from EP and CEP sales. Also, respondent states that the URAA House Ways and Means Committee Report and the SAA explicitly state that the new duty absorption provision is not intended to provide for the treatment of antidumping duties as a cost. Thus, states respondent, the Department should continue to refuse to deduct AD duties from Stelco's EP and CEP sales.

Department's Position. We agree with respondent. *See,* CCC comment 5, supra.

Final Results of Reviews

As a result of our review of the comments received, we have changed the results from those presented in preliminary results of review. Therefore, we determine that the following margins exist as a result of our review:

Manufacturer/exporter	Time period	Margin (percent)
Corrosion-Resistant Steel:		
Dofasco	8/1/94–7/31/95	0.56
CCC	8/1/94–7/31/95	1.58
Stelco	8/1/94–7/31/95	0.55
Cut-to-Length Plate:		
Algoma	8/1/94–7/31/95	[1] 0.37
Stelco	8/1/94–7/31/95	0

[1] This is a *de minimis* margin.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following cash deposit requirements will be effective upon publication of these final results for all shipments of this merchandise, entered or withdrawn from warehouse for consumption on or after the publication date, as provided for by section 751(a)1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates for those firms as stated above (except that if the rate for a particular product is *de minimis* i.e., less than 0.5 percent, a cash deposit rate of zero will be required for that company); (2) for previously 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, or the original investigation, but the manufacturer is, the case deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the case deposit rate for all other manufacturers will be the ''all others'' rate made effective by the final results of the 1993–1994 administrative review of these orders (*see, Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Steel Plate from Canada; Final Results of Antidumping Administrative Reviews,* 61 FR 13815 (March 28, 1996)). As noted in those final results, these rates are the ''all others'' rates from the relevant LTFV investigations which were 18.71 percent for corrosion-resistant steel products and 61.88 percent for plate (*see, Amended Final Determination,* 60 FR 49582 (September 26, 1995)). These deposit requirements shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. This notice 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)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This administrative review and notice are in accordance with section 751(a)(1) of the Act 19 U.S. C. 1675(a)(1)) and § 353.22 of the Department's regulations.

Dated: April 2, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–9425 Filed 4–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–405–802]

Certain Cut-to-Length Carbon Steel from Finland; 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 October 4, 1996, the Department of Commerce (the Department) published the preliminary results of its 1994–95 administrative review of the antidumping duty order on certain cut-to-length carbon steel from Finland. The review covers one manufacturer/exporter, Rautaruukki Oy (''Rautaruukki''), for the period August 1, 1994 through July 31, 1995. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have made the changes described in this notice.

EFFECTIVE DATE: April 15, 1997.

FOR FURTHER INFORMATION CONTACT: Jacqueline Wimbush or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1374 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 4, 1996, the Department published in the **Federal Register** (61 FR 51901) the preliminary results of the

antidumping duty order on certain cut-to-length carbon steel plate from Finland (58 FR 44165). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act.

Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Scope of the Review

The products covered by this administrative review constitute one ''class or kind'' of merchandise: certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers, 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The period of review (''POR'') is August 1, 1994, through July 31, 1995. This review covers entries of certain cut-to-length carbon steel plate by Rautaruukki.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received briefs and rebuttal comments from Bethlehem Steel Corporation, U.S. Steel Group a unit of USX Corporation, Inland Steel Industries, Inc., LTV Steel Company, Inc., National Steel Corporation, AK Steel Corporation, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and WCI Steel Inc., collectively petitioners, and from Rautaruukki, respondent, an exporter of the subject merchandise. At the request of respondent, we held a hearing on December 2, 1996.

Comment 1

The respondent argues that the Department erred by failing to consider all subject merchandise with shipbuilding specification ''A'' as identical merchandise. Respondent states that the Department assigned new control numbers (''CONNUMs'') to shipbuilding steel for each specification and/or grade (''PLSPECH'') based on the national classification society. Consequently, respondent argues that the Department considered only the shipbuilding plate certified as ''ABA'' for sale in the Finnish home market and the U.S. market as identical merchandise, and erroneously treated shipbuilding plate which was certified by a different national classification society as non-identical merchandise.

Respondent claims that its customers sometimes demand that identical merchandise be certified in accordance with the specifications of the national classification society of the country in which the product will be used. As a result of this, respondent states that it reported multiple PLSPECH codes for the same CONNUM. Respondent argues that the administrative record shows that merchandise manufactured to the ''A'' specification is identical regardless of national classification society certification. Respondent alleges that it gave the Department a table of identical and most similar merchandise which demonstrated that the physical characteristics, including chemistry, delivery condition, elongation, yield strength and tensile strength are identical for all shipbuilding plate with the ''A'' specification (see Exhibit SUPP–17, dated December 6, 1996, as part of Rautaruukki's response to the Department's supplemental questionnaire). Respondent notes that it provided the Department with mill certificates for various shipbuilding (''A'') specifications, which indicated that the chemical and physical properties are the same for shipbuilding steel with the ''A'' specification, and the steel from the same cast or heat was used to meet orders of shipbuilding plate sold to two different classification society certifications.

