Department has no way of knowing what percentage of Rautaruukki's scrap amount is from sales of slab.

Rautaruukki responds that it did not report slab as a by-product and offset its COP and CV data by revenues from the sale of slabs. Rautaruukki notes that the Department verified that by-products reported include burnt lime, coke, coal tar, sulfur, benzene, nut coke, and utilities. Rautaruukki maintains that slab is not included as a by-product offset in its submitted costs.

Department Position: We agree with Rautaruukki. Although Rautaruukki officials stated that in their management accounting monthly reports, they included sales of slabs with by-product turnovers (See Sales Verification Report at 5), we found no evidence to show that Rautaruukki had improperly offset reported production costs with revenue from the sale of slab. As discussed in our cost verification report at page 7, by-product revenues offset to the cost of subject merchandise included burnt lime, coke, coal tar, sulfur, benzene, nut coke, and utilities. Because we have no evidence that Rautaruukki included sales of slab in the by-product offset, we made no adjustment.

Comment 14: Petitioners argue that if the Department accepts Rautaruukki's product-specific cost data, the Department should make an adjustment to account for the difference between Rautaruukki's May 5, 1997 COP dataset, which was submitted after verification, and its audited financial statements. Petitioners note that the reconciliation reviewed by the Department was based on data submitted prior to verification and that the May 5, 1997 dataset no longer reconciles to Rautaruukki's financial statements. As Rautaruukki did not explain whether the discrepancy between its revised COP dataset and its financial statements relates to subject or non-subject merchandise, petitioners recommend that the Department adjust the submitted data by the amount of the discrepancy.

Rautaruukki replies that the slight discrepancy between its costs submitted on May 5, 1997, and its audited financial statements represents omitted costs of products sold to third countries that were outside the scope of this administrative review. Rautaruukki further contends that the Department verified the accuracy and validity of its cost reconciliation and its production costs for plate. Therefore, Rautaruukki concludes that an adjustment to its reported costs is unwarranted.

Department Position: We agree with practitioners. The reconciliation reviewed by the Department did not include the correction of errors identified at the beginning of verification (See Cost Verification Report at 3, 6, and 7). Based on our revised reconciliation, it appears that the COP and CV data submitted by Rautaruukki in its May 5, 1997, response did not capture all costs as recorded under the company's financial accounting system. As we have no evidence to support Rautaruukki's contention that the difference relates to third country sales that were outside the scope of this administrative review, we adjusted Rautaruukki's submitted costs for this small difference. See Analysis Memorandum dated December 15, 1997.

Final Results of Review

As a result of our review, we have determined that no margin exists for Rautaruukki Oy for the period of August 1, 1995 through July 31, 1996. 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 plate from Finland 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 company will be zero; (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, 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 review, the cash deposit rate will be 40.36 percent. This is the all others rate from the amended final determination in the LTFV investigation. See Amended Final Determination Pursuant To CIT Decision: Certain Cut-To-Length Carbon Steel Plate from Finland, 62 FR 55782 (October 28, 1997). These deposit requirements when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under Section 351.402(f) of the Department's regulations 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 Sections 351.305 of the Department's regulations. Timely 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 this notice are in accordance with section 751 (a)(1) of the Act (19 U.S.C. 1675(a)(1)) and Sec. 351.213 and 351.221 of the Department's regulations.

Dated: January 12, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1277 Filed 1–16–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–805]

Certain Cut-to-Length Carbon Steel Plate From Belgium; 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 September 15, 1997, the Department of Commerce (the Department) published the preliminary results of its 1995–96 administrative review of the antidumping duty order on cut-to-length carbon steel plate from Belgium (62 FR 48213). This review covers one manufacturer/exporter of the subject merchandise, Fabrique de Fer de Charleroi, S.A. (FAFER), and its subsidiary, Charleroi (USA) for the period August 1, 1995 through July 31, 1996.

EFFECTIVE DATE: January 20, 1998.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips 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) 482–0193 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1997, the Department published in the **Federal Register** (62 FR 48213), the preliminary results of the 1995–96 review of the antidumping duty order on certain cut-to-length carbon steel plate from Belgium (58 FR 44164). At the request of petitioners, we held a public hearing, which included a closed session for the discussion of proprietary information, on November 18, 1997. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 353 (April 1, 1997).

