pipe products identified as potential substitutes used in the same applications as the four standard, line, and pressure pipe specifications listed in the scope would fall within the class or kind of subject merchandise and, therefore, within the scope of any orders issued in these investigations. However, we acknowledged the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties, and stated that we would strive to simplify any procedures in this regard.

For purposes of these final determinations, we have considered carefully additional comments submitted by the parties and have determined that it is appropriate to continue to employ end use to define the scope of these cases with respect to non-listed specifications. We find that the generally accepted definition of standard, line and pressure seamless pipes is based largely on end use, and that end use is implicit in the description of the subject merchandise. Thus, end use must be considered a significant defining characteristic of the subject merchandise. Given our past experience with substitution after the imposition of antidumping orders on steel pipe products [1], we agree with petitioner that if products produced to a non-listed specification (*e.g.*, seamless pipe produced to A–162, a non-listed specification in the scope) were actually used as standard, line, or pressure pipe,

[1] *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico and Venezuela,* 59 FR 1929, January 13, 1994.

then such product would fall within the same class or kind of merchandise subject to these investigations.

Furthermore, we disagree with respondents' general contention that using end use for the scope of an antidumping case is beyond the purview of the U.S. antidumping law. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F.Supp. 1104 (CIT 1989) (Ipsco). In Ipsco, the Department had clarified the scope of certain orders, in particular the phrase, ''intended for use in drilling for oil and gas,'' as covering not only API specification OCTG pipe but, '' 'all other pipe with [certain specified] characteristics used in OCTG applications * * *'' Ipsco at 1105. In reaching this determination, the Department also provided an additional description of the covered merchandise, and initiated an end-use certification procedure.

Regarding implementation of the end use provision of the scope of these investigations, and any orders which may be issued in these investigations, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the end-use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.[2] Second, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to A–162 specification is being used as pressure pipe, we will require end-use certifications for imports of A–162 specification. Third, normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. For a complete discussion of interested party comments and the Department's analysis on this topic, see June 12, 1995, *End Use Decision Memorandum* from Deputy Assistant Secretary Barbara Stafford (DAS) to Assistant Secretary Susan Esserman (AS).

[2] This approach is consistent with petitioner's request.

B. Class or Kind

In the course of these investigations, certain respondents have argued that the scope of the investigations should be divided into two classes or kinds. Siderca S.A.I.C., the Argentine respondent, has argued that the scope should be divided according to size: seamless pipe with an outside diameter of 2 inches or less and pipe with an outside diameter of greater than 2 inches constitute two classes or kinds. Mannesmann S.A., the Brazilian respondent, and Mannesmannrohren-Werke AG, the German respondent, argued that the scope should be divided based upon material composition: carbon and alloy steel seamless pipe constitute two classes or kinds.

In our preliminary determinations, we found insufficient evidence on the record that the merchandise subject to these investigations constitutes more than one class or kind. We also indicated that there were a number of areas where clarification and additional comment were needed. For purposes of the final determination, we considered a significant amount of additional information submitted by the parties on this issue, as well as information from other sources. This information strongly supports a finding of one class or kind of merchandise. As detailed in the June 12, 1995, *Class or Kind Decision Memorandum* from DAS to AS, we analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products v. United States*, 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) the general physical characteristics of the merchandise; (2) expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves; and (5) the cost of that merchandise.

In the past, the Department has divided a single class or kind in a petition into multiple classes or kinds where analysis of the *Diversified Products* criteria indicates that the subject merchandise constitutes more than one class or kind. *See, for example, Final Determination of Sales at Less than Fair Value; Anti-Friction Bearings (Apart from Tapered Roller Bearings) from Germany*, 54 Fed. Reg. 18992, 18998 (May 3, 1989) (''*AFBs from Germany*''); *Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition*, 57 Fed. Reg. 30939 (July 13, 1992).

1. Physical Characteristics

We find little meaningful difference in physical characteristics between seamless pipe above and below two inches. Both are covered by the same technical specifications, which contains detailed requirements.[3] While we recognize that carbon and alloy pipe do have some important physical differences (primarily the enhanced heat and pressure tolerances associated with alloy grade steels), it is difficult to say where carbon steel ends and alloy steel begins. As we have discussed in our *Class or Kind Decision Memorandum* of June 12, 1995, carbon steel products themselves contain alloys, and there is a range of percentages of alloy content present in merchandise made of carbon steel. We find that alloy grade steels, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes.[4]

In those prior determinations where the Department divided a single class or kind, the Department emphasized that differences in physical characteristics also affected the capabilities of the merchandise (either the mechanical capabilities, as in *AFBs from Germany*, 54 Fed. Reg. at 18999, 19002–03, or the chemical capabilities, as in *Pure and Alloy Magnesium from Canada*, 57 Fed. Reg. at 30939), which in turn established the boundaries of the ultimate use and customer expectations of the products involved.

As the Department said in *AFBs from Germany*,

[t]he real question is whether the physical differences are so material as to alter the essential nature of the product, and, therefore, rise to the level of class or kind distinctions. We believe that the physical differences between the five classes or kinds

[3] The relevant ASTM specifications, as well as product definitions from other independent sources (e.g., American Iron and Steel Institute (AISI)), describe the sizes for standard, line, and pressure pipe, as ranging from 1/2 inch to 60 inches (depending on application). None of these descriptions suggest a break point at two inches.