Respondent claims that the Department has acknowledged that all ''A'' specification shipbuilding plate are identical products. Respondent cites the Department's verification report which states: ''We examined mill certificates for products which have identical physical characteristics but were sold to different countries with different specifications: It is clear that the products were identical based on physical characteristics.''

Respondent also contends that the Department has improperly changed its model-match program from the previous administrative review. Respondent notes that in the first review, the Department assigned identical designated values for PLSPECHs which represented subject merchandise manufactured to the ''A'' specification of shipbuilding steels. Respondent states that in the first administrative review, the Department recognized that these products are identical products with the same chemical and physical characteristics.

Respondent argues that an administrative agency must either follow existing decisions and precedents or else explain its deviation, citing *Citrosuco Paulista, S.A.* v. *United States,* 12 CIT 1196, 1209, 704 F. Supp. 1075, 1088 (1988). Respondent argues that the Department should have either conformed to, or explained the reasons for its departure from, its prior determination. Respondent claims that no new facts were presented that supported a different conclusion than that reached in the prior administrative review, citing *Shikoku Chemicals Corp.* v. *United States,* 16 CIT 382, 795 F. Supp. 417, 421 (1992).

Respondent argues that the Department never asked for information explaining in greater detail its product code system nor did it ever notify Rautaruukki regarding any change in the review. Thus, Rautaruukki claims that it was never given an opportunity to supplement or clarify the record or change its existing reporting methodology, citing *SKF USA Inc.* v. *United States,* 888 F. Supp. 152 (CIT

1995). Respondent also cites *Bowe-Passat* v. *United States*, 17 CIT 335, 343 (1993), in which its states that the Department sent out a general questionnaire and a brief deficiency letter, without disclosing other deficiencies unspecified in the letter until after ''it was too late, i.e., after preliminary determination.''

Petitioners contend that if Rautaruukki's PLSPEC matching hierarchy was accepted as accurate by the Department, the Department would be faced with insurmountable obstacles that would prevent it from correcting Rautaruukki's CONNUM and PLSPEC data. Petitioners argue that acceptance of Rautaruukki's ''explanation'' would necessitate the collapsing and ''splitting'' of CONNUMs, which the Department should not and could not do. Petitioners claim that Rautaruukki's PLSPEC matching hierarchy indicates some specifications with a given CONNUM to be identical to the PLSPEC sold in the U.S., some to be ''similar'' to that PLSPEC, and that separate CONNUMs should have been created for other PLSPECs.

Petitioners contend that Rautaruukki's database would have to be reconfigured before it could be used if Rautaruukki's submitted PLSPEC matching hierarchy were deemed accurate and dispositive. Petitioners note that it is not the Department's responsibility to make such changes, citing *Neuweg Ferrigung GmbH* v. *United States*, 797 F. Supp. 1020, 1023–24 (CIT. 1992). Petitioners argue that the Department's acceptance of Rautaruukki's matching hierarchy would necessarily render its sales and cost databases unusable for purposes of the sales-below-cost test, because Rautaruukki's reported matching hierarchy only identifies a limited number of PLSPECs. Thus, the Department would be precluded from reconfiguring the vast majority of Rautaruukki's database.

Petitioners argue that it would be impossible for the Department to correct Rautaruukki's PLSPEC and CONNUM information. Petitioners claim that the ramifications of the Department's inability to correct Rautaruukki's submitted data would affect the Department's analysis at a most fundamental level. Petitioners argue that (1) the creation of new CONNUMs would require correcting the corresponding model-specific cost information, by creating new costs for newly collapsed and split CONNUMs; and (2) that the Department's inability to correct Rautaruukki's CONNUMs prevents it from performing its sales-below-cost test. Petitioners argue that the Department's acceptance of Rautaruukki's matching hierarchy would necessarily render its sales and cost databases unusable for purposes of the arm's-length test. Petitioners claim that the fact that the arm's-length test cannot be performed is of great significance given the number of sales in the home market that were made to affiliated parties.

Petitioners argue that Rautaruukki's attempts in its case brief to focus the Department's attention on its treatment of four PLSPEC designations, and two CONNUMs under which these PLSPECs are reported in the home market database overlook the deficiencies throughout Rautaruukki's database. Petitioner argue that such a decision would set a terrible precedent, and that the respondent would only need to ensure that it report correctly certain home market sales that it predicted would match to U.S. sales, and not bother ensuring that the rest of its submitted information was correct. Petitioners state that the Department gave Rautaruukki notice of the problems inherent in its data and an opportunity to correct or clarify this information.