Scope of the Order

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 nonrectangular 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. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. The Department received briefs and rebuttal briefs from the petitioners, Bethlehem Steel Corporation, U.S. Steel Company, Inc., (a Unit of USX Corporation), Inland Steel Industries, Inc., Geneva Steel, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and Lukens Steel Company, and the sole respondent in this case, Fabrique de Fer de Charleroi. Based on our analysis of the issues discussed in these briefs, we have changed these final results of review from those published in our preliminary results.

General Comments

Comment 1: The petitioners argue that the Department must deduct actual antidumping and countervailing duties paid by respondents' affiliated importers from the price used to establish export price (EP) or constructed export price (CEP).

Department's Position: We disagree with petitioners. We continue to adhere to the statutory interpretation articulated in the final results of Certain Cold Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews (62 FR 18404), under which we do not make the deduction. The Department's decision in that case not to make the deduction was recently affirmed by the Court of International Trade (CIT), *See Ak Steel Corp. et al.* v. *United States*, Slip Op. 97–160 (CIT, December 1, 1997).

Comment 2: The petitioners contend that the Department's duty absorption determination in the preliminary results is generally flawed for two major reasons.

First, petitioners assert that by inviting the parties to submit new factual information after verification in order to rebut its presumption that ''duties will be absorbed for those sales which were dumped,'' the Department undermines the statutory and regulatory requirement that it rely only on verified information in the *Final Results.* In petitioners' view, allowing respondents to place information on the record which cannot be verified places petitioners at a distinct disadvantage, and is inconsistent with a recent ruling by the Court of Appeals for the Federal Circuit. *See Creswell Trading Co.* v. *United States*, 15 F.3d 10543, 1060 (Fed. Cir. 1994). They urge the Department to abandon this poorly conceived method and to collect all relevant duty absorption evidence at the same time as it collects information necessary to complete its dumping analysis.

Second, petitioners believe the Department's methodology has the potential to understate the extent to which antidumping duties were absorbed. The Department's methodology, they affirm, can give the casual reader the mistaken impression that the total amount of duties absorbed was limited to the dumped sales included in the final antidumping duty calculated. As the overall dumping margin is weight averaged, petitioners contend, the true level of dumping, and thus of duty absorption, is significantly greater than the overall margin. To resolve this problem, petitioners argue that the Department should state its duty absorption finding as the percentage of sales dumped along with the average level of dumping *for those sales* (emphasis in the original). For example, if five percent of a respondent's sales were dumped, and the overall weighted-average dumping margin were forty percent, the Department should state that the respondent absorbed duties on five percent of sales at a margin of forty percent.

Department's Position: After careful consideration of petitioners' views, we have left our duty absorption methodology unchanged from the preliminary results.

Contrary to petitioners' contention that we violated the statute by inviting submission of new factual information after verification, our regulations allow us to invite submission of factual information from parties at any time during a proceeding. If a party submits information as a result of such an invitation, we afford all other interested parties an opportunity to comment in writing on such information (see, § 353.31(a)). *See* Comment 6 for the Department's position on the duty absorption issue as it relates specifically to FAFER. Moreover, the statute and regulations do not require that all information submitted to the Department be examined at verification.

See, Monsanto v. *United States,* 698 F. Supp. 275,281 (CIT 1988).

We believe the approach suggested by petitioners is inappropriate and unreasonable for the following reasons: (1) A transaction-specific determination on duty absorption is impractical because dumping margins on individual transactions are ''business proprietary;'' (2) Petitioners' approach would result in an artificially inflated duty absorption percentage which would cause unnecessary confusion. In a hypothetical case where, if only one sale were dumped out of one hundred U.S. sale transactions, but at a margin of twenty percent, petitioners apparently would have the Department determine that duty absorption had occurred at a rate of twenty percent on one percent of the sales. We find this approach inappropriate and not mandated by either statute or regulation. Our analysis focuses on the entire POR. We find that our methodology better represents absorption during the POR.

