

68 FR 47543, August 11, 2003

A-533-810
Administrative Review
POR: 02/01/2001 - 01/31/2002
PUBLIC DOCUMENT
I/1: C. Kyle x21503

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Grant Aldonas, Under Secretary

FROM: Jeffrey May
Deputy Assistant Secretary, Group I
Import Administration

DATE: August 4, 2003

SUBJECT: **Issues and Decision Memorandum for the Final Results of the
Administrative Review of Stainless Steel Bar from India**

BACKGROUND

On March 7, 2003, the Department published the Notice of Preliminary Results of Antidumping Administrative Review and Partial Rescission of Administrative Review: Stainless Steel Bar From India, 68 FR 11058 (“Preliminary Results”), in which it invited parties to submit comments. Carpenter Technology Corp., Crucible Specialty Metals Division of Crucible Materials Corp., Electralloy Corp., Slater Steels Corp., Empire Specialty Steel and the United Steelworkers of America (AFL-CIO/CLC) (collectively, “petitioners”), and Mukand, Ltd. (“Mukand”), Venus Wire Industries Limited (“Venus”), and the Viraj Group, Ltd. (“Viraj”), filed case briefs on June 30, 2003. The petitioners, Mukand, and Viraj filed rebuttal briefs on July 9, 2003. We have analyzed the case and rebuttal briefs¹ and, as a result of our analysis, we have made changes to the preliminary results calculations. We recommend that you approve the positions we have developed in the “Discussion of Issues” section of this memorandum. Below is a complete list of the issues for which we received comments:

- Comment 1. Use of Adverse Facts Available for Mukand
- Comment 2. Isibars’ Start-up Adjustment
- Comment 3. Isibars’ Variable and Fixed Overhead Costs
- Comment 4. Isibars’ General and Administrative Expenses
- Comment 5. Isibars’ Offsets for Reimbursements of Insurance Claims
- Comment 6. Isibars’ Interest Expenses
- Comment 7. Isibars’ Indirect Selling Expenses
- Comment 8. Isibars’ Excise Taxes
- Comment 9. Viraj’s Selling Expenses
- Comment 10. Collapsing the Viraj Group of Companies
- Comment 11. Viraj’s Calculation of Depreciation
- Comment 12. Viraj’s Forgiven Interest Expense

¹The other company in this review, Isibars Limited, did not file case or rebuttal briefs.

- Comment 13. Viraj's Unconsolidated Financial Statements
- Comment 14. Viraj's Offset To Interest Expenses
- Comment 15. Venus' Scrap Realization Offset
- Comment 16. Venus' General and Administrative Expense Ratio Adjustments
- Comment 17. Venus' Interest Expense Ratio Adjustment
- Comment 18. Venus' Depreciation Expense and Repairs and Maintenance Expense
- Comment 19. Venus' Foreign Exchange Gains and Losses
- Comment 20. Venus' Income Tax Provision

DISCUSSION OF ISSUES

Comment 1: Use of Adverse Facts Available for Mukand

Mukand contends that the Department incorrectly applied adverse facts available to Mukand for failing to respond to the Department's May 22, 2002, questionnaire within the deadline established in the questionnaire. Mukand contends that the Department is solely responsible for Mukand's untimely questionnaire response because the Department sent the questionnaire to Mukand's "distant affiliate," Mukand Engineers, Ltd. ("Mukand Engineering"), instead of Mukand (*i.e.*, Mukand, Ltd.). In addition, Mukand states that the Department addressed the questionnaire to Mr. Rajesh V. Shah, Managing Director of Mukand, when Mr. A.M. Kulkarni is the Mukand official who has historically been responsible for Mukand's involvement in antidumping proceedings with the Department. Mukand contends that, because of the Department's "misdelivery," Mukand did not discover the questionnaire until after the deadline to respond had passed. Upon this discovery, Mukand responded to the questionnaire immediately, according to Mukand. For these reasons, Mukand argues, its questionnaire response should not have been rejected by the Department as untimely, nor should the Department apply adverse facts available because Mukand acted to the best of its ability to respond to the questionnaire. Rather, Mukand contends, the Department did not act to the best of its ability in providing Mukand with the questionnaire.

Mukand contends that the Department did not follow its own practice with respect to providing respondents' counsel with the questionnaire. Mukand states that the Department did not send the questionnaire to Mukand's legal counsel at the time the questionnaire was first issued because, in the Department's view, Mukand did not have counsel at that time. Mukand then states that the Department sent the questionnaire to Mukand's counsel as an "extraneous" attachment to a May 24, 2002, e-mail message that did not contain any reference to such questionnaire. Mukand argues that the Department has rebuked respondents for omitting references to e-mail attachments in the text of an e-mail message and, therefore, the Department should hold itself to the same standards. Furthermore, Mukand contends that sending questionnaires via e-mail is not Department practice. Rather, the Department's practice is to provide questionnaires directly to respondents' counsel with a cover letter addressed to the counsel and a follow-up phone call to the counsel to confirm receipt, according to Mukand. Mukand comments further that the Department directly advised the counsel for two other respondents in this review, who is also counsel for Mukand, of the questionnaires and that these two respondents filed timely questionnaire responses.

