Because this is one of the first new shipper reviews, the Department finds this case to be extraordinarily complicated. Therefore, we are unable to complete this review within the time limits mandated by section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (the Tariff Act). Therefore, in accordance with that section, the Department is extending the time limit for the preliminary results to January 31, 1996.

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 353.34(b).

This extension is in accordance with section 751(a)(2)(B)(iv) of the Tariff Act (19 U.S.C. 1675(a)).

Dated: December 15, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–462 Filed 1–18–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–421–701]

Brass Sheet and Strip From The Netherlands; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On December 28, 1994, the Department of Commerce (the Department) published the preliminary results of its 1990–91 administrative review of the antidumping duty order on brass sheet and strip from the Netherlands. The review covers exports of this merchandise to the United States by one manufacturer/exporter, Outokumpu Copper Rolled Products AB (OBV), during the period August 1, 1990 through July 31, 1991. The review indicates the existence of dumping margins for this period.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received and as a result of a change in the treatment of home market consumption taxes, we have adjusted OBV's margin for these final results.

EFFECTIVE DATE: January 19, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1994(59 FR 66892), the Department published in the Federal Register the preliminary results of its 1990–91 administrative review of the antidumping duty order on brass sheet and strip from the Netherlands (53 FR 30455, August 12, 1988).

Applicable Statute and Regulations

The Department has completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are sales or entries of brass sheet and strip, other than leaded and tinned brass sheet and strip, from the Netherlands. The chemical composition of the products under review is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C20000 series. This review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.20. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review period is August 1, 1990 through July 31, 1991. The review involves one manufacturer/exporter, OBV.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of OBV, we held a hearing on February 10, 1995. We received case and rebuttal briefs from OBV and from the petitioners, Hussey Copper, Ltd., The Miller Company, Olin Corporation, Revere Copper Products, Inc., International Association of Machinists and Aerospace Workers, the International Union, Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and the United Steelworkers of America (AFL-CIO/CLC).

Comment 1: The respondent alleges that in the preliminary results of review the Department incorrectly treated certain payments made by OBV to its U.S. affiliate, Outokumpu Copper Inc. (OCUSA), as commissions and adjusted for them as direct selling expenses. The respondent explains that its purchase price data list reports three different types of transactions in the commissions column, and that only one of the three types of transactions thus reported should be adjusted for as a direct selling expense.

The only true commissions on U.S. sales, according to the respondent, are those which were paid to Global Metals Corporation (Global), an independent agent. These commissions, the respondent explains, are all labeled ''U'' (unrelated) on the sales list.

The second type of transaction reflected in the commissions field, the respondent states, is an intra-corporate transfer of funds from the parent to the U.S. affiliate, and can be identified by both the label ''R'' (related party) and by the fixed per-pound amount of the charge involved.

In support of its position concerning this second type of payment, the respondent cites the Department's practice as expressed in *Color Picture Tubes from Korea* (56 FR 5385, 5386, February 11, 1991) (*Color Picture Tubes*), where the Department stated: ''[I]n general the Department regards payments to related parties as intracompany transfers of funds . . . .'' The respondent also cites *Television Receivers, Monochrome and Color, from Japan,* 53 FR 4050, 4053 (February 11, 1988), in which the Department stated: ''We consider payments to related parties to be mere intra-corporate transfers of funds rather than commissions.'' The respondent also cites similar language in *Porcelain-on-Steel Cooking Ware from Mexico,* 51 FR 36435 (October 10, 1986).

The respondent further argues that the Department is permitted to make an adjustment for related-party commissions only if (1) the record demonstrates that the commissions are directly related to the sales subject to review and (2) the payments reflect an arm's length rate. As authority for this point the respondent cites *Outokumpu Copper Rolled Products AB* v. *United States,* 850 F. Supp. 16 (CIT 1994) (*Outokumpu/Sweden*), *LMI Industriale S.p.A.* v. *United States,* 912 F.2d 455 (Fed. Cir. 1990)(*LMI*), *Color Picture Tubes,* and *Brass Sheet & Strip from the Netherlands; Final Results of Antidumping Administrative Reviews,* 57 FR 9534 (March 19, 1992). With regard to the payments at issue, the

respondent denies that the payments in question are directly related to sales and argues that in any case the payments were not arm's length.