Accordingly, for purposes of these final results, we have left our duty absorption methodology unchanged.

Company-Specific Comments

Comment 1: The petitioners claim that total facts available is warranted in this case because the ultimate ownership of FAFER and the full extent of the company's affiliations remain largely unknown despite the Department's repeated requests for such information. The petitioners contend that party affiliation can affect every aspect of the Department's analysis, including the arm's-length test, model matching, and the sales-below-cost test. Therefore, the petitioners request that the Department employ total facts available for the final results.

The petitioners note that in the preliminary results the Department found that FAFER is affiliated to a steel service center to which it sold subject merchandise during the POR. According to petitioners, FAFER's refusal to report downstream sales of this reseller violated the Department's explicit instructions in its questionnaire *not* to report sales to affiliated resellers in the home market, but instead to report ''downstream sales,'' *i.e.,* ''the resales by the affiliates to unaffiliated customers.'' In addition, the petitioners claim that FAFER failed to contact the Department immediately, as instructed, if it would be unable to report downstream sales as requested.

The petitioners point out that in its response to the Department's supplemental questionnaire, FAFER once again failed to report the requested downstream sales data, but claimed that the service center ''must * * * be considered as an unaffiliated customer'' because FAFER is only a minor shareholder of {the service center} and as a result has no control on it.'' *See* FAFER's January 13, 1997 Letter to the Department of Commerce at 12–13. The petitioners argue that FAFER's persistent attempts to obscure the true nature of its corporate structure compelled the Department to make an adverse inference with regard to the level of the Boël family's equity holdings in FAFER and consequently, FAFER's sales to this customer were subjected to and failed the arm's-length test. Furthermore, the petitioners claim that the egregious nature of FAFER's refusal to provide the requested information is compounded by the fact that some of the information in question ultimately has proven to be publicly available from other sources.

The petitioners state that the Department has, in the past, determined that the application of facts available is warranted in certain instances in which a respondent fails to report downstream sales. For example, in Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 59 FR 37062, 37077 (July 9, 1993), the petitioners state that ''when the respondents could not, or would not, report downstream sales, we applied margins based on BIA to any U.S. sale matched only to a sale to a related reseller in the home market that failed the arm's-length test.'' The petitioners believe that such an approach should be used in this case.

The petitioners acknowledge that the Department may exempt respondents from reporting downstream sales if they are ''unable'' to obtain this information, but contend that FAFER has not met this burden. In fact, according to the petitioners, FAFER should have been able to provide the requested data because FAFER and the service center are affiliated not only through equity holdings, but also through extensive overlapping membership of their boards of directors and through family groupings.

Consequently, the petitioners recommend that the Department make an adverse inference and employ total facts available, using a dumping margin of 42.64 percent, the highest margin alleged in the original petition; or, in the alternative, the margin of 13.31 percent from the less-than-fair-value (LTFV) investigation.

The respondent counters that there is no statutory provision requiring the Department to use the downstream sales of an affiliated reseller, and petitioner fails to cite any legal support for any requirement on the Department to do so, particularly where the finding of affiliation is one based on facts available in the first instance. Moreover, the respondent contends that the Department has already resorted to facts available in determining that the steel service center is an affiliated reseller in the home market, and has therefore already acted in a manner adverse to respondent's interests (since this allowed the Department to conduct the arm's-length test, which led to the elimination of all identical matching home market sales to that service center). In FAFER's opinion, the Department should dismiss the petitioners' request that we resort to total facts available because FAFER did, in fact, cooperate with the Department to the fullest extent possible, reporting downstream sales to at least one affiliated reseller. Finally, FAFER maintains that it did not have the authority to obtain downstream sales data from the service center in question.

Department's Position: We have determined that FAFER and the steel service center to which FAFER sold subject merchandise during the POR are affiliated by means of Boël family control, pursuant to section 771(33) (*see,* Certain Cut-to-Length Carbon Steel Plate from Belgium; Preliminary Results of Antidumping Duty Administrative Review (62 FR 48213)).