[4] The Department has had numerous cases where steel products including carbon and alloy grades were considered to be within the same class or kind. *See, e.g., Preliminary Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Austria, et al.*, 60 Fed. Reg. 6512 (February 2, 1995); *Final Determination of Sales at Less than Fair Value: Certain Alloy and Carbon Hot-Rolled Bars, Rods, and Semi-Finished Products of Special Bar Quality Engineered Steel from Brazil*, 58 Fed. Reg. 31496 (June 3, 1993); *Final Determination of Sales at Less than Fair Value: Forged Steel Crankshafts from the United Kingdom*, 60 Fed. Reg. 22045 (May 9, 1995).

of the subject merchandise are fundamental and are more than simply minor variations on a theme.

54 Fed. Reg. at 19002. In the present cases, there is insufficient evidence to conclude that the differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, rise to the level of a class or kind distinction.

Furthermore, with regard to Siderca's allegation that a two-inch breakpoint is widely recognized in the U.S. market for seamless pipe, the Department has found only one technical source of U.S. market data for seamless pipe, the *Preston Pipe Report*. The *Preston Pipe Report*, which routinely collects and publishes U.S. market data for this merchandise, publishes shipment data for the size ranges ½ to 4½ inches: it does not recognize a break point at 2 inches. Accordingly, the Department does not agree with Siderca that ''the U.S. market'' recognizes 2 inches as a physical boundary line for the subject merchandise.

In these present cases, therefore, the Department finds that there is insufficient evidence that any physical differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, or between carbon and alloy steel, rise to the level of class or kind distinctions.

2. Ultimate Use and Purchaser Expectations

We find no evidence that pipe above and below two inches is used exclusively in any specific applications. Rather, the record indicates that there are overlapping applications. For example, pipe above and below two inches may both be used as line and pressure pipe. The technical definitions for line and pressure pipe provided by ASTM, AISI, and a variety of other sources do not recognize a distinction between pipe over and under two inches.

Likewise, despite the fact that alloy grade steels are associated with enhanced heat and pressure tolerances, there is no evidence that the carbon or alloy content of the subject merchandise can be differentiated in the ultimate use or expectations of the ultimate purchaser of seamless pipe.

3. Channels of Trade

Based on information supplied by the parties, we determine that the vast majority of the subject merchandise is sold through the same channel of distribution in the United States and is triple-stenciled in order to meet the greatest number of applications.

Accordingly, the channels of trade offer no basis for dividing the subject merchandise into multiple classes or kinds based on either the size of the outside diameter or on pipe having a carbon or alloy content.

4. Cost

Based on the evidence on the record, we find that cost differences between the various products do exist. However, the parties varied considerably in the factors which they characterized as most significant in terms of affecting cost. There is no evidence that the size ranges above and below two inches, and the difference between carbon and alloy grade steels, form a break point in cost which would support a finding of separate classes or kinds.

In conclusion, while we recognize that certain differences do exist between the products in the proposed class or kind of merchandise, we find that the similarities significantly outweigh any differences. Therefore, for purposes of the final determination, we will continue to consider the scope as constituting one class or kind of merchandise.

C. Miscellaneous Scope Clarification Issues and Exclusion Requests

The miscellaneous scope issues include: (1) whether OCTG and unfinished OCTG are excluded from the scope of these investigations; (2) whether pipes produced to non-standard wall thicknesses (commonly referred to as ''tubes'') are covered by the scope; (3) whether certain merchandise (*e.g.*, boiler tubing, mechanical tubing) produced to a specification listed in the scope but used in an application excluded from the scope is covered by the scope; and (4) whether redraw hollows used for cold drawing are excluded from the scope. For a complete discussion of interested party comments and the Department's analysis on these topics, *see* June 12, 1995, *Additional Scope Clarifications Decision Memorandum* from DAS to AS.

Regarding OCTG, petitioner requested that OCTG and unfinished OCTG be included within the scope of these investigations if used in a standard, line or pressure pipe application. However, OCTG and unfinished OCTG, even when used in a standard, line or pressure pipe application, may come within the scope of certain separate, concurrent investigations. We intend that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. Thus, to eliminate any confusion, we have revised the scope language above to exclude finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in a standard, line or pressure pipe application, and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution. Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of wall thickness.* Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A–335, ASTM A–106, ASTM A–53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 C.F.R. § 353.12(a).) Section 771(9)(C) of the Act defines ''interested party,'' *inter alia,* as a producer of the like product. For the reasons outlined in the ''Scope Issues'' section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC) has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18.) For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the ''Case History'' section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A.* v. *United States,* 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

> [S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time,* and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it ''would have elevated form over substance and fruitlessly delayed the antidumping investigation * * * when Congress clearly intended these cases to proceed expeditiously.'' *Id.* at 1083–84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada,* 50 Fed. Reg. 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden,* 52 Fed. Reg. 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation (''POI'') is January 1, 1994, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and the Department's regulations refer to these provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. We made fair value comparisons on this basis. In accordance with the Department's standard methodology, we first compared identical merchandise. Referencing Appendix V of our questionnaire, Dalmine states that the physical characteristics for the majority of the merchandise exported to the United States are identical to the physical characteristics of merchandise sold in the home market. We verified this claim. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we based foreign market value (''FMV'') on constructed value (''CV'') because the difference in merchandise adjustment (''difmer'') for any similar product comparison exceeded 20 percent. See Appendix V to the antidumping questionnaire, on file in Room B–099 of the main building of the Department.

Fair Value Comparisons

To determine whether sales of certain seamless pipe from Italy 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 ''Price-to-Price Comparisons'' sections of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

We corrected certain clerical errors found at verification, including: (a) the reduction of the marine insurance expense for one sale (see U.S. verification report); b) an increase in the U.S. interest rate used to calculate imputed credit expenses (see U.S. verification report); and c) an increase in the percentage used to calculate an offset for home market commissions (See Comment 5 below). We also limited VAT adjustments to those sales on which VAT was paid on the comparison home market sale.