The third type of payment reported in the commissions field, the respondent explains, is labeled ''R'', but can be distinguished from the second type of payment because it reflected varying percentages of the sales price, unlike the one fixed rate which applied to the second type of payment. This third type of payment, the respondent states, was associated with closed-consignment sales and consisted of ''the difference between the transfer price and the price charged by OCUSA to the customer''. The respondent further clarifies this third type of payment:

Unlike other purchase price sales it processed, OCUSA was not paid a commission on any of the closed consignment purchase price sales handled by OCUSA. * * * OCUSA received the difference, if any, between the transfer price it paid to OBV and the amount OCUSA invoiced to the customer. * * * the amounts reported as ''commissions'' in this instance were paid to OCUSA by the customer as a mark-up, not by OBV to OCUSA.

The respondent argues that it only reported the amounts of the third type of payment in response to the Department's February 12, 1992 supplemental questionnaire, which noted that certain purchase price sales showed no commissions. In reporting these amounts, the respondent ''placed the Department on notice that these amounts, in fact, were not commissions.''

The respondent cites the Department's treatment of the same type of payments as indirect expenses in the two preceding reviews, and cites the Department's treatment of the same kind of payments as indirect expenses in the 1988–1990 reviews of the antidumping duty order on brass sheet and strip from Sweden. In the latter case, the respondent mentions, the Court of International Trade (CIT), in *Outokumpu/Sweden,* upheld the Department's treatment of the intracorporate transfers in question as indirect selling expenses.

The petitioners argue that the Department correctly treated all three types of payments as commissions. They contend that OBV understated the first type of payments, commission payments to Global, since OBV reported amounts that were less than the rate in the contract between the two parties.

As for the second type of payment discussed above, the petitioners point out that in the most recently completed review of brass sheet and strip from Sweden (60 FR 3617, January 18, 1995), the Department reversed the position it had expressed in prior reviews of that order and in *Outokumpu/Sweden,* and determined that the payments made by the Swedish parent to OCUSA should in fact be treated as commissions.

The petitioners argue that the payments are directly related to sales since they are paid on a percentage basis, based on the value of the sales made. The petitioners point out that the Department found in prior reviews that the payments were directly related to sales. The petitioners add that, based on the U.S. sales verification, OBV's questionnaire response, and OBV's discussion of the commission issue in its pre-hearing brief, the respondent appears to have understated commissions and to have provided contradictory information as to whether certain commissions, including those paid to an unrelated party, were paid on a percentage basis or on a fixed cents-per-pound basis.

The petitioners also argue that by law, the burden of proof concerning whether commission rates are arm's length is the respondent's, citing *Timken Co.* v. *United States,* 673 F. Supp. 495, 513 (CIT 1987). The petitioners maintain that the respondent has not met this burden of proof.

Concerning the third type of payments in question, those which the respondent characterizes as mark-ups between its intra-company transfer price and the price paid by the unrelated customer to OCUSA, the petitioners argue that, if the sales to which these payments correspond were truly purchase price sales, then ''such an arrangement clearly constitutes a commission payment''. If, on the other hand, OBV's prices to unrelated customers were adjusted by OCUSA's addition of a further charge to the customer, then these are exporter's sales price (ESP) sales, rather than purchase price sales.

The petitioners cite the respondent's statement at the U.S. sales verification, that the commission payments paid by OBV to OCUSA consist of a percentage of sales price plus add-on costs including a charge for warehouse cost and freight. The petitioners argue that such charges ought to have been separately reported by the respondent and treated by the Department as direct deductions from U.S. price (USP).

In light of the information discovered at verification, the petitioners argue, the Department should handle the reported commission payments as follows: For payments to the unrelated commissionaire, apply a rate based on the percentage of sales which is stipulated in the contract, rather than on a cents-per-pound rate. For payments by OBV to OCUSA reported as commissions, *i.e.*, for both the second and third types of payments reported by the respondent, the petitioners argue that the Department should assume that of the total commission amount reported, only the same percentage as was paid to the outside commissionaire corresponds to actual commissions; any remaining amount should be treated as other direct costs and deducted from USP. The petitioners argue that this adjustment of the reported commission payments should cover all sales made through OCUSA, since the blending of separate expenses within the commission amounts occurred in both standard and closed-consignment sales.

Department's Position: Concerning the first type of payments, those made to Global, there is no dispute that the payments were directly related to sales and should be deducted from USP for ESP sales, and added to foreign market value (FMV) for purchase price sales.

We disagree with the petitioners that OBV understated the amounts of these payments. The apparent difference noted by the petitioners between the percentage in the contract and OBV's reported commission payments is explained by other terms of the contract and in OBV's response. The contract with Global called for a limit on the commission for the portion of invoices associated with metal content; for this portion, the contract called for OBV to pay a lesser commission on all metal content exceeding a stipulated per-pound price. In fact, the amounts listed in OBV's submission (listed on a cents-per-pound basis), when converted to a comparable percentage, confirm that OBV adhered to the terms of the contract. Therefore, we have accepted the reported payments as accurate.