Section 776(b) of the Act requires that if an interested party fails to cooperate by not acting to the best of its ability to comply with the Department's request for information, the Department may use an adverse inference in selecting from the facts otherwise available. Thus, we may resort to adverse facts available in response to FAFER's failure to report downstream sales unless FAFER establishes that it could not compel its affiliate to report those downstream sales (*cf.*, Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review; Roller Chain, Other Than Bicycle, From Japan (62 FR 60472, 60476) (November 10, 1997)). Although FAFER claims that it could not compel its affiliated customer to provide downstream sales information, we cannot accept this claim based solely on the information FAFER has provided. Respondent has the burden of proof to show that it cannot compel the reporting of downstream sales. However, recognizing that the Department did not inform FAFER of certain deficiencies in its attempt to establish such a claim, we have elected not to use adverse facts available.

As the result of our conclusion that FAFER and the steel service center were indeed affiliated, we applied our arm's-length test and found that sales to the

affiliated customer, the steel service center, were not made at arm's-length prices, *i.e.*, at prices comparable to prices at which the respondent sold identical merchandise to unaffiliated customers. In addition, based on the Department's previous determination to disregard sales made at below the cost of production (COP) in the original LTFV investigation, we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(i) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by FAFER in the home market. The results of the sales-below-cost test revealed that the remaining home market sales to unaffiliated parties which provided contemporaneous matches with the U.S. sales, failed the sales-below-cost test and could not be used for the calculation of normal value (*see*, Certain Cut-to-Length Carbon Steel Plate from Belgium: Preliminary Results of Antidumping Duty Administrative Review (62 FR 48213)). Therefore, in accordance with section 773(a)(4) of the Act, we have continued to disregard all home market sales and have used constructed value as the basis for normal value for these final results.

Comment 2: Although the petitioners do not dispute that the commission that FAFER paid to its agent in connection with U.S. sales represents a reasonable proxy for FAFER's unreported U.S. indirect selling expenses, they do object to the commission amount applied by the Department in its margin calculation.

The petitioners state that since FAFER did not provide any documents regarding its commission payments to Charleroi USA, the Department attempted to calculate the commission. However, the petitioners maintain that the commission amount calculated by the Department is plainly inconsistent with information on the record in this review.

In addition, the petitioners assert that the disparity between the U.S. commission amount and the home market commission amount underscores their assertion that the figure used by the Department is not an accurate measure of FAFER's U.S. commission expense.

The petitioners contend that the record provides sufficient information to calculate properly the commission amount to deduct from CEP. They note that in its response to the Department's questionnaire, FAFER states that it pays its affiliate, Charleroi USA, a commission calculated as a specific rate of ''the minimum prices mentioned in FAFER's (sic) price guide.'' (*see*, Section A Response). They suggest that this evidence on the record provides sufficient information for the Department to calculate properly the commission amount to deduct from constructed export price. The petitioners urge the Department to use this commission rate applied to the price in the price guide as facts available for FAFER's U.S. commission expense.

In its brief, FAFER rejects the petitioners' claim that the Department used the incorrect amount when deducting from CEP the commission paid to its affiliate, Charleroi U.S.A. Moreover, FAFER maintains the petitioners' contention that the Department should use the rate mentioned in its Section A response reveals a misinterpretation of FAFER's commission policy on the part of petitioners. FAFER contends that its Section A statement was a general policy statement and, as indicated by the context of item 3.1 of the Section A response, is subject to the circumstances under which sales are actually negotiated, as well as to the resulting price. For the particular sale at issue, FAFER states that the general policy on commissions was superseded by the facts and circumstances of the sale, and the Department, based upon the records of the sale reviewed at verification, determined the commission actually paid per metric ton. In FAFER's opinion, in light of the availability of specific sales data, there is no need for application of a general policy which did not take effect in the case of the sale in question.

Furthermore, in its rebuttal brief, FAFER states that upon further investigation of the U.S. sales documentation, it has determined that it did not pay any commissions to its U.S. affiliate during the POR and no basis exists for imputing an amount to its one U.S. sale. FAFER cites to U.S. Sales Verification Report, Exhibit 10 as proof that no U.S. commission was paid. FAFER asserts that this evidence backs up its submissions to the Department in which it unambiguously stated that its affiliate, Charleroi U.S.A., received no commission on the subject sale.