Cost of Production

Based on the petitioner's allegations, the Department found reasonable grounds to believe or suspect that sales in the home market were made at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Dalmine made home market sales during the POI at prices below their cost of production (COP) within the meaning of section 773(b) of the Act. See memorandum from the Team to Barbara Stafford dated February 1, 1995.

A. Calculation of COP

We calculated the COP based on the sum of the respondent's cost of materials, fabrication, general expenses, and home market packing in accordance

with 19 CFR 353.51(c). We relied on the submitted COP data, except in the following instances where the costs were not appropriately quantified or valued:

1. We recalculated the weighted average costs for two control numbers (''CONNUM''). CONNUM's are used to identify a group of products considered to be identical. See Comment 18 below.

2. We adjusted depreciation expenses to reflect mill- specific costs. See Comment 13 below.

3. We used the revised total indirect costs submitted at verification to recalculate the indirect cost allocation rate.

4. We disallowed the portion of the reported variance which resulted from reversals of prior period accounting entries. *See* Comment 17 below.

5. We used Instituto per la Ricostruzione Industriale S.p.A.'s (''IRI'') consolidated financing costs. IRI is the parent of Dalmine's parent company. See Comment 14 and 15 below.

B. Test of Home Market Sales Prices

After calculating COP, we tested whether, as required by section 773(b) of the Act, the respondent's home market sales of subject merchandise were made at prices below COP, over an extended period of time in substantial quantities, and whether such sales were made at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. On a product-specific basis, we compared the COP (net of selling expenses) to the reported home market prices, less any applicable movement charges, rebates, and direct and indirect selling expenses. To satisfy the requirement of section 773(b)(1) of the Act that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. If over 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' If between ten and 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, we discarded only the below-cost sales, provided sales of that product were also found to be made over an extended period of time. Where we found that more than 90 percent of the respondent's sales of a product were at prices below the COP, and the sales were made over an extended period of time, we disregarded all sales of that product, and calculated FMV based on CV, in accordance with section 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in three or more months of the POI, we do not exclude below-cost sales unless there were below-cost sales in at least three months during the POI. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time, *i.e.*, where sales of a product were made in only two months, the extended period of time was two months; where sales of a product were made in only one month, the extended period of time was one month. *See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom,* 60 FR 10558, 10560 (February 27, 1995).

C. Results of COP Test

We found that for certain products more than 90 percent of the respondent's home market sales were sold at below COP prices over an extended period of time. Because Dalmine provided no indication that the disregarded sales were at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade, for all U.S. sales left without a match to home market sales as a result of our application of the COP test, we based FMV on CV, in accordance with section 773(b) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, general expenses and U.S. packing costs as reported in the U.S. sales database. In accordance with section 773(e)(1)(B) (i) and (ii) of the Act, we included: (1) for general expenses, the greater of the respondent's reported general expenses, adjusted as detailed in the ''Calculation of COP'' section above, or the statutory minimum of ten percent of the cost of manufacture; and (2) for profit, the statutory minimum of eight percent of the sum of COM and general expenses because actual profit on home market sales for the respondent was less than eight percent. We recalculated the respondent's CV based on the methodology described in the calculation of COP above.

Price-to-Price Comparisons

We calculated FMV according to the methodology described in our preliminary determination with the following exceptions:

1. We excluded from our analysis reported home market sales that were sold for shipment to third countries. See Comment 5 below.

2. We revised the imputed credit calculation for transactions without reported payment dates, using the earliest verified payment date from the preselected sales in our verification report. *See* Comment 10 below.

3. We limited VAT adjustments to those sales on which VAT was paid.

4. We decreased the interest rate used to calculate imputed credit based on verified data. See home market verification report.

Price-to-CV Comparisons

Where we made CV to purchase price comparisons, we deducted from CV the weighted-average home market direct selling expenses and added the U.S. product-specific direct selling expenses. We adjusted for differences in commissions in accordance with 19 CFR 353.56(a)(2). Because commissions were paid on some, but not all home market sales, we deducted from CV both (1) indirect selling expenses attributable to those sales on which commissions were not paid; and (2) weighted average commissions. The total deduction was capped by the amount of indirect expenses paid on the U.S. sales in accordance with 19 CFR 353.56(b)(1) (1994).

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, pursuant to 19 CFR 353.60.

Verification

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

Interested Party Comments

Sales Issues

Comment 1

The petitioner contends that a margin based on the best information available (BIA) should be assigned to each of the

unreported sales of subject merchandise discovered at verification; stating that there is no evidence on the record that Dalmine made a request to have these sales excluded. Additionally, the petitioner asserts that the respondent's unilateral exclusion of certain pipe sales without notice to or permission from the Department was a deliberate and material omission which affected the Department's decision to excuse the respondent from reporting certain categories of sales. Had the Department known about the totality of the exclusion being requested, it would not have excused the respondent from reporting these sales.

The respondent argues that its non-reported sales fall into the category of merchandise produced to a subject specification, but which are used in a non-subject application. Thus, these sales are outside the scope and therefore need not be reported. Since these unreported sales involved non-subject merchandise, no exclusion request was necessary. The respondent contends it only requested exclusions for products produced to subject specifications and used in subject applications, in accordance with the Department's published scope language.

DOC Position

We agree in part with the petitioner. With respect to certain unreported sales of merchandise which was the subject of the respondent's exclusion request, we agree that BIA is appropriate. In the early stages of this investigation, the respondent made several requests to be excused from reporting particular categories of U.S. sales which were clearly covered by the scope of this investigation. The respondent based this exclusion request on the claim that these sales represented a certain percentage of total U.S. sales. Based on this representation, we granted the request but indicated that the claim would be subject to verification. At verification we found additional unreported sales of the same merchandise that was the subject of the respondent's exclusion request. These additional unreported sales constitute a significant additional quantity than was represented in the exclusion request. Accordingly, we have assigned a margin based on BIA to the U.S. sales involved in the exclusion request, as well as the additional unreported sales of the same merchandise.