Concerning the second type of payment, those made to OCUSA by OBV, we reject petitioners' argument that the respondent has the burden of proving that such payments were not arm's length, as it is contrary to our practice. *See Outokumpu/Sweden,* 850 F. Supp. at 20–23; *Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Spain,* 59 FR 66931, December 28, 1994 (Comment 4).

As we explained in *Final Determination of Sales at Less Than Fair Value; Coated Groundwood Paper from Finland,* 56 FR 56359 (November 4, 1991), we have interpreted *LMI* to mean that related-party commissions paid in either the United States or the home market are allowable as circumstance-of-sale adjustments when they are determined to be (a) at arm's

length and (b) directly related to the sales in question. Specifically with regard to the arm's-length prong of this test, ''Commerce has chosen to operate under the assumption that commission payments in related-party transactions are not at arm's length.'' *Outokumpu/Sweden,* 850 F. Supp. at 22. Because we presume that the related-party payments were not at arm's length, we do not require the respondent to prove that they were not at arm's length. *Id.*

The record in this review indicates that OBV's payments to OCUSA included amounts for freight, warehousing, and financing expenses; however, it does not indicate what portion, if any, of OBV's payments to OCUSA was intended to recompense OCUSA for commission-related services it provided equivalent to those provided by the unrelated party, Global. In addition, the record evidence shows that OBV's payments to OCUSA differed significantly *in toto* from those paid to the unrelated party. Given these circumstances, we are unable to compare OBV's payments to OCUSA to payments by OBV to the unrelated party for the purpose of assessing the arm's-length nature of OBV's payments to OCUSA. Therefore, we have treated OBV's payments to OCUSA as not at arm's length.

Accordingly, as in the prior reviews of this order (88–90) (57 FR 9536, March 19, 1992), we did not adjust for these payments as commissions in this review. However, we normally regard such payments to related parties as indirect selling expenses (*see Television Receivers, Monochrome and Color, from Japan: Final Results of Administrative Review,* 54 FR 13924 (April 6, 1989)). Thus, we added these payments to indirect selling expenses in the ESP calculations for these final results.

As for payments of the third type, those which were limited to closed-consignment sales, we disagree with the petitioners that these constitute commissions. The respondent has explained that these payments corresponded to the difference, if any, between the transfer price which OBV charged OCUSA and the price which OBV charged the American customer. As with the second type of payment discussed above, there is no evidence to overcome the presumption, which is supported by OBV's questionnaire response, that the portion of the price which OCUSA retained on closed consignment sales amounted to a transfer of funds from the parent to the U.S. subsidiary, rather than an arm's length commission. Thus, because we do not consider this third type of payment, involving closed-consignment purchase price sales, to be a commission, we have made no adjustment for these payments in these final results.

We also disagree with the petitioners' further argument that, if we do not treat as a commission the portion of closed-consignment sales prices which OCUSA retained, then we must characterize the sales in question as ESP sales. As OBV has pointed out, the terms of sale were governed by the long-term contracts entered into by these customers and OBV prior to importation and were not subject to adjustment by OCUSA following importation. Since the evidence on the record indicates that OCUSA functioned merely as a facilitator of documents, performing Customs clearance and related services, and that the terms of sale between OBV and the final customer were set prior to importation, we do not agree with the petitioners' argument that these sales should be reclassified as ESP transactions.

Value-Added Tax Adjustment Methodology

Comment 2: OBV argues that the Department must apply a tax-neutral methodology to the adjustment for value-added tax (VAT), and asks the Department to adjust for the VAT by using the actual amount of the VAT, rather than the VAT rate. The amount of the VAT, the respondent explains, can be calculated by multiplying the gross unit price times 18.5 percent. The respondent argues that the use of the VAT rate is arbitrary, capricious, and inherently unfair because it artificially inflates any dumping margin OBV may have. The respondent argues that this practice contravenes the Department's obligation to calculate fair and accurate margins.

OBV requests that the Department alter its methodology for the final results of review in accordance with footnote 4 of the decision of the Federal Circuit in *Zenith Electronics Corp.* v. *United States,* 988 F. 2d 1573, 1577 (Fed. Cir. 1993), (*Zenith*) and the decision of the CIT in *Hyster Co.* v. *United States,* Slip Op. 94–34 (March 1, 1994), at 11. The respondent argues that this change would eliminate the ''multiplier effect'' caused by applying the VAT rate rather than the actual VAT amount for each home market sale.