FAFER also asserts that the amount the Department used as the U.S. commission expense in its preliminary results was probably, to the best recollection of FAFER's counsel who was present at verification, a service charge by transmitting banks. FAFER urges the Department not to increase the U.S. commission amount, as petitioners request, but reduce FAFER's commission amount to zero.

In rebuttal, the petitioners assert that FAFER is attempting to downplay its stated policy regarding its commission payments to affiliates and seeking to recast its commission policy to accommodate the amount used in the preliminary results. The petitioners maintain that, contrary to FAFER's contention, its section A response states that commissions may be paid either by permitting the affiliated agent to withhold a portion of the sales proceeds, or by issuance of a credit note after the transaction is completed (*see* Letter from Barnes Richardson & Colburn to the U.S. Department of Commerce, at 4 (October 21, 1996)). The petitioners maintain that this statement is evidence that although the method of payment may vary from sale to sale, there is no indication that the commission amount itself may vary. Therefore, the petitioners reiterate their contention that the Department should deduct the appropriate commission amount from CEP and not the inaccurate amount used in the preliminary results.

Moreover, the petitioners note that FAFER's failure to report indirect selling expenses incurred in the U.S. resulted in the Department's use of the commission amount that FAFER paid its agent as the facts otherwise available to fill this void in FAFER's data. While the petitioners fully support the Department's determination to make this adjustment to CEP as facts available for unreported U.S. indirect selling expenses, they assert that the Department should use the commissions that FAFER paid in connection with U.S. sales only if those commissions represent a reasonable proxy for FAFER's unreported U.S. indirect selling expenses. The petitioners point out that in order to give effect to the purpose of the facts available provision of the statute, the information selected as facts available must have probative value, and must be sufficient to induce respondents to respond fully to the Department's information requests in the future (*see, Rhone Poulenc, Inc.* v. *United States*, 899 F.2d 1185, 1190–91 (Fed. Cir. 1990)). Should the Department erroneously determine that the understated commission amount used in the preliminary results is accurate, the petitioners suggest a more accurate amount for indirect selling expenses derived from Charleroi USA's financial statements.

Department's Response: We agree with the respondent's contention that further examination of the U.S. sales documentation obtained at verification

reveals that FAFER did not pay any commission on the U.S. sale in question. We also agree with petitioners that the U.S. commission amount calculated by the Department and used in the preliminary results as a proxy for FAFER's U.S. indirect selling expenses is inappropriate and does not reflect an adverse inference. Such an inference is justified by FAFER's refusal to comply with the Department's requests for information on its U.S. indirect selling expenses.

The commission amount used by the Department in the preliminary results was an unrealistically low commission rate and inconsistent with the commission rate reported by FAFER in its Section A response at 4 (*see* the Department's October 8, 1997, Internal Memorandum from Helen Kramer to the File). Moreover, FAFER acknowledges that the U.S. commission amount used in the preliminary results probably represented a service fee charged by transmitting banks (*see*, Respondent's Rebuttal Brief, October 22, 1997 at 4, Footnote 8), not a commission amount. Therefore, for these final results, while we have continued to use FAFER's U.S. commission expense as facts available for FAFER's failure to report U.S. indirect selling expenses (*see*, Analysis Memorandum from Analyst to the File, January 12, 1998), we are using a different estimate of this expense. We find that the commission rate FAFER typically pays its U.S. affiliate is the most reasonable estimate of U.S. indirect selling expenses (*see*, FAFER's Section A Response at 4).

Comment 3: The petitioners note that in its preliminary results, the Department subtracted home market commissions from CV as a circumstance-of-sale adjustment, but did *not* include the value of home market commissions in the calculation of the CV itself. The petitioners state that pursuant to statutory mandate, the Department's margin calculation program should include all direct selling expenses in the calculation of CV, including commissions. *See* 19 U.S.C. § 1677(e)(2)(A).