Petitioners argue that the statute does not, and cannot legitimately be read to, require notification of data deficiencies or failures where the department could not know the extent or particulars of the problem until verification. Petitioners state that if the Department were not allowed to reject unreliable, inaccurate, or incomplete information provided by the respondents and discovered at verification, the very basis of the Department's statutory authority would be negated, citing *Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan*, 55 FR 34,587 (Aug. 23, 1990) (Final Determination of Sales at Less Than Fair Value); and *Silicon Metal from Brazil*, 59 FR 42,806, 42,812 (Aug. 19, 1994) (Final Results of Antidumping Duty Review). To do otherwise, in petitioner's view, would require either the acceptance of unverified information or additional verification by the Department. Petitioners claim that the major deficiencies in Rautaruukki's data base were discovered and raised by the Department at the earliest opportunity at verification, and the department had no opportunity or reason to inquire into these issues prior to verification. Petitioners argue that Rautaruukki should have been aware of the deficiencies in its data base prior to verification and has had every opportunity to clarify or correct its submitted information. Petitioners state that in the original questionnaire, the Department provided clear instructions for providing specification/grade information, emphasized the importance of the specification/grade classification, and gave Rautaruukki every opportunity to request guidance from the Department regarding the assignment of specification or grade information.

Petitioners argue that Rautaruukki never requested guidance from the Department, and that the Department issued a lengthy supplemental questionnaire in this case, which requested clarification of Rautaruukki's PLSPEC and CONNUM assignments. Petitioners argue that Rautaruukki's claims in this regard are without merit and should be rejected by the Department.

Department's Position

We agree in part with petitioners. Under the Department's methodology for assigning CONNUMs, each product, based on the Department's model match criteria, should be assigned its own unique CONNUM. Based on these criteria, there should not be more than one PLSPEC in any CONNUM because different specifications have different physical, mechanical or chemical requirements. Respondent has not assigned its CONNUMs consistent with the Department's model match criteria. In certain instances, respondent reported within the same CONNUM shipbuilding ''A'' specifications, as well as non-shipbuilding specifications. In the Department's preliminary results, we created new CONNUMs for each of the shipbuilding ''A'' specifications identical or most similar to the U.S. sales. this is a change from the prior review in which this issue did not come to the Department's attention.

We relied on respondent's model match hierarchy, which indicates that all shipbuilding ''A'' PLSPECs are identical, to weight the physical characteristics for matching purposes. However, the statement in the Department's verification report, that ''based on the mill certificates it is clear that the products were identical based on physical characteristics,'' referred only to the fact that products are physically identical with respect to certain characteristics analyzed by the Department, and not that the specifications that they are meeting are identical. The PLSPEC variable is intended to identify the differences in the specification to which the product is sold. Prices can vary based on the specifications to which the product is sold, even though the product is physically identical. It is inconsistent with the Department's model matching criteria in this case to consider products sold to different specifications as identical for margin calculation

purposes. We assigned one weight to ''ABA'', the only PLSPEC sold in the United States. Since all other ''A'' grade shipbuilding specifications possess different requirement from ''ABA'' but essentially are the same product, we treated them as the next most similar product, as we had no basis to distinguish among these PLSPECs from respondent's model match hierarchy. All U.S. sales were matched to shipbuilding ''A'' specification material.

While the Department did not specifically request respondent to revise its CONNUMs, we did ask Rautaruukki to explain in detail how each reported product characteristic was determined and assigned to sales of subject merchandise. Respondent never explained why it combined PLSPECs in CONNUMs as it did. Nor did Rautaruukki ask the Department to consider modifying its methodology to allow Rautaruukki to report CONNUMs as it did. We agree with petitioners that respondent has likely incorrectly assigned CONNUMs throughout the data base. The Department was able to and has revised the data base where it was necessary to do so for purpose of the margin calculation.

This effort by the Department does not impair our ability to perform the cost test in this review. As explained in Comment 3, we are using facts available and assigning a single cost for all CONNUMs. (See Comment 3, below.) Consequently, we are able to perform the cost test without obtaining additional cost data from Rautaruukki, and have done so for these final results.

With respect to the arm's length test, we are already using facts available as NV for all U.S. sales matching to these sales, making this issue moot.

Comment 2

Respondent argues that the Department has erred by comparing normal cut-to-length carbon steel plate sold to the U.S. market with the wide flats and beveled plate sold in the home market because these products are not identical or similar. Respondent asserts that the United States Customs Service has issued a number of definitional rulings concerning the classification of ''wide flats'' under the Harmonized Tariff Schedule of the United States (1996) (''HTSUS''). Respondent claims that these rulings indicate that ''wide flats'' are considered to be parts of steel structures and, therefore, classifiable under heading 7308 of the HTSUS. See, e.g., Headquarter Ruling 088116 (Feb. 27, 1991); Headquarters Ruling 084532 (July 14, 1989).