Department's Position: In light of the Federal Circuit's decision in *Federal Mogul* v. *United States,* CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith,* 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The CIT overturned this methodology in *Federal Mogul* v. *United States,* 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a ''zero'' pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the ''*Zenith* footnote 4'' methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the ''*Zenith* footnote 4'' methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the Federal Circuit has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping asssessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the GATT. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the ''*Zenith* footnote 4'' methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to U.S. price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Comment 3: The petitioners argue that the Department should eliminate from its U.S. sales data those sales for which both the dates of sale and the dates of entry were outside the POR.

Department's Position: We agree and have removed those U.S. sales from the analysis for which the dates of sale and dates of entry were outside the POR.

Comment 4: The petitioners argue that the Department should revise its preliminary width groupings used in product comparisons to achieve a comparison of the most similar merchandise possible. The petitioners accept in part the Department's use of the respondent's revised width groupings, which break down the narrowest single width category used in prior reviews into five narrower groups. The petitioners object, however, to the broader width grouping proposed by the respondent to replace previously-used multiple groupings above 2 inches in width, and urge the Department to use its previous groupings for widths over 2 inches.

In rebuttal the respondent notes that in selecting the product comparisons to be made, the Department decided to adopt the width groupings recommended by the respondent, as they more accurately reflected the facts of the respondent's product mix and manufacturing processes than the previous groupings.

Department's Position: We agree with the petitioners that it is preferable to seek model matches with the most similar possible home market merchandise. We concur that it is reasonable to use the narrower groupings proposed by OBV for widths of less than 2 inches, which were agreed to by the petitioner and which were used in the preliminary results, to the extent that these result in using more similar merchandise for model-matching purposes.

The petitioners are concerned that cost differences could be blurred in the widest of OBV's revised groupings, which covers all brass sheet & strip over 2 inches in width, thus potentially resulting in model-matching of dissimilar merchandise. For merchandise over 2 inches in width, the Department's original groupings will result in model matches of merchandise that are more similar in physical characteristics, as the petitioners argue. These width groupings over 2 inches in width are more similar than the respondent's proposed width groupings. As for OBV's argument that the groupings should be based on OBV's actual production costs, we consider the physical characteristics of merchandise when determining similar merchandise, not similarities or dissimilarities in production costs. For these final results, therefore, we have used the Department's original width groupings for merchandise over 2 inches in width; for narrower widths, we have continued to use the respondent's revised groupings that we used in the preliminary results.

Comment 5: The petitioners argue that the Department should adjust USP to account for unreported further processing in the United States. The petitioners cite the U.S. verification report's mention that ''at least one'' sale which the respondent had classified as a purchase price sale had been further processed in the United States, and that this additional information had not been disclosed in OBV's response. The petitioners emphasize the gravity of the omission of such costs, as described in *Tatung Co.* v. *United States,* Slip Op. 94–195, at 9 (CIT 1994)(*Tatung*), citing *Florex* v. *United States,* 705 F. Supp. 582, 588 (1989)(*Florex*), where the court stated: ''Commerce considers the omission of U.S. sales to be a serious matter, as does the court. Overstating U.S. price is also a serious matter.'' The petitioners compare OBV's oversight of the further processing costs in this instance with the failure by OBV's Swedish affiliate to fully report unpaid sales in the 1991–1992 reviews of Swedish brass, and cite the Department's application of best information available (BIA) in that case. Accordingly, the petitioners urge that the Department resort to BIA and assume that all of the sales to the customer for which the Department found these unreported further manufacturing costs were further-manufactured sales. The petitioners suggest that the Department should reclassify those sales as ESP and apply the further-manufacturing costs discovered at verification to all the other sales to that customer.

In rebuttal the respondent argues that the record demonstrates that the Department, as a result of finding this single instance of unreported further processing, conducted additional verification, specifically to determine if there were other such misreported sales, and did not find evidence of any such additional sales. The respondent argues that the precedents which the petitioners cite in urging the Department to apply BIA, *Florex* and *Tatung,* were different from the present case since the respondents' submissions to the Department in those cases contained errors as to commissions and U.S. sales expenses (*Tatung*), or errors in price, quantity, or grade (*Florex*).