With regard to the other unreported sales discovered at verification, we agree that the merchandise is within the scope of this investigation. However, we have decided that the use of adverse BIA for these unreported sales is unwarranted. As discussed above (see the Miscellaneous Scope Clarification Issues and Exclusion Requests section of this notice) the scope language, as published in the notice of initiation and the preliminary determination, was unclear as to whether the products in question are subject merchandise. The respondent did not report these sales based on its reading of the scope of the initiation. Since the scope language in the initiation is ambiguous (and hence has been clarified in the final determination), it is not appropriate to penalize the respondent.

Comment 2

The petitioner urges the Department to apply a BIA margin to one unreported U.S. sale of subject merchandise discovered during verification. According to the petitioner, the Department should view Dalmine's failure to report this sale against the background of the respondent's failure to report other sales of subject merchandise, and apply an adverse BIA margin.

The respondent acknowledges that it inadvertently failed to report this sale. According to the respondent, the order for this unreported sale appeared to be filled when it reported its U.S. sales data. However, two months later, the respondent made an additional shipment pursuant to this order, which was mistakenly not loaded with the first two parts of the order. The respondent claims it did not attempt to identify subsequent shipments pursuant to this order, since it considered this order filled at the time it prepared the sales listing. Only in the course of preparing for verification did the additional invoice amount come to the company's attention.

DOC Position

We agree with the petitioner, in part. The respondent made several shipments of subject merchandise pursuant to a customer's order. Each of the shipments were separately invoiced. Two of the invoices were reported in the respondent's sales listing. However, the respondent failed to report one invoice for a small amount of subject merchandise sold pursuant to this order. The facts do not support applying an adverse BIA margin to this sale. Instead, as BIA, we applied the average of all positive margins calculated for the remaining U.S. sales.

Comment 3

The petitioner claims the respondent misreported home market freight charges because it reported a calculated amount based on certain assumptions rather than an actual amount. Therefore, the petitioner urges the Department to use the lowest freight expense in the home market response as the freight expense for all sales for its price to price comparisons. For the Department's price to cost comparisons, the Department should consider the highest freight charge for any home market sale to be the freight charge for all home market sales.

In reply, the respondent argues that it would have been extraordinarily burdensome, if not impossible, to match specific freight invoices to specific shipments because freight invoices are not computerized. At verification, the respondent demonstrated it was impractical to link thousands of freight invoices to the specific shipments to which the invoices related. Therefore, the respondent calculated the reported freight charges from published tariff rates by assuming all shipments were part of a full truck load that was delivered to more than one location. The respondent claims that the Department verified that its freight estimates are reasonable and any differences between estimated amounts and actual freight charges are minor.

DOC Position

We agree with the respondent. At verification, we noted that, while Dalmine maintained computerized databases regarding all sales and cost information, it did not maintain invoice-specific expense data in its computerized sales database. At verification the invoice-specific actual expenses, calculated to check the information in the sales response, had to be calculated manually and there was some difficulty in obtaining source documentation.

At verification, we examined the respondent's methodology for calculating estimated freight expenses. We compared actual freight expenses with the reported estimated freight expenses, and noted only minor discrepancies between these two figures. Therefore, the use of BIA for this adjustment is not warranted.

Comment 4

The petitioner urges the Department to disallow the home market credit expense adjustment in its dumping margin calculation because the respondent overstated substantially credit costs by reporting March 6, 1995, as the payment for all sales unpaid as of November 1994. The petitioner also claims the home market credit expense adjustment should be disallowed because verified credit differed from the actual credit for six of the eight

preselected sales. Further, the petitioner asserts that the respondent failed to take into account certain outstanding short-term loan balances in its calculation of the interest rate used to compute credit costs. Finally, the petitioner cites page 54 of the Department's Italian verification report where it claims the Department notes that the payment dates reported by Dalmine were either incorrect or not available.

The respondent admits that it did not update payment data in its home market sales listing after the submission of December 19, 1994 (which reported all payments as of November 25, 1994). Nevertheless, the respondent acknowledges that, for purposes of calculating imputed credit costs in its March 6, 1995, filing, it assumed incorrectly that all sales unpaid as of November 1994 remained unpaid as of March 6, 1995. As a result, the imputed credit calculation was wrong for sales paid between November 25, 1994, and March 6, 1995. The respondent urges the Department to calculate the imputed credit cost adjustment for all sales for which no home market payment date was reported using November 1, 1994, as the date of payment, since this is a more conservative approach than that employed in the Preliminary Determination.

DOC Position

We disagree with both the petitioner and the respondent. During the Italian verification, we were able to verify the payment dates for preselected and surprise home market sales. The petitioner's reference to page 54 of the Italian sales verification report in support of its statement that payment dates were not available for sales not paid after November 23, 1994, is incorrect. The Italian sales verification report in its entire discussion of payment dates and credit expenses makes no statement regarding the unavailability of payment dates. We used the earliest verified payment date, November 18, 1994, as the payment date in the credit expense calculation for sales without reported payment dates which were shipped before November 18, 1994. We assumed no credit expenses were incurred for sales without reported payment dates which were shipped after November 18, 1994.

Comment 5

The petitioner argues that the respondent incorrectly based its commission offset on U.S. indirect selling expenses taken from Dalmine's U.S. subsidiary's (TAD USA's) 1993 SG&A expenses. The petitioner maintains that the Department must use the verified 1994 SG&A expenses to the extent that it offsets home market commissions.