Respondent claims that beveled plate and wide flats are structural steel products which require separate handling on a different product line, and that the raw material for both is basic cut-to-length plate. Respondent claims that the Department was provided extensive information about the different and additional cost associated with both products, as well as the additional processes which are necessary to produce these products. Respondent claims that the Department has verified that wide flats and beveled products require additional processing, and that the Department erred in comparing sales of these products with those of normal plate. Respondent states that it assigned distinct CONNUMs to beveled plate and to wide flats although they may have the same physical characteristics as basic cut-to-length plate, because they are manufactured by different processes and have different end uses.

Petitioners claim that Rautaruukki's arguments regarding the Department's treatment of beveled and wide flat products are without merit. Petitioners argue that Rautaruukki raised the same arguments in the first administrative review regarding beveled plate products and the Department rejected them. Petitioners state that the Department correctly determined in the first administrative review that Rautaruukki failed to establish the relevance of the beveling as a product matching criteria, and that ''beveled plate does not possess physical characteristics which make it unique from non-beveled plate with regards to applications and uses,'' citing *Certain Cut-to-Length Carbon Steel Plate from Finland,* 61 FR 2792, 2795 (Jan. 29, 1996) (Final Results of Antidumping Duty Administrative Review). Petitioners also note that in response to a letter from the Department to interested parties on model match prior to the first administrative review, Rautaruukki commented on several issues, but did not mention the treatment of beveled plate or wide flat products in any regard.

Petitioners argue that nothing has changed with respect to this issue in the second review, and the Rautaruukki has not established on the record the relevance of beveling or wide flats as product matching criteria. Petitioners argue that Rautaruukki has simply ignored the Department's hierarchy and attempted to create its own and, therefore, the Department has correctly determined that neither beveled plate nor wide flat products possess any physical characteristics that set them apart from non-beveled or non-wide flats plate products.

Department's Position

We agree with petitioners. The Department issued clear instructions on how to construct CONNUMs. Whether or not subject merchandise is beveled or wide flat is not a model match criterion. Rautaruukki never explained that it had modified the Department's model match criteria or why it had done so. Rautaruukki did not ask the Department to consider modifying the model match criteria. As petitioners correctly note, respondent cannot modify the Department's model match criteria on its own initiative. The Department agrees with the petitioners that respondent did not submit any information on the record to establish the revelance of beveling and wide flats as a product matching criterion, nor did respondent provide information to demonstrate that the beveled and wide flats plate possess physical characteristics to make them unique from the non-beveled or non-wide flats with regard to applications and uses. Therefore, the Department continues to consider these products identical to other subject merchandise. With respect to the cited Customs Rulings, Rautaruukki did not provide any information on the record to suggest that wide flats are not subject merchandise. For the preliminary results, the Department modified Rautaruukki's submitted CONNUMs for the products identical or most similar to the U.S. sales to combine beveled, wide flat and other plate into a single CONNUM. We have not changed this for these final results.

We used facts available as NV for U.S. sales matching to home market CONNUMs that included beveled or wide flat sales as we were unable to verify cost for beveled or wide flat products. We have identified additional CONNUMs as containing beveled or wide flat material for these final results. See Comment 3 below.

Comment 3

Petitioners argue that the Department should reject Rautaruukki's submitted cost information and resort to total facts available. While petitioners support the Department's determination in the preliminary results that the cost data for beveled and wide flat products could not be verified, they claim that the Department erred by failing to recognize that other significant cost information reported by Rautaruukki could not be verified.

In petitioners' view, the product-specific cost information submitted by Rautaruukki (the ''cost extras'') could not be verified. Petitioners state that

Rautaruukki's reported COP/CV values are derived from a two-step calculation: A single weighted-average base cost for all plate products; and an adjustment to that weighted-average cost to account for dimensional cost extras and quality cost extras. Petitioners argue that these two cost extras could not be verified. Petitioners claim that these cost extras are a significant portion of Rautaruukki's total cost and the only product-specific element of the submitted product costs.

According to petitioners, Rautaruukki failed to provide accurate or relevant source documentation for the cost extras at verification, and the documentation provided by Rautaruukki at verification was insufficient to demonstrate that its reported costs were accurate, reliable, or related to the period of review. Petitioners state that the Department's verification agenda states that complete supporting documentation should be available for selected CONNUMs. It is argued by petitioners that Rautaruukki did not provide the requisite information as it pertains to the product-specific cost extras identified above. Petitioners cite the Department's cost verification report, at 4, which states that ''Rautaruukki representatives indicated to the Department at verification that they do not maintain a log or any documentation which identifies product-specific cost changes from one period to another.'' Petitioners claim that Rautaruukki did not maintain crucial supporting documentation that was required to verify the accuracy of its reported cost extras.