FAFER maintains that the filed designated general and administrative (G&A) expenses already includes amounts reported in its Section D response as home market commissions. According to the respondent, the Department verified FAFER's reported G&A amounts which included commissions, and to include them again in the calculation of CV would result in double-counting. FAFER cites generally to Cost Verification Report, March 24, 1997, at p. 26 and Cost Verification, Exhibit 7a in support of its position.

Department's Position: We agree with petitioners. In its original Section D submission of November 18, 1996, FARER noted that commissions were included in the variable field G&A. In its submission of January 21, 1997, FAFER, on instructions from the Department, reported home market commissions in a separate field in sections B and C. At the sales verification, we determined that the commission field was zero and the indirect selling expense field included only commissions paid to its affiliate. At the cost verification, the Department reviewed FAFER's G&A calculation and found it contained only general and administrative items. At verification FAFER did not indicate that any of the G&A expense categories included selling expenses. A review of the Cost Verification Report and Exhibit 7a of that report, cited by the respondent, supports the Department's conclusion that home market commission expenses were not included in G&A expenses.

The absence of any verified account which can be tied to home market commissions leaves us no choice but to conclude that home market commissions are not included in FAFER's reported G&A expenses. Therefore, we agree with petitioners that the Department erroneously understated CV in its preliminary results by not including home market commissions, pursuant to 19 U.S.C. § 1677b(e)(2)(a), in its calculation of CV. For these final results, we have added home market commissions in calculating CV (see, Analysis Memorandum from Analyst to the File, January 12, 1998).

Comment 4: The petitioners contend that in its calculation of CV profit in the preliminary results, the Department did not determine the total cost and the profit rate on the same basis. They maintain that home market commissions were included in the denominator of the ratio to determine that profit rate, but they were not included in the total costs multiplied by the profit rate to determine the per unit amount of CV profit. Therefore, they conclude that the Department should revise its margin calculation program to ensure that commissions are treated consistently throughout the Department's CV calculations.

FAFER counters that for the same reason it articulated in regard to commissions (*see* Comment 3), the Department should disregard the petitioner's request to recalculate CV profit.

Department's Position: We agree with petitioners. In order to calculate CV correctly, we must include commissions in the total costs multiplied by the profit rate in our calculation of CV profit. Accordingly, we have changed the computer program for these final results (*see* Comment 4 above).

Comment 5: The petitioners assert that certain of FAFER's claimed home market indirect selling expenses were, in fact, commissions, as indicated in the Department's Sales Verification Report at 11. In the petitioner's opinion, it seems incredible that a company would not incur any home market indirect selling expenses and, therefore, the Department should rely on the facts available and increase FAFER's reported SG&A expense, using the sales and cost of goods sold figures from FARER's unconsolidated statements.

FAFER maintains that no basis exists for increasing its calculated SG&A expense rate by the petitioner's randomly chosen percent because (1) the petitioners provide no mathematical explanation for this figure, and (2) any amounts that the Department would ordinarily deem indirect selling expenses were included in FAFER's SG&A rate, which reconciled with its financial statement at verification.

Department's Position: We agree with petitioners. As we stated in our response to Comment 3 above, home market indirect selling expenses are not included in the G&A filed or the indirect selling expense field. In addition, despite the Department's request in its original questionnaire and in its supplemental questionnaire of December 23, 1996, FARER failed to report any home market indirect selling expenses or the absence of any indirect selling expenses.

Therefore, pursuant to section 776(A)(2)(A) of the Act, we have employed the facts available for FAFER's home market indirect selling expenses. As a proxy for the unreported home market indirect selling expenses, we have added a percentage amount derived by deducting the G&A amounts reported by FAFER from the SG&A value stated on FAFER's unconsolidated financial statement, and then dividing the resulting difference by the cost of goods sold (*see*, Analysis Memorandum, January 12, 1998).

Comment 6: FAFER notes that the Department in its preliminary results found that the antidumping duties have been absorbed by FAFER because the record did not permit a conclusion that the unaffiliated purchaser in the United States will pay the ultimate assessed duty. The Department invited interested parties to submit evidence to the contrary within 15 days of the date of publication. FAFER states that Charleroi U.S.A. received a letter from the unaffiliated purchaser certifying that

company's irrevocable commitment to pay the antidumping duty at issue. This letter was submitted (and served) in a timely manner, and should put the issue to rest in FAFER's view. FAFER also requests that the Department decrease the preliminary margin of 0.22% accordingly.