According to the respondent, it acted reasonably in basing the indirect selling expenses in its questionnaire response on 1993 SG&A expense data, given that 1994 data was unavailable at the time the response was being prepared. The respondent concedes that the 1994 data obtained at verification would be more useful to the Department than the 1993 data.

DOC Position

It is the Department's practice to use the most recent verified data for indirect selling expenses in our margin calculations. Accordingly, we used the verified 1994 SG&A figures in our final determination calculations.

Comment 6

The petitioner claims that Dalmine incorrectly reported average rather than actual foreign inland freight on U.S. sales. The petitioner also claims that the respondent could have reported actual foreign inland freight charges because its records are computerized. Therefore, the petitioner urges the Department to assign the highest foreign inland freight charge observed at verification to all U.S. sales.

In reply, the respondent claims the difference between the highest foreign inland freight charge used in its calculation of average freight and the average foreign inland freight reported for all U.S. sales is immaterial. Moreover, the respondent maintains that its inland and ocean freight documents are not computerized.

DOC Position

We agree with the respondent. There is no evidence that the respondent's automated system allowed it to link individual sales with the freight charges incurred for those sales. At verification, we noted the actual per unit foreign inland freight charges for the U.S. preselected sales did not differ materially from the average charge reported in the sales listing.

Comment 7

In its case brief, the respondent requests that the Department clarify which of its customers are related within the meaning of the U.S. antidumping duty law.

In its rebuttal brief, the petitioner claims that there is no need to make this distinction for the purposes of the final determination. Should the Department address such an issue, the petitioner requests that it do so in a manner consistent with any findings made in the *Antidumping Duty Investigation of Oil Country Tubular Goods from Italy* (A–475–816).

DOC Position

We agree with the petitioner that such a finding is unnecessary. The respondent identified all related parties in its questionnaire response. We verified the accuracy of that response (*see* page 6 of our home market verification report). No further determination is necessary.

Comment 8

The respondent argues that tubes and pipes are distinct products, and urges the Department to clarify that the scope of this proceeding is limited to pipes. In its case brief, the respondent included an affidavit from a steel pipe and tube expert in which the expert explains that hollow steel products known as ''pipe'' have specific technical and commercial characteristics distinct from those hollow steel products commonly known as ''tubes.'' According to this expert, the pipe producing and consuming industries consider pipe to be a product with any combination of outside diameter (''OD'') and wall thickness set forth in the American Society for Testing Materials (''ASTM'') standard B36.10. This expert reports that hollow steel products that do not correspond to the OD and wall specifications set forth in this standard are not pipes. The respondent's expert also cites numerous reasons why products produced to non-pipe sizes are normally not used in subject pipe applications. Finally, the respondent notes that according to the American Iron & Steel Institute, tubing, as distinguished from pipe, is normally produced to outside or inside diameter dimensions and to a great variety of diameters and wall thicknesses, and to chemical compositions and mechanical properties not commonly available in pipe. Therefore, the respondent requests that the Department clarify that products produced to non-pipe dimensions are not subject to this investigation.

The petitioner argues that the petition and the published scope expressly state that subject seamless pipe includes all outside diameters not exceeding 4.5 inches regardless of wall thickness. The petitioner contends that the specifications covered by the scope of this investigation allow products to be made to non-standard dimensions and notes that neither the petition, nor the published scope, distinguishes between pipes and tubes. In addition, the petitioner states that the ITC found a single like product containing both pipes and tubes using an analysis

similar to that employed by the Department. Finally, the petitioner argues that respondent's own sales invoices and internal records refer to products made to non-standard dimensions as pipes.

DOC Position

We agree with the petitioner. *See* Scope clarification discussion in the body of this notice above.

Comment 9

The petitioner maintains that pipe and tube subject to this investigation constitutes a single class or kind of merchandise. The respondent did not comment on the class or kind issue in its case or rebuttal briefs.

DOC Position

We agree with the petitioner. *See* Class or Kind discussion in the body of this notice above.

Comment 10

The petitioner asserts that the respondent's home market sales data contains a multitude of errors that render it unsuitable for calculating an accurate FMV. Combined with substantial unreported U.S. sales and misreported costs, the petitioner considers it appropriate for the Department to base the final determination on BIA (petitioner cites *Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Brazil*, 57 FR 42940 (September 17, 1992)).

The respondent claims that the discrepancies mentioned by the petitioner are immaterial and the use of BIA is unwarranted.

DOC Position

We agree with the respondent that the use of total BIA is unwarranted. Based on the facts on the record, we believe the errors discovered at verification are minor in nature, and resulted from oversight or mathematical rounding. In addition, the lack of clarity in the scope, as published in the notice of initiation and the preliminary determination, may have resulted in respondent misinterpretation. The possibility that some of the unreported sales discovered at verification were not reported because the respondent misinterpreted the scope cannot be overlooked in our decision to accept or reject the home market sales response.

However, we made certain adjustments to the home market sales listing based on our findings at verification. Specifically, we deleted sales of small quantities of subject merchandise which were unlikely to be shipped and sales which the respondent believed would be exported to a country other than the United States. *See* the June 12, 1995 concurrence memorandum to Barbara Stafford from the Team for a complete discussion of this issue.

Cost Issues

Comment 11

The petitioner maintains that Dalmine understated its depreciation expense by excluding improperly the costs associated with 1993 fixed asset write-downs. Such costs, according to the petitioner, should be amortized over a number of years, including the POI. The petitioner argues that the Department should adjust the COP/CV figures by including a portion of the 1993 fixed asset adjustment.