Petitioners question the relevance or accuracy of Rautaruukki's on-line computer system as a source document to verify cost extras. Petitioners note that Rautaruukki employs a continuously updated computer cost system (i.e., the product-specific costs the Department reviewed at verification were the costs relevant to the time of verification, and were not the costs in effect during the period of review, nor were they the costs in effect at the time the questionnaire response was prepared). Petitioners hold that reliance on such a computer system in the course of a verification does not meet a ''reasonable standard'' incumbent upon the Department. (*See Micron Technology, Inc.* v. *United States,* 893 F. Supp. 21, 39 (CIT 1995) and *Hercules, Inc.* v. *United States,* 673 F. Supp. 454, 469 (CIT 1987).) At the hearing, petitioners clarified that their objection to an on-line, live system is not the lack of a print-out, but the absence of ties to financial statements.

Petitioners state that Rautaruukki also showed the Department a cost extras book published in July 1995 to verify cost extras. Petitioners note that the book was published at the end of the POR and there is no evidence on the record indicating that the values of the extras in the book were related to the POR. Petitioners also question whether the cost extras book is a reference for costs of production for particular extras or whether the book is used to determine the charges to be paid by customers for particular extras.

Petitioners allege that when the Department attempted to verify these cost extras, it was unable to tie the cost extras values reported by respondent to source documentation and that when compared to the documentation that did exist, numerous errors were uncovered. Petitioners note that of 48 cost extras examined at verification, 38 percent of the cost extras had been misreported.

Petitioners argue that in situations where respondent has failed to retain and failed to provide the necessary supporting documentation for such key components of the cost data set, the respondent is said to have failed verification, and the Department should therefore apply total facts available, citing *Grain Oriented Electrical Sheet Steel from Italy* (59 FR 33952, (July 1, 1994)); *Certain Cut-to-Length Carbon Steel Flat Products from Sweden* (61 FR 51,898, 51,899, (Oct. 4, 1996)) (Flat Products from Sweden). Petitioners note that in *Flat Products from Sweden,* the Department applied total facts available because the respondent was unable to reconcile its submitted cost data to its normal accounting books and records and was unable to demonstrate that the submitted COP/CV data was based on the company's actual production experience. Like respondent in *Flat Products from Sweden,* in petitioners view, Rautaruukki did not provide documentation at verification that could demonstrate that the submitted COP/CV data was based on the company's actual production experience.

Rautaruukki contends that the Department conducted a ''comprehensive and proper cost verification'' and that the Department confirmed that the cost information submitted by Rautaruukki was based on Rautaruukki's normal accounting and financial records. Moreover, Rautaruukki claims that the Department verified Rautaruukki's reported base cost figures for allocation of indirect costs to direct cost centers, maintenance expenses, by-product and scrap allocations, cost of manufacturing, selling, general and administrative expenses, and reported per-unit costs. Respondent asserts that no discrepancies were noted in the course of verifying these items.

Rautaruukki distinguishes this case from *Flat Products from Sweden* by arguing that in that case the Department found that the respondent had based its AD response on a special system which was not used as part of the respondent's normal accounting system. Rautaruukki claims that the Department found that its submitted cost information was based both on its normal accounting books and records and on its actual production experience.

Rautaruukki notes that the values for quality extras were taken from data in its on-line computer system, which is constantly updated to reflect changes in costs so that Rautaruukki can make the corresponding changes in its prices. Respondent states that it ''does not maintain a log of the changes in extras costs from one period to another.'' Rautaruukki admits that the Department found at verification that some quality extras values were different from those reported by Rautaruukki, but attributed these differences to the system being updated since Rautaruukki had prepared its questionnaire response. Respondent claims that these differences were slight, about one or two FIM per cost extra. In response to a question at the hearing, Rautaruukki explained that the extras cost book is in fact a cost book, not a price extras book. In some cases, respondent noted that the discrepancies in cost extras were positive and in other cases negatives.

Department's Position

We agree, in part, with both parties. We agree with respondent that the Department was able to tie Rautaruukki's base costs to appropriate financial and accounting documentation. This represents by far the largest portion of Rautaruukki's total cost.

We agree with petitioners that the Department was unable to tie Rautaruukki's extras costs to supporting documentation at verification. With respect to beveled and wide flat products, as we stated in our preliminary results, the use of facts available is appropriate because the Department was unable to verify Rautaruukki's total COP data. This was because Rautaruukki made no attempt to provide supporting documentation with respect to its cost extras, simply indicating that these extras could not be verified.