In rebuttal, the petitioners assert that the Department's invitation to FAFER to submit new factual information after verification is contrary to the Tariff Act of 1930, as amended, and the Department's regulations requiring that the Department rely only on verified information in its final results for this review. *See* 19 U.S.C. § 1677m(i).

The petitioners believe that FAFER's submission purporting to demonstrate that it did not absorb antidumping duties should be rejected for the following reasons: (1) The document from the customer to FAFER was dated September 29, 1997, only one day before it was filed with the Department and, therefore, not part of the original terms of sale; (2) the document is simply a one page letter, not notarized, containing no indication that it is a contractual obligation; and (3) the document cannot be relied upon because it has not been verified by the Department.

In conclusion, the petitioners assert that the Department should reject FAFER's submission for the reasons noted above, and reaffirm its determination that FAFER and its affiliated importer absorbed antidumping duties.

Department's Position: We agree with petitioners as to the results of this duty absorption inquiry, but not as to the rationale. In our preliminary results of review, at the request of petitioners, the Department undertook a duty absorption inquiry. The Act provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In this case, the reviewed firm sold through an ''affiliated'' importer within the meaning of section 751(a)(4) of the Act. We preliminarily determined that FAFER had absorbed the antidumping duties on one hundred percent of its U.S. sales because we could not conclude from the record that the unaffiliated purchasers in the United States had agreements to pay the ultimately assessed duty.

We invited interested parties to submit evidence that the unaffiliated purchasers in the United States have agreements to pay any ultimately assessed duties charged to the affiliated importer, Charleroi, USA. In a timely manner, FAFER submitted a statement from the customer that he ''[would] irrevocably commit to make payments on any antidumping duty with respect to [the] purchase of the [subject merchandise], if such duty is assessed upon final determination by the U.S. Department of Commerce in this 1995–1996 administrative review.'' See Attachment, dated September 29, 1997, to the Letter from FAFER to the Secretary of Commerce, September 30, 1997.

Concerning the petitioners' objections to this response, as stated above, we note that the submission from the respondent was timely filed within the fifteen days following the publication of the preliminary. Our regulations at 19 C.F.R. § 351.31(b)(1) permit the Department to ask for (and receive) information pertaining to an administrative review at any time during a proceeding. Indeed, in an effort to obtain more detailed information and a clarification of the respondent's September 30, 1997 submission on duty absorption, we sent a supplemental questionnaire to FAFER on November 26, 1997. The petitioners had the opportunity to comment on the respondent's supplementary response (*see*, Letter from petitioners to the U.S. Department of Commerce, December 15, 1997).

After careful consideration of the evidence on the record, we have determined that the submission from the respondent does not establish that the unaffiliated customer will pay any ultimately assessed duty (*see*, Certain Cut-to-Length Carbon Steel Plate from Belgium: Preliminary Results of Antidumping Duty Administrative Review (62 FR 48213, 48217)) rendering the petitioners concerns about verification of the submission moot. In addition, the petitioners concerns about the timing of the alleged agreement between Charleroi U.S.A. and its customer do not enter into our refusal to rely on the submission. Petitioners have not stated any reasons why the timing of the alleged agreement has a bearing on its enforceability. As for the petitioners' objection to the fact that the ''letter'' was only one page and not notarized, the Department does not consider length a criterion for substance, and we note that the submission was properly certified pursuant to § 353.31(i) of the Department's regulations.