Department's Position: We disagree with the petitioners that all sales to this one customer should be considered ESP transactions. We sought, but did not find, any information to indicate that the single unreported further processing charge which we discovered at verification was representative of more widespread, or deliberate, misreporting of such further processing expenses. Although the existence of further processing by itself does not conclusively establish whether a sale should be considered a purchase price or ESP sale, we normally treat further-processed sales as ESP sales. In this case, because we only discovered the further-processing costs at verification, we were unable to further investigate this sale in order to determine if it constituted a purchase price or ESP transaction. We note that both the petitioners and OBV agree that at least this one sale should be treated as an ESP transaction with a deduction of the further processing costs. For these final results, therefore, as best information available, we have treated the one sale in question as an ESP sale and have deducted the further processing costs.

Comment 6: The petitioners argue that the Department should adjust for unreported discounts discovered during verification. In particular, the petitioners urge the Department to revise its analysis to reflect certain early payment discounts to a specific U.S. customer that were discovered at verification; according to the petitioners, the Department should adjust all sales to the same customer for the amount of the unreported discount.

In rebuttal the respondent asserts that the error in question is of the type that requires a correction to the U.S. sales data base, not the punitive application of the discount to all sales to the same customer for which we found an unreported discount. The respondent explains that the error arose as a result of a transfer of responsibility for certain accounts following a corporate acquisition. The respondent has re-examined its sales list and identified seven sales in its case brief which it claims should be adjusted to reflect the unreported discount.

Department's Position: Since the respondent's new information about these seven sales was untimely, we have not considered it. OBV's explanation of the reasons for its failure to report the early-payment discount does not excuse such failure. As BIA for these unreported discounts, we have adjusted all sales to this customer for the early payment discount in these final results.

Comment 7: The petitioners argue that the Department should reduce OBV's overstated prices of ESP sales invoiced by American Brass (AB), a company which OCUSA acquired. The petitioners assert that the U.S. verification uncovered discrepancies between the reported prices to one U.S. customer and the amounts shown on invoices from AB. The respondent acknowledges that it misreported these sales by not including further processing costs in the reported unit prices. OBV suggests that the error can be corrected by relying on the total reported sales price, which is not in error, instead of the reported unit price.

Department's Position: We disagree with the petitioners. Since the respondent correctly reported total sales price, it would be unreasonable to apply punitive BIA for the erroneously reported unit prices. Instead, for these final results we have used as the basis for USP the total reported sales price divided by the total reported quantity, less all adjustments, since total price and total quantity were correctly reported.

Comment 8: The petitioners argue that the Department should adjust the respondent's U.S. processing costs to include losses on unaccounted-for merchandise, losses which were reported in revised data submitted at verification.

Department's Position: We agree and have included the revised scrap adjustments for these final results.

Comment 9: The petitioners argue that the Department should disallow OBV's quantity discount claim for home market sales. In rebuttal, OBV argues that it did not request such an adjustment and that the Department did not make such an adjustment.

Department's Position: We agree with OBV. The petitioners are mistaken that we deducted the discount from the home market price; in fact, it was not a requested adjustment, and we did not deduct it from home market price.

Clerical and Programming Errors

Comment 10: The petitioners argue that the Department failed to deduct freight expenses from home market price when conducting the cost test.

Department's Position: We agree and have deducted these freight expenses from home market price for these final results.

Comment 11: The petitioners argue that the Department incorrectly included several below-cost home market sales when calculating FMV. The respondent counters that the petitioners fail to identify which below-cost sales were erroneously included in home market sales, and notes further that it is Department policy to include below-cost sales when less than 10 percent of a model are found to be sold below cost within a particular month.

Department's Position: We disagree with the petitioners. We reviewed the computer program and we are satisfied that we did not consider below-cost sales other than those which were properly included, in calculating FMV.

Comment 12: The petitioners argue that the Department failed to deduct from USP U.S. selling expenses allocated to further manufacturing. The respondent argues that the further processing costs in question are in fact accounted for in the computer program.

Department's Position: We agree with OBV. We included in our analysis those U.S. selling expenses allocated to further manufacturing.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margin exists for OBV for the period August 1, 1990 through July 31, 1991:

Manufacturer/exporter	Percent margin
Outokumpu Copper Rolled Products AB (OBV)	5.20

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between the USP and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Act:

(1) The cash deposit rate for OBV will be the rate outlined above;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the ''all others'' rate of 16.99 percent established in the LTFV investigation.

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

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

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

Dated: December 14, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–620 Filed 1–18–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–549–502]

Certain Circular Welded Carbon Steel Pipes and Tubes From Thailand; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 22, 1994, the Department of Commerce published the