Citing an August 13, 2002, letter from Robert Bolling to Mr. Koenig (counsel to a respondent, Panchmahal Steel Limited) concerning Antidumping Duty Administrative Review of Certain Stainless

Steel Wire Rod from India and Certain Cold Rolled Steel Products from Indonesia, Mukand further contends that it is Department practice to give respondents who represent themselves in antidumping proceedings a “second chance” to meet established deadlines for questionnaire responses. Mukand states that the Department did not grant Mukand a second chance in this administrative review.

Mukand then asserts that the Department rejected its questionnaire response because U.S. customs data indicated that Mukand made shipments of subject merchandise during the POR.² However, Mukand argues, the customs data only contains stainless steel bar from the United Arab Emirates (“UAE”) produced by Mukand’s affiliate, United Bright Steels, Ltd., not stainless steel bar produced by Mukand in India.

Mukand further argues that the Department did not provide evidence demonstrating that the adverse antidumping margin applied to Mukand was corroborated, as is required by the Department’s statute. Mukand contends that, to corroborate this margin, the Department must rely on, and provide as evidence, significant, representative sales to corroborate the adverse antidumping margin, which the Department has not done. Mukand also asserts that the adverse margin applied in the preliminary results was the adverse rate from the original investigation, which has never been corroborated with independent evidence in this proceeding.

Lastly, Mukand asserts that the Department’s adverse facts available decision in the preliminary results does not comply with World Trade Organization (“WTO”) obligations, which require the Department to consider a respondent’s submitted information if it is provided in time to allow verification and use in the final decision, citing the WTO Dispute Settlement Report, U.S. Antidumping Measures on Certain Hot-Rolled Products from Japan, WT/DS184/R; (01-0629), 2001 WTO LEXIS 11, February 28, 2001. Mukand argues that the Department must interpret U.S. statutes to conform to U.S. international obligations, referring to Federal Mogul Corp. v. United States, 63 F.3d 1572, 1580 (Fed. Cir 1995), and Alexander Murray v. Schooner Charming Betsy, 6 U.S. (2 Cranch.) 64,118 (1804). Mukand asserts that because the Department rejected the submission without a determination that there was insufficient time to complete the review at the time of the submission, the Department did not adhere to U.S. international obligations and, therefore, the decision was not in accordance with U.S. law.

The petitioners contend that it is appropriate for the Department to use adverse facts available for Mukand because the Department did not misdeliver the questionnaire and Mukand elected not to cooperate in this administrative review. According to the petitioners, the Department sent the questionnaire to the appropriate mailing address and Mukand official, despite the fact that the FedEx package label was addressed to Mukand Engineers, Ltd., at Lal Bahadur shastri Marg, Kurla, Mumbai 400 070. The petitioners state that the cover letter to the questionnaire was addressed to Mukand Limited, ATTN: Rajesh V. Shah at the exact same mailing address listed on the FedEx label, Lal Bahadur shastri Marg, Kurla, Mumbai 400 070. The petitioners contend that this mailing address is the most appropriate address to which the questionnaire could have been sent because the website for the Mukand Group, which includes Mukand and Mukand Engineering, indicates that the “Registered and Head Office” for both companies is located at the mailing address on the FedEx label and questionnaire

²In its August 2, 2002, questionnaire response, Mukand stated that it believed it made no shipments of subject merchandise during the POR.

cover letter.³ Furthermore, the petitioners contend, Mr. Rajesh V. Shah is, without question, the appropriate Mukand official to receive the questionnaire because, as indicated on Mukand's website, he "has had total charge of operations of Mukand Limited as Chief Executive since 1986 and as Managing Director since 1994" and "he is responsible for the diverse activities of the company."

As further evidence that Mukand's "Registered and Head Office" is the appropriate destination for the questionnaire, the petitioners assert that, in past administrative reviews of the Antidumping Duty Order on Stainless Steel Wire Rod from India, Mukand sent two letters to the Department that show Mukand's address for its "Registered and Head Office," referring to Mukand's May 12, 1998, Supplemental Questionnaire Response and September 9, 1998 letter from Mr. Peter Koenig, both of which relate to the 1996-1997 Administrative Review of Certain Stainless Steel Wire Rod from India. In addition, the petitioners state that Mukand used the same address in the normal course of business, referring to bills of lading for shipments made by Mukand, which are on the record of the 2000-2001 Administrative Review of Stainless Steel Wire Rod from India.