In the Preamble to 19 CFR part 351 *et al.*, Antidumping Duties; Countervailing Duties; Final Rule, we state that the Department did not adopt in its final rules suggestions that it establish substantive criteria regarding duty absorption because the Department ''will need experience with absorption duty inquiries before it is able to promulgate such criteria.'' *Id.* at p. 27318. In this spirit, we have carefully considered the alleged agreement presented by Charleroi U.S.A.'s customer that purportedly indicates that he will be financially responsible for any duty assessed by the Department in this administrative review. We have concluded, in this case, that the evidence of record does not demonstrate the existence of an enforceable agreement to pay the full amount of the assessed duties. The fact that the customer has agreed ''to make payments on'' antidumping duties does not provide for an enforceable agreement to pay all antidumping duties. The alleged agreement does not state the exact number or amount of the ''payments'' the customer will make to the affiliated importer, nor that the amounts paid by the unaffiliated purchaser will be for the entire amount that is assessed by the Department. Finally, the agreement contains no provision as to when the customer will make such payments. Given these uncertainties, we cannot conclude that there is an enforceable agreement for the unaffiliated purchaser to pay the duties. Therefore, for these final results, we have continued to find that antidumping duties have been absorbed by FAFER on one hundred percent of its U.S. sales.

Results of Review

We determine that the following weighted-average margin exists:

Manufacturer/exporter	Period of review	Margin (percent)
Fab. de Fer de Charleroi	08/01/95–07/31/96	13.75

The Department shall determine, and the Customs 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 Belgium 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)(1) 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 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 all other producers and/or exporters of this merchandise, the cash deposit rate of 13.31 percent, the ''all others'' rate, established in the LTFV investigation, shall remain in effect until publication of the final results of the next administrative review.

We will calculate importer-specific duty assessment rates on an *ad valorem* basis against the entered value of each entry of subject merchandise during the POR.

Notification of Interested Parties

This notice 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 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 sanctionable violation. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

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

Dated: January 12, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1278 Filed 1–16–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–823]

Professional Electric Cutting Tools From Japan: Extension of Time Limit for Final Results of Review

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

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

SUMMARY: The Department of Commerce (''the Department'') is extending the final results for the antidumping duty review of professional electric cutting tools from Japan. This review covers the period July 1, 1995 through June 30, 1996.

EFFECTIVE DATE: January 20, 1998.

FOR FURTHER INFORMATION CONTACT: N. Gerard Zapiain or Steve Jacques at 202–482–1395 or 202–482–1391; 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.

SUPPLEMENTARY INFORMATION: On December 16, 1997, the Department published in the **Federal Register** its decision that it would extend the deadline for the final results of review by 32 days until January 7, 1998 (see 62 FR 65796). The Department has now determined that it is not practicable to issue its final results within that time limit (See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration). The Department is extending the time limit for completion of the final results for the full 60 days available until February 4, 1998 in accordance with section 751(a)(3)(A) of the Act.

Dated: January 13, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for Enforcement Group III.

[FR Doc. 98–1276 Filed 1–16–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 980114015–8015–01]

RIN 0625–ZA07

CFDA No.: 11.115; Cooperative Agreement Program for American Business Centers® in Russia

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The International Trade Administration (ITA) is soliciting competitive applications to establish and operate American Business Centers® (ABCs®) in Volgograd and Chelyabinsk, Russia for a two (2) year multi-year award period. ABCs® will encourage the export of U.S. goods and services and stimulate trade and investment in Russia's regions. Funds to support new ABC® Awards are not currently available. All awards resulting from this announcement are contingent upon the availability of appropriated funds.

ABCs® will provide, on a user fee basis, a broad range of business development and facilitation services to United States companies in Russia's regions. Services provided by the ABCs® will be designed to encourage more U.S. firms to explore opportunities for trade and investment in Russia's regions and to help them conduct business there more effectively. The core services to be provided by the ABCs® include: international telephone, fax, and data transmission; temporary office space; space for meetings, small seminars, and small product exhibitions or demonstrations; secretarial support (e.g. word processing, typing, message taking); translator/interpreters; photocopying; market research; counseling on local business conditions; and arranging appointments with Russian business contacts. The Centers also will work closely with Russian businesses to help them become more attractive trading partners; identify and report obstacles to trade and investment; and serve as a link between financial institutions, U.S. companies, and Russian enterprises.

In addition to these core services, ABCs® will support U.S. Government activities under the Regional Investment Initiative (RII). This will include providing, at cost, support for the activities of the RII coordinators. Such support may include office space, computers, telecommunications equipment and secretarial and translation services.