On July 29, 1991, the Court, in Zenith

determination. Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department will not order the liquidation of the subject merchandise entered or withdrawn from warehouse for consumption prior to a "conclusive" decision in this case.

EFFECTIVE DATE: October 31, 1994. FOR FURTHER INFORMATION CONTACT: Karin Price or Maureen Flannery, Office of Antidumping Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1986, the Department published in the **Federal Register** the final results of the first administrative review of CTVs from Taiwan (51 FR 46895, December 29, 1986). In those results, the Department set forth its finding of weighted-average margins for nine companies during the period of review, October 19, 1983, through March 31, 1985, and announced its intent to instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

Subsequent to the Department's final results, four of the reviewed companies and the domestic producer, Zenith, filed lawsuits with the Court challenging these results. Thereafter, the Court issued an order and Opinion dated September 11, 1989, in *AOC* International Inc. et. al. v. United States, Court No. 87-01-00122, 721 F. Supp. 314, remanding the Department's determination so that the Department could make reasonable allowances for bona fide differences in warranty expenses between the United States and the home market; recharacterize Sampo Corp.'s bad debt expenses as directlyrelated selling expenses; and reconsider its methodology for advertising and sales promotion expenses for AOC International Inc. (AOC). The Department requested a voluntary remand to recalculate constructed value (CV) for Tatung Co. (Tatung); recalculate AOC's inland freight claim and explain the calculation methodology; adjust Tatung's foreign market value for discounts and rebates which Tatung paid to distributors for trade-ins of used CTVs by the dealers in the home market; and add the amount of commodity taxes forgiven upon exportation of CTVs to the United States price (USP). On January 31, 1991, the Department filed

its required and voluntary remand results with the Court.

Electronics Corporation v. United States (Slip Op. 91–66, July 29, 1991), ordered a second remand so that the Department could determine the amount of commodity tax passed through to home market purchasers and add that amount to the USP; cease applying an assessment rate cap in liquidating entries of the subject merchandise unless the importer paid a cash deposit for an estimated antidumping duty; change its CV calculations in order to eliminate the use of circumstance-ofsale adjustments to the extent that they reduce CV general expenses to less than the statutory minimum amount when CV is used because there are insufficient sales in the home market; remove from exporter's sales price (ESP) all home market export-related expenses and exclude such expenses from the ESP offset claim; request additional information from AOC in order to remove from USP import duties paid with respect to home market models, and add instead the import duties forgiven with respect to the exported models; investigate whether Shin-Shirasuna Electronic Co.'s (Shirasuna's) sales to Canada were fictitious so as to manipulate the fair market value of the imports to the United States and thereby minimize the antidumping duty liability; recalculate Capetronic (BSR) Ltd.'s (Capetronic's) dumping margins using production data related to a specific sale instead of using the weighted-average costs of production; remove from USP the value of certain proprietary selling expenses for Shirasuna; and correct certain programming errors. In addition, the Department requested a remand to explain the reasons underlying its de minimis determination. On January 31, 1992, the Department filed its second remand results with the Court.

On January 28, 1993, the Court ordered a third remand so that the Department could reconsider the passthrough of tax in a manner consistent with the constant costs, imperfect competition, and price-setting ability found in the Taiwan market. In addition, the Court ordered the Department to "cap" the amount of foreign tax added to USP; to make a second level adjustment for the difference in circumstances of sale included in the U.S. and home market taxable values; to insure that the general expenses component of CV was not reduced at any time to less than the statutory minimum amount by reason of adjustments for selling expenses associated with disregarded home

market sales; and to correct two clerical errors. On May 5, 1993, the Department filed its third remand results with the Court

On October 21, 1994, the Court, in Zenith, affirmed the Department's third remand results, and affirmed the prior remand determinations in this case to the extent that they were not subsequently modified by the Court. The Court also vacated its July 29, 1991, order to the extent that the order held that "no assessment rate cap may be applied in liquidating the subject entries unless the importer paid a cash duty for an estimated dumping duty." As a result, the Court ordered the Department to apply the assessment rate cap to all subject imports entered between the publication dates of the Department's preliminary affirmative determination of sales at LTFV and the ITC's final affirmative injury determination, and it dismissed the case.

Suspension of Liquidation

In its decision in Timken, the Federal Circuit held that the Department must publish notice of a decision of the Court or Federal Circuit which is not "in harmony" with the Department's determination. Publication of this notice fulfills this obligation. The Federal Circuit also held that in such a case, the Department must suspend liquidation until there is a "conclusive" decision in the action. The option of appealing this decision is being weighed, and a "conclusive" decision can not be reached until the opportunity to appeal expires, or any appeal is decided by the Federal Circuit. Therefore, the Department will continue to suspend liquidation pending the expiration of the period to appeal or pending a final decision of the Federal Circuit if Zenith is appealed.

Dated: January 9, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-1080 Filed 1-13-95; 8:45 am] BILLING CODE 3510-DS-M

[A-428-602]

Brass Sheet & Strip From Germany; Preliminary Results of Antidumping Duty Administrative Review

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

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