The respondent claims that the 1993 adjustment referred to by the petitioner is not related to fixed assets, but is the adjustment to Dalmine's investment in its subsidiaries. The amount of the adjustment represents the operating losses of those subsidiaries. The respondent argues that, even if the adjustment had involved the company's fixed assets or inventory, it still should not be included in COP/CV as none of the subject merchandise sold during the POI was produced in 1993.

DOC Position

We agree with the respondent. The write-downs referred to by the petitioner are identified in Dalmine's 1993 annual report as write-downs due to the operating results of subsidiaries, associated companies and to an adjustment of the shareholder's equity of two subsidiaries. Accordingly, these write-downs are not related to the respondent's production activities or the subject merchandise and, therefore, we did not adjust the reported COP/CV figures.

Comment 12

The petitioner claims that Dalmine understated its depreciation expense by excluding improperly depreciation of its idle equipment. Although Italian generally accepted accounting principles (GAAP) may permit this practice, the petitioner argues that the Department should not allow the respondent to exclude depreciation of idle assets since this treatment creates distortions. The petitioner further states that the Department's long-standing practice is to include depreciation on idle assets in calculating COP and CV because such assets represent a cost to the company. To support this statement, the petitioner cites *Antifriction Bearings and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom*, 58 FR 39729, 37756 (1993) (*Antifriction Bearings*). The petitioner asserts that the Department should write off the remaining book value of the idle assets and allocate the expense to the POI, because the petitioner is unable to determine their remaining useful lives.

The respondent argues that it properly excluded depreciation expense relating to its assets because the facility is permanently closed and such accounting treatment is in accordance with Italian GAAP (*Iron Construction Castings From India*, 51 FR 9486, 1988). If the Department were to impute depreciation expense for the assets in the closed facility, the respondent argues we should allocate the imputed depreciation over 16 years, the average life of the fixed assets, rather than expensing the remaining book value of the idle assets during the POI.

DOC Position

The fixed assets in question relate to one of the respondent's facilities which is no longer in operation. The land and building housing these fixed assets have been sold and the company is currently attempting to sell the equipment. Italian GAAP requires the recognition of a loss on discontinued operations in the income statement, but the appropriate period of recognition is not defined. The respondent, in its normal books and records, has yet to recognize a gain or loss from the remaining assets of the discontinued operation.

The assets in question relate clearly to discontinued operations from a prior period and are no longer productive assets; they are merely awaiting sale. Accordingly, we do not consider the respondent's normal accounting treatment of these assets to be unreasonable. The *Antifriction Bearings* case cited by the petitioner is not controlling because it involved operations which were *temporarily* idle, while Dalmine's facility is *permanently* closed.

Additionally, had we considered the respondent's accounting treatment to be unreasonable and treated the discontinued operations in accordance with U.S. GAAP, we would consider the loss to be related to the year in which the decision was made to discontinue the operations, which was prior to the POI. Upon disposal of these assets, the gain or loss on the sale will be included on the respondent's income statement and we will include the gain or loss in COP/CV, if an order is issued and an administrative review conducted.

Comment 13

The petitioner argues that Dalmine improperly allocated depreciation expense using internal management reports instead of the mill-specific fixed asset ledgers which are kept in the normal course of business. The management reports, according to the petitioner, are used for allocating plant-wide depreciation expense to specific mills, but do not properly take into account the actual plant and equipment used in manufacturing. Instead, the petitioner claims, the submitted allocation method shifted costs from cost centers producing the subject merchandise to cost centers producing non-subject merchandise. The petitioner urges the Department to apply BIA because an analysis they performed suggests that the respondent applied an unusually slow rate of depreciation.

The respondent claims that it did not understate reported depreciation costs, as the verification report suggested, and argues that it may, in fact, have overstated its reported depreciation costs. Dalmine asserts that the internal management reports used to calculate depreciation for the submission segregate separately depreciation by mill and are not used for company-wide allocations. It also maintains that the depreciation expense for equipment used to produce the subject merchandise, as reported in the company's fixed asset ledgers, is substantially less than the depreciation expense which was reported in the submitted COP/CV data.

DOC Position

We agree with the petitioner, in part. The respondent reported its depreciation expense consistent with the way its cost accounting system allocates it to specific mills in the ordinary course of business. However, we believe that the use of its normal cost accounting methodology may not be a reasonable and accurate methodology as it does not properly take into account the actual plant and equipment used in manufacturing the subject merchandise. We consider the mill-specific fixed asset ledgers to be the most accurate basis for allocating depreciation expense to specific products. Therefore, we used the mill-specific depreciation expense.

We note that the petitioner's analysis regarding the unusually slow depreciation rate is flawed because it did not properly consider the cost of some fixed assets, such as land, which are not depreciated, and the cost of other fixed assets, which have long useful lives.

Comment 14

The petitioner argues that the Department should reject Dalmine's reported financing costs because Dalmine failed to disclose the fact that its financial results are consolidated with the financial results of its parent, ILVA S.p.A., in liq. (ILVA). These financial results are, in turn, consolidated with the financial results of ILVA's parent, IRI. The petitioner asserts that the Department calculates interest expense on a consolidated basis, unless the financial structure of the parent and the operating subsidiary are clearly not integrated, or there are no reliable audited consolidated financial statements. According to the petitioner, neither of these exceptions are applicable in this case.

The petitioner also contends that the Department should reject the respondent's argument that Dalmine's 1994 interest costs should be used instead of IRI's 1993 interest costs because the Dalmine-based figures are more closely correlated to the POI. The petitioner argues for the application of BIA in the final determination. However, if the Department determines that total BIA is inappropriate, then the petitioner believes the Department should calculate financing costs using IRI's 1993 audited financial statement information.