Rautaruukki did provide some documentation to support its cost extras submission with respect to other products. This documentation consisted of its on-line computer system and a

cost extras book. However, neither of these sources was for the POR—the on-line system was current as of the date of verification and the cost extras book was prepared at the end of the POR, with no indication as to the period for which the costs in the book were in effect. As stated in the Department's cost verification report concerning a particular CONNUM, ''in reviewing the extras costs associated with this product, we could not verify the accuracy of the reported cost for (a particular plate extra) * * *. Respondents were unable to provide documentation indicating that the figure was correct when the material was manufactured or when the response was prepared.''

At verification, we did compare 48 different reported cost extras to the costs listed in the cost extra book. Of these, there were discrepancies for 16, or 38 percent. The differences were extremely small, usually only one or two FIM. For all of the home market products that were matched to U.S. sales, the reported cost extras represented a small percentage of total cost. No documentation was provided to link either the cost extra book or the on-line computer system into Rautaruukki's audited financial accounting system.

Because of Rautaruukki's failure to report properly extra cost data based on the POR, failure to retain the data that it did use to prepare its questionnaire response, and the failure of Rautaruukki to provide documentation linking the reported extras costs with accounting and financial documentation, the Department has determined to use facts available for Rautaruukki's reported extras costs.

However, the Department disagrees with petitioners' suggestion that it apply total facts available in this review. The cases cited by petitioners, *Grain Oriented Electrical Sheet Steel from Italy* and *Flat Products from Sweden*, differ from this case. In both of those cases, the Department was unable to verify numerous and fundamental aspects of the respondents' responses. In this case, however, the significant problems encountered at verification were limited to cost extras. Base costs—the primary component of cost—were fully verified. The observed discrepancies with respect to cost extras for products other than wide flats and beveled plate were extremely small, and for the home market products used to match to U.S. sales, reported cost extras represented a small portion of total cost. As a result, rather than resort to total adverse facts available for these products, as advocated by petitioners, for products other than wide flats and beveled plate we are using facts available only for the cost extras in the calculation of COP and CV. As facts available, we are using the highest reported cost extras for products that are not beveled or wide flat. Due to the significant difference in cost between painted and non-painted products, we have also separately identified the highest reported extra costs for painted and non-painted plate. In calculating difference of merchandise (difmer) adjustments, we have assigned a difmer of zero to shipbuilding specification ''A'' material that same cost as the U.S. product.

For wide flats and beveled products, Rautaruukki made no attempt to provide information to verify its reported extras data. Indeed Rautaruukki admitted that this information could not be verified. As stated in the cost verification report: We also noted that the costs reported for wide flats and beveled material are incorrect. The report goes on to state that this failure to correctly report the extras cost of these products rendered moot our attempt to verify the costs. (Department's Cost Verification report at 4.) We are continuing to use facts available as NV for U.S. sales matching to CONNUMs including wide flats and beveled plate as we did in the preliminary results.

We also note that respondent improperly reported COP and CV data for two separate periods, 1994 and seven months of 1995, rather than report a single weighted average COP/CV for the entire POR. Respondent also improperly included data for all of calendar year 1994 in its COP/CV data, rather than limiting the data used to the months of the POR. For the final results of this review, we are weight averaging respondent's submitted data, with the modifications noted above.

Comment 4

Petitioners argue that the Department is compelled to reject Rautaruukki's submitted sales information and resort to total facts available. Petitioners claim that respondent has offered three inconsistent and mutually exclusive explanations of how it assigned PLSPEC and CONNUM codes to its various products:

- That whenever multiple PLSPECs are assigned to a particular CONNUM, those PLSPECs are identical to one another because they merely reflect various countries' designations of the same specification/grade;
- That respondent's PLSPEC codes each reflect different specification and grades; and
- That the various PLSPECs within a given CONNUM in some cases are identical to one another, in other cases are only similar (although not identical), and in still other cases are dissimilar.

Petitioners argue that the submitted sales information should be rejected because: (1) The PLSPEC and CONNUM codes are critical to the Department's dumping analysis; (2) the Department has no basis for selecting among Rautaruukki's various inconsistent explanations of these codes; and (3) the Department is unable to correct Rautaruukki's data. Petitioners argue that the assignment of PLSPEC and CONNUM codes directly affects almost every critical element of the Department's analysis of the existence and magnitude of dumping, including attribution and allocation of costs, model match, and application of the arm's length test.

Petitioners summarize the record evidence in support of each of the three explanations which it believes respondent has offered. Petitioners offer various cites to the record in support of the first proposition that certain different PLSPEC designations included within a single CONNUM are in fact identical and that respondent merely assigned different PLSPECs to reflect the nomenclature of different international standards for identical products. Petitioners claim that the Department verified that these PLSPECs are identical. In support of the second proposition, petitioners cite the cost verification report, which they claim indicated that respondent separately tracked and recorded costs for certain PLSPECs within the same CONNUM. Petitioners also reference the sales verification report which states that ''Rautaruukki has correctly assigned different PLSPEC codes to different specifications and grades. The specifications and grades are, indeed, different* * *.'' Petitioners also cite respondent's submitted model match hierarchy in support of their third proposition, that some PLSPECs under a CONNUM are identical, while others only similar and others are not even similar.

