Electronics v. *United States*, 988 F.2d 1573, 1581 (Fed. Cir. 1993).

In calculating dumping margins, the Department equalizes the effective tax rates in each market. Normally (where the home market sale is taxed, but the export sale to the United States is not taxed) this is accomplished by applying the home market tax rate to the U.S. price at the same point in the chain of commerce at which the home market tax is imposed. Here, where the pipe exported to the United States was taxed in excess of the tax on the pipe exported to China, the comparable procedure would be to subtract the differential from the price charged in the United States. Because the statute provides no mechanism for removing tax from the U.S. price, however, we achieved the necessary equivalence in tax rates by adding the difference between the effective rebate percentages claimed by Siderca between the two prices to the price of the pipe exported to China as a circumstance-of-sale adjustment, pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a). This prevented Siderca's acceptance of a complete tax rebate on the sales to China, but only a partial export tax rebate on the sales to the United States from masking any tax-net dumping margin.

Comment 7: Revenues Earned on Sales of Secondary Pipe

The petitioners argue Siderca should not reduce the reported costs for the subject merchandise by revenues earned on sales of secondary pipe. The petitioners argue that Siderca is treating secondary pipe as a by-product, when it should be treated as a co-product. According to the petitioners, in *IPSCO Inc.* v. *United States* (*IPSCO*) (965 F.2d 1056, 1060–61 (Fed. Cir. 1992)) the Court of Appeals for the Federal Circuit upheld the Department's treatment of second quality pipe when the Department fully allocated costs evenly over output tons. The petitioners argue that the classification of secondary pipe as a co-product precludes Siderca's offset of costs by revenue from secondary pipe.

Siderca argues it properly offset the cost of production by the revenue earned on sales of secondary pipe. Siderca contends the secondary pipe in question is a by-product, not a co-product, and is pulled from the scrap pile when a particular customer periodically stops by to purchase material. It further contends by-products are defined as products that have a low sales value compared with the sales value of the main product. Siderca notes that revenue from the sale of these products account for a small percentage of its total revenue for the period. Siderca rebuts the petitioners' reliance on *IPSCO* by asserting that *IPSCO* concerned limited service pipe, not scrap pipe. It argues that if the Department treats the secondary pipe as a co-product, then it must increase the production quantity over which production costs have been allocated, thereby lowering the cost of all products.

DOC Position

We disagree with the petitioners that IPSCO applies in this case. IPSCO dealt with limited service merchandise, an OCTG product with a quality sufficient enough to allow its use in some drilling applications. We also note that during the relevant period in that case, IPSCO produced and sold limited service products in significant quantities. Although Siderca overstates its assertion that these pipes are scrap sales, this is not a product that could be used for normal pipe applications. In this case, the merchandise in question was purchased because of its form, not because of its ability to act as a conduit for fluids.

The distinction as to whether a joint product is a by-product or a co-product of the subject merchandise is important because the Department treats by-products and co-products differently in calculating the COP of the subject merchandise. Central to our determination as to whether a product is a by-product or a co-product of the subject merchandise is the determination of the ''split-off'' point, which is the point in the production process where the co-product becomes a separately identifiable product. All costs incurred up to and including the split-off point are considered common to producing all co-products. Accordingly, where the Department determines a product to be a co-product, common costs incurred up to and including the split-off point are allocated among all the co-products, with none allocated to by-products. Alternatively, where the Department determines a product to be a by-product, it allocates all common costs to the primary merchandise and subtracts the amount of the revenue from the sale of by-products from the total COM of the chief product (see, e.g., the Preliminary Determination of Sales at Less than Fair Value and Postponement of the Final Determination: Sebacic Acid from the People's Republic of China (Sebacic Acid) (59 FR 565 (January 5, 1994)).

The most important factor in determining whether a product is a co-product or a by-product is its relative sales value compared with that of the other main products produced in the joint processes (see Sebacic Acid). By-products are defined as ''products of joint processes that have minor sales value as compared with that of the chief product'' by Charles T. Horngren in Cost Accounting, Fifth Edition. In this case, the record evidence demonstrates that the relative value of secondary pipe is insignificant compared to OCTG and line pipe, and accounts for only a small percentage of Siderca's sales.

Additional factors that the Department may examine include: the respondent's normal accounting treatment; whether significant additional processing occurs after the split-off point; whether management controls the quantity produced of the product in question; and whether its production is an unavoidable consequence of the production process (see Sebacic Acid; see also the Final Determination of Sales at Less than Fair Value: Titanium Sponge from Japan (49 FR 38687, October 1, 1987) and the Final Determination of Sales at Less than Fair Value: Frozen Concentrated Orange Juice from Brazil (52 FR 8324, March 17, 1987).

The respondent's normal accounting treatment indicates its opinion as to whether the product in question is a by- or co-product. A respondent's normal treatment is not considered persuasive if the Department has evidence indicating that it would be unreasonable for purposes of an antidumping analysis. In this case the respondent treats the product in question as a by-product. We find that this treatment does not distort the antidumping analysis. Significant additional processing of a magnitude that would raise the value of the product in question to a point where its relative value to the other main products is significant may indicate that the product should be treated as a co-product. In this case no additional processing takes place. Additionally, if management takes steps to intentionally produce the product, then it would be an indication that the product may be a co-product. If the production of a product is unavoidable, the product could be either a by-product or co-product. Other factors would have to be considered to make the determination. In this case, the management of Siderca takes steps to avoid the production errors which cause pipes to become seconds. It is only where production errors exist that the secondary pipe is produced. After careful consideration of all of the relevant factors, the Department concludes that the product in question was properly treated as a by-product in this investigation.