The respondent claims that it properly reported interest expense based on the consolidated financing costs incurred at the Dalmine level, rather than at the consolidated IRI level. In support of its claim, the respondent states that IRI does not exercise control over Dalmine's operations or its capital structure. In addition, the respondent maintains that using IRI's consolidated financial expenses would distort Dalmine's true financing costs because IRI's financing costs include expenses for entities which are dissimilar to Dalmine. Additionally, the respondent points out that IRI's 1994 audited consolidated financial statements were not available at verification and only its 1993 audited consolidated financial statements are on the record. However, Dalmine's 1994 audited consolidated financial statements are on the record and, according to the respondent, they are more relevant because they encompass the entire POI. Lastly, the respondent objects to the petitioner's insinuation that it attempted to mislead the Department by failing to disclose that its financial results are consolidated with the financial results of IRI. The respondent asserts that this information was not provided since it was not requested in the Department's questionnaires. When the Department did request IRI's consolidated financial data at verification, the respondent provided this information.

DOC Position

We agree with the petitioner, in part. The Department's long-standing practice is to calculate interest expense for COP/CV purposes from the borrowing costs incurred by the consolidated group. *Silicon Metal From Brazil,* 56 Fed. Reg. at 26,986 (1991). This methodology, which has been upheld by the CIT in *Camargo Correa Metals, S.A. v. U.S.,* Slip Op 93–163 (CIT 1993), is based on the fact that the consolidated group's controlling entity has the power to determine the capital structure of each member of the group. IRI has such power since it owns a substantial majority of Dalmine through ILVA. In addition, although the respondent claims that IRI does not exercise control over Dalmine's operations, it is the Department's position that majority equity ownership is prima facie evidence of corporate control. *See, e.g., Final Determination of Sales at Less Than Fair Value: New Minivans from Japan, (Minivans)* 57 FR 21946 (May 26, 1992) The respondent has not presented sufficient evidence to demonstrate that IRI's consolidated financing expense would distort Dalmine's financing costs. In *Minivans,* we determined that, as a member of a consolidated group of companies, the operations of a financing company remain under the controlling influence of the group. Like other members of the consolidated group, the financing company's capital structure is determined largely within the group. Consequently, its interest income and expenses are as much a part of the group's overall borrowing experience as any other member company.

Lastly, we do not consider it more appropriate to use Dalmine's 1994 consolidated figures over IRI's 1993 consolidated figures simply because Dalmine's audited information more closely relates to the time period of the POI. We have no reason to believe that IRI's 1993 audited financial statement interest expense data is not representative of the POI.

Comment 15

The petitioner believes the Department should not allow the respondent to offset its IRI level financing costs with short-term interest income because the reported interest income included both short and long-term interest income.

The respondent claims that the Department should reduce Dalmine's interest expenses by long and short-term

interest income since both long and short-term investments arise from the company's current operations. The respondent argues that it must earn revenue from its current operations in order to make long and short-term investments. Therefore, it is illogical for the Department to only consider short-term interest income to be related to current operations. Additionally, the respondent notes that treating short and long-term interest income differently contradicts the Department's fungibility of money argument. The respondent claims that the Department should recognize the symmetrical nature of interest income and expense and calculate a true net interest cost which would take long-term interest income into account.

DOC Position

We agree with the respondent, in part. It is the Department's practice to allow a respondent to offset financial expenses with interest income earned from the general operations of the company. *See, e.g., Timkin v. United States,* 852 F. Supp. 1040, 1048 (CIT 1994). The Department does not, however, offset interest expense with interest income earned on long-term investments because long-term interest income does not relate to current operations. *See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Results of Antidumping Duty Administrative Review,* 56 FR 31734 (July 11, 1991). The company did not provide a break-down of short and long-term interest income for IRI. However, we were able to determine the amount of short-term interest income for the consolidated IRI group from verification exhibits and have applied short-term interest income as an offset to Dalmine's financing costs.

Comment 16

The petitioner contends that the Department should not allow the respondent to offset production costs with foreign exchange gains because the gains were not verified by the Department.

The respondent maintains that, contrary to the verification report, it does not associate exchange gains and losses with particular transactions. The respondent states that it classifies exchange gains and losses as part of the company's general expenses and it urges the Department to accept this treatment of these exchange gains and losses. As an alternative to including both foreign exchange gains and losses in its financing cost calculation, the respondent argues that the Department should exclude both gains and losses. The respondent states in its brief that it was not aware of the Department's treatment of exchange gains and losses until it received the verification agenda where the distinction was explicitly noted.

DOC Position

We agree with the petitioner. It is the Department's normal practice to distinguish between exchange gains and loses from sales transactions and exchange gains and losses from purchase transactions. *See, e.g., Final Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela,* 59 FR 55436 (November 7, 1994) (*Silicomanganese*). Accordingly, the Department does not include exchange gains and losses on accounts receivable because the exchange rate used to convert third-country sales to U.S. dollars is that in effect on the date of the U.S. sale. (See 19 CFR 353.60). The Department includes, however, foreign exchange gains and losses on financial assets and liabilities in its COP and CV, calculation where they are related to the company's production. Financial assets and liabilities are directly related to a company's need to borrow money, and we include the cost of borrowing in our COP and CV calculations. See *Silicomanganese.* The respondent did not provide any substantiation for the exchange gains and losses reflected in either Dalmine's financial statements or IRI's financial statements. However, Dalmine did state at verification that exchange gains are generally from sales transactions and exchange losses are generally from purchase transactions. We therefore adjusted the interest expense rate calculation to include IRI's exchange losses and exclude IRI's exchange gains.