Petitioners argue the quantum of evidence of the record and the number of statements made by Rautaruukki consistent with each of the alternatives is roughly equivalent, and Rautaruukki has supported each of its claims with documentation, and in two of the three instances, the Department purportedly confirmed this information at verification.

Petitioners argue that if the Department were to accept the first claim, that all PLSPECs under a single CONNUM are identical, the Department would have to collapse PLSPECs within

a CONNUM, and also collapse PLSPECs that are identical to each other but are assigned different CONNUMs throughout the entire database. Petitioners claim that this would entail extraordinarily complex computer programming and the Department could not be certain of making all the necessary corrections. Petitioners also note that if this claim were accepted, the Department would have to correct all corresponding cost information and revisit the issue of downstream sales. Petitioners also argue that the Department would have to reject Rautaruukki's submitted model match hierarchy and, as a result, would be precluded from performing the model match.

Petitioners argue that if the Department were to accept the second claim that all reported PLSPECs are different, the Department would have to split all the CONNUMs that contain multiple PLSPECs and determine the correct cost for each new CONNUM. However, in petitioners' view, the Department has no basis upon which to apportion the COP/CV of the original CONNUM to the newly-created CONNUMs. Petitioners claim that under this scenario the Department again would have to reject Rautaruukki's submitted model match hierarchy and, as a result, would be precluded from performing the model match.

Petitioners claim that if the Department were to accept Rautaruukki's third claim that some PLSPECS reported under a CONNUM are identical, while others are only similar and others are not similar at all, then the Department would have to collapse the PLSPECs listed in the model match hierarchy as identical and separate all of the non-identical PLSPECs listed under the same CONNUM. Petitioners also claim that the Department would have to correct the corresponding cost information. However, petitioners noted that the model match hierarchy does not list all PLSPECs and they argue the Department would be precluded from running the arm's length test.

Respondent alleges that it provided the Department with a consistent, accurate and verified explanation of its assignment of CONNUMs and PLSPECs in this administrative review. Respondent asserts that petitioners' claims are contradicted by the record, including the Department's verification of the methodology and accuracy of Rautaruukki's assignment of CONNUMs and PLSPECs. Respondent states that PLSPECs may be identical, similar or different.

Citing the Department's analysis memorandum, respondent claims that in performing the model match, the Department first identified home market sales with the same CONNUM as the U.S. sales and, then matched identical PLSPECs within that CONNUM. Respondent asserts that it has assigned separate PLSPEC codes to separate specifications or grades. Respondent notes that in some cases, these PLSPEC codes identify identical products, but the codes are different to reflect the national specification or classification standard to which the product was certified. Rautaruukki claims that it clearly identified the PLSPEC codes which it used, and the Department verified that information.

Respondent also states that it assigned different CONNUMs to products with the same physical characteristics when those products fell into different product groups which are manufactured by different processes and have different end uses. Respondent contends that the Department verified that some of these products, including wide flats and beveled plate, require additional processing.

Respondent notes that the record establishes that:

- The same CONNUM may have included two or more PLSPECs. There are some PLSPECs within a CONNUM which define identical products (e.g., the PLSPECs assigned to the certifications of shipbuilding plate ''A'' by the various national classification societies), while other PLSPECs define similar or different products.
- Different CONNUMs reflect different product groups with the same physical characteristics, i.e., normal cut-to-length plate, wide flats, and beveled plate.
- Individual PLSPECs represent separate specification or grade codes.

Respondent claims that petitioners attempt to construct a dilemma where none exists, and that Rautaruukki's ''explanations'' are not inconsistent and certainly not mutually exclusive.

Department's Position

We disagree with petitioners that Rautaruukki has offered three inconsistent and mutually-exclusive explanations of how it assigned PLSPEC and CONNUM codes and that the Department has no basis for choosing among these explanations. We believe that the third explanation cited by petitioners—that in some instances PLSPECs are identical, in other instances they are similar, and in other instances they are not similar—is consistent with the information submitted on the record. The ''evidence'' which petitioners cite in support of the other two explanations is not global in nature. For example, statements cited by petitioners in support of the first explanation—that whenever multiple PLSPECs are assigned to a particular CONNUM, those PLSPECs are identical to one another because they merely reflect various countries' designations of the same specification/grades—are referring to shipbuilding specifications only. Similarly, none of the information referenced by petitioners regarding the second explanation—that PLSPEC codes each reflect different specification and grades—indicates that this is true of all PLSPECs. Thus, we find that Rautaruukki's explanations regarding PLSPECs are consistent.

This does not mean that we find that Rautaruukki has correctly assigned CONNUMs. As indicated in response to Comment 1, we do not agree that all shipbuilding ''A'' PLSPECs should be combined in a single CONNUM. We are continuing to make the changes to Rautaruukki's data base with respect to the reconfiguration of CONNUMs that were made in the preliminary results. Petitioners' concerns with respect to cost data, the sales-below-cost test and the arm's length test have been addressed in Comment 1.

Comment 5

Petitioners state that Rautaruukki has compelled the Department to use adverse total facts available, because Rautaruukki failed to provide the Department with a response that is consistent; an explanation of how Rautaruukki's response was prepared; and the necessary information needed to verify the submitted cost information.

Petitioners argue that under the terms of the statute, the Department is compelled to reject Rautaruukki's responses, and resort to total facts available. Petitioners note that 19 U.S.C. 1677e(a)(1995) provides that if:

> (1) Necessary information is not available on the record, or
>
> (2) an interested party or any other person—
>
> (A) withholds information that has been requested by the administering authority . . .,
>
> (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested . . .,
>
> (C) significantly impedes a proceeding under this subtitle, or
>
> (D) provides such information but the information cannot be verified . . ., the administering authority and the Commission shall . . . use the facts otherwise available in reaching the applicable determination under this subtitle.

Petitioners contend that the statute provides that any one of the above five scenarios requires the Department to reject Rautaruukki's responses and resort to facts available. Petitioners allege that despite repeated requests by the Department, Rautaruukki did not provide adequate information by which the Department could verify its reported cost information, and it did not provide the Department with a consistent and reliable explanation of how the company assigned PLSPEC and CONNUM codes to its various products. Petitioners state that section 1677m of the statute provides that the Department may still rely on submitted information that fails to meet the above criteria in certain circumstances which in petitioners' view have not been satisfied by Rautaruukki. Petitioners claim that the Department has complied with the statutory notice requirements necessary to reject Rautaruukki's deficient submissions.

Petitioners state that section 1677m (d) of the statute requires that, upon receiving a deficient submission, the Department is to, ''promptly inform * * * respondent of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of * * * reviews.'' Petitioners argue that in addition to its original questionnaire, the Department issued a lengthy supplemental questionnaire in the case, which specifically requested clarification of Rautaruukki's PLSPEC and CONNUM assignments, as well as its submitted cost information, including cost ''extras.''

Petitioners state that section 1677e(b) of the statute provides that if a respondent fails ''to cooperate by not acting to the best of its ability to comply with * * * the Department's request for information, * * * the Department in reaching its determination may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' Petitioners claim that Rautaruukki has not acted to the best of its ability to comply with the Department's instructions in this review; therefore, the Department should use an adverse inference when applying facts available. Petitioners assert that the Department should apply the highest rate from any prior segment of this proceeding—32.80 percent.

Respondent claims that it provided the necessary information requested by the Department during this administrative review. In Rautaruukki's view, its cooperation is confirmed by the record. Respondent argues that it provided information which was within its corporate control and sought information from other companies as well as the Government of Finland. Respondent states that it was fully cooperative and responsive during the sales and cost verifications by the Department, which extended over a period of ten days. Rautaruukki claims it responded fully and promptly to the Department's requests, and it assigned sufficient and appropriate personnel to insure the orderly and accurate progression of the verification. Respondent argues that the Department confirmed that the information submitted by Rautaruukki was accurate, complete and verifiable through its testing of Rautaruukki's responses against the company's normal accounting and financial records, and that the Department reconciled Rautaruukki's response to those records.

Department's Position

As indicated in previous comments, we disagree with petitioners that the Department should reject Rautaruukki's responses, and apply adverse total facts available. We are making the adjustments to Rautaruukki's submitted data described above and using this data to calculate Rautaruukki's antidumping duty margin. As the Department finds that the use of total facts available is not appropriate, the issue of whether or not we should apply adverse facts available is moot.

Final Results of Review

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

Manufacturer/ exporter	Period of review	Margin (percent)
Rautaruukki Oy	8/1/94–7/31/95	24.95

The Department shall determine, and the Customers Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value 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 upon publication of this notice of final results of review for all shipments of certain cut-to-length carbon steel plate from Finland within the scope of the order entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for cash deposit for all other manufacturers or exporters will continue to be 32.80 percent, the ''all others'' rate established in the LTFV investigation. *See Antidumping Duty Order: Certain Cut-to-Length Carbon Steel Plate from Finland,* 58 FR 44165 (August 19, 1993). These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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

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

This administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: April 2, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–9426 Filed 4–14–97; 8:45 am]

BILLING CODE 3510–DS–M