Comment 17

The petitioner argues that the Department should disallow the portion of the LIFO variance adjustment which is comprised of reversals of accruals and other reserves. The petitioner claims that these accruals and reserves were established in prior accounting periods and do not relate to POI production. According to the petitioner, allowing such reversals provides companies that have advance knowledge of a dumping case with a simple means of shifting costs out of the POI.

The respondent contends that it included properly reversals of 1993 accruals and write-downs in its COP/CV costs. Dalmine claims that the Department's general practice is to include accruals which are recognized in the respondent's audited financial statements in the COP/CV calculations. According to the respondent, this treatment necessitates the inclusion of any accrual reversals in COP/CV calculations for the period in which the respondent recognizes the reversal. Otherwise, the respondent claims, the Department would be overstating the company's total costs.

DOC Position

We agree with the petitioner. We do not consider it appropriate to reduce current year production costs by the reversal of prior year operating expense accruals and write-downs of equipment and inventory. The subsequent year's reversal of these estimated costs does not represent revenue or reduced operating costs in the year of reversal. See *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From France,* 58 FR 37079 (July 9, 1993). Rather, they represent a correction of an estimate which was made in a prior year. If the Department is able to verify that an operating expense accrual or an equipment or inventory write-down recorded during the POI is subsequently adjusted because the company overestimated the cost, we will use the corrected figure, but only for the same period in which the accrual or write-down occurred. However, absent any verified information supporting the overestimation of cost, we have no choice but to rely on the amounts recorded by the company. The fact that a company is unable to determine that it over accrued certain costs in time for verification does not justify distorting the actual production costs incurred in a subsequent year by reducing subsequent year costs by the overestimated amount. In the present case, since the accruals and write-downs did not occur during 1994, it would be inappropriate to recognize the reversals of such entries in the reported costs.

Comment 18

The petitioner asserts that Dalmine has not reported the COP and CV for all of the subject merchandise sold in the U.S. during the POI. This assertion is based on the fact that Dalmine did not calculate a weighted average cost for CONNUM's 45 and 108, because the company did not produce those products during the POI. The petitioner claims that a significant percentage of U.S. sales during the POI were for control numbers not produced during the POI. The petitioner argues that the

Department should increase the submitted COP and CV for the two products sold in the U.S. during the POI, but produced prior to the POI, because Dalmine was less profitable in 1993.

The respondent maintains that it calculated the average COP and CV for CONNUM's 45 and 108 by using a simple average of the cost of the products that comprise each CONNUM rather than a weighted average with a weighting factor for the cost of products not produced during the POI. Thus, the respondent contends that it properly reported actual contemporaneous cost information.

DOC Position

We agree with the respondent. Dalmine used a simple average of the cost of the products that comprised CONNUM's 45 and 108 and our statement in the verification report that the respondent used a weighting factor for some of the products in its cost calculation for CONNUM's 45 and 108 is inaccurate. We calculated COP/CV by weight averaging the average costs of products classified within those CONNUM's by the production quantities which we obtained at verification.

We disagree with the petitioner's claim that the Department should increase the submitted cost data for the products produced prior to the POI because the company was less profitable in the prior year. The Department tested Dalmine's standard costs as adjusted to actual costs at verification and determined that these costs actually reflect the costs incurred during the POI.

Comment 19

The petitioner contends that Dalmine understated its reported general and administrative (G&A) expenses as it failed to include an allocation of G&A expenses incurred by ILVA and IRI. Because Dalmine failed to disclose that it was consolidated with ILVA and IRI, the petitioner believes that, as BIA, the Department should add the G&A expenses calculated from ILVA's 1992 financial statements and IRI's 1993 financial statements to the amounts reported by Dalmine.

The respondent maintains that the Department verified that an appropriate share of parent company management costs was included in the submitted COP/CV data.

DOC Position

We agree with the respondent. It is the Department's practice to include a portion of the G&A expenses incurred by affiliated companies on the reporting entity's behalf in total G&A expenses for COP/CV purposes. *Final Determination of Sales at Less Than Fair Value: Welded Stainless Steel Pipe from Malaysia,* 59 Fed. Reg. 4023, 4027 (Jan. 28, 1994); *Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Venezuela,* 58 Fed. Reg. 27524 (May 10, 1993); *Final Determination of Sales at Less Than Fair Value: Sweaters from Hong Kong,* 55 Fed. Reg. 30733 (July 27, 1990); *Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephones and Subassemblies Thereof from Korea,* 54 Fed. Reg. 53141 (Dec. 27, 1989). In the present case, the respondent included a portion of Dalmine's G&A expenses and the G&A expenses of its producing subsidiary in the submitted G&A expenses. We identified no parent company costs allocable to Dalmine.

Comment 20

The petitioner questions whether all steel mill variances have been captured because steel bar costs have been reported exclusively on the basis of standard costs. The petitioner claims that price and efficiency variances for the steel mill were excluded from the ratio used to allocate variances to each product.

The respondent claims that the Department verified that the steel mill variance was properly allocated to the subject merchandise.

DOC Position

We agree with the respondent. The steel mill net profit reported on the respondent's management report was zero after all steel mill costs were allocated to producing mills, based on steel usage by the mills. Therefore, all steel mill activity, including variances, was properly allocated to the producing mills.

Suspension of Liquidation

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below, for entries of seamless standard, line and pressure pipe from Italy that are entered or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer exporter	Weighted-average margin (percent)
Dalmine	1.84
All Others	1.84

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure or threaten injury to a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protection order (''APO'') in these investigations of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.4(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))and 19 CFR 353.20.

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14939 Filed 6–16–95; 8:45 am]

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[C–475–815]

Final Affirmative Countervailing Duty Determination: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe (''Seamless Pipe'') From Italy

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

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Wilkniss, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0588.

FINAL DETERMINATION: The Department determines that benefits which constitute subsidies within the meaning