The petitioners further contend that, even if the questionnaire were received by an official at Mukand Engineering, it is reasonable to expect that the questionnaire would be forwarded to the appropriate Mukand official because, contrary to Mukand's assertion, Mukand and Mukand Engineering are not distant affiliates. The petitioners note that, aside from sharing the same head office, Mukand and Mukand Engineering share two branch offices at the same locations and that the Mukand Group website identifies Mukand Engineering and Mukand as the two most prominent members of the Mukand Group.

The petitioners then argue that Mukand's claim that it was not aware of the questionnaire response until after the response deadline had passed is without merit. The petitioners note that Mukand acknowledged in its case brief that the Department sent, and Mukand's counsel received, a copy of the questionnaire via e-mail message on May 24, 2002. However, the petitioners state, Mukand neglected to acknowledge that the Department sent the questionnaire to Mukand's counsel upon his request, referring to the Department's August 21, 2002, letter to Mukand regarding the Department's rejection of Mukand's August 2, 2002, submission ("Rejection Letter"). The petitioners assert that it is abundantly clear that the questionnaire was not sent to Mukand's counsel by happenstance on May 24, 2002. Thus, the petitioners contend, the Department sent two copies of the questionnaire by two of the most appropriate and reliable means available to the Department.

Next, the petitioners contend that Mukand never expressed its interest in responding to the questionnaire and participating in this administrative review. First, the petitioners note that Mukand did not correspond with the Department until two months after Mukand received the questionnaire directly (FedEx tracking records show that the questionnaire was received at Mukand's "Registered and Head Office" on May 25, 2002)⁴ or by Mukand's counsel via e-mail on May 24, 2002. Mukand never requested an extension of the response deadline nor did Mukand express its interest in providing the Department with the opportunity to review its operations and sales or verify that Mukand had no sales of subject merchandise during the POR, according to the petitioners. Second, the petitioners state that

³The petitioners also observe that the registered and head offices of Mukand and Mukand Engineering share the same phone number, fax number, and e-mail address, according to Mukand's website.

⁴See also Rejection Letter

Mukand's first response to the questionnaire was received by the Department on August 2, 2002, more than a month after the June 28, 2002, deadline to respond. The petitioners contend that Mukand's August 2, 2002 statement that "[it] hereby inform[s] the Department that Mukand does not believe that it needs to answer the Department's questionnaire" indicates that Mukand had no interest in participating in this administrative review whatsoever. Had Mukand expressed an interest in participating, the Department surely would have taken the opportunity to obtain more information to confirm Mukand's unsubstantiated claim that it had no shipments of subject merchandise during the POR, according to the petitioners. Thus, the petitioners conclude, the Department did not deny any procedural opportunities to Mukand.

The petitioners also state that any new factual information contained in Mukand's case brief should be rejected as untimely and removed from the record pursuant to section 351.301 of the Department's regulations. Lastly, the petitioners contend that the adverse facts available that the Department used for Mukand were fully corroborated in the preliminary results.

Department's Position:

For the reasons discussed below, we reject Mukand's arguments and continue to find that adverse facts available are warranted under section 776(b) of the Tariff Act of 1930, as amended effective January 1, 1995 ("the Act"), by the Uruguay Round Agreements Act ("URAA").

First, we agree with the petitioners that we sent the questionnaire to the most appropriate address for Mukand, the address for its "Registered and Head Office." Prior to this administrative review, Mukand had not participated in an administrative review in this proceeding since the 1996-1997 administrative review. See Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review, 63 FR 13622 (March 20, 1998). Therefore, the Department reviewed Mukand's website to ascertain the most appropriate and current mailing address and Mukand official to whom it could send the questionnaire. So while the FedEx label did not specifically list Mukand Ltd. but instead listed Mukand Engineering, the Department considers this discrepancy to be of little importance because Mukand Engineering and Mukand share the same head office, mailing address, telephone number, fax number, and e-mail address. In addition, the cover letter to the questionnaire expressly states that it was addressed to Mukand, not Mukand Engineering and to the attention of Mukand's Chief Executive and Managing Director. Therefore, it is reasonable to assume that the questionnaire was delivered to the appropriate Mukand official in a timely manner.

In addition, Mukand admits that it did, in fact, receive the questionnaire on May 25, 2002. The Department notes that Mukand's explanation for its untimely filed submission (*i.e.*, because the Department sent the questionnaire to Mukand Engineering) was at no time mentioned by Mukand in its August 2, 2002 submission to the Department. The fact that Mukand is only providing this explanation in its case brief further undermines its argument that the Department seriously erred in sending the questionnaire care of "Mukand Engineering Ltd." rather than "Mukand Ltd."

Second, Mukand claims that the Department did not believe that Mukand was represented by legal counsel prior to the June 28, 2002, deadline for the questionnaire. Mukand is incorrect. The Department specifically inquired as to whether Mukand was being represented by legal counsel on June 12, 2003. See July 25, 2003, Memorandum to Case File RE: Declaration of Counsel to Mukand, Limited ("Declaration Memo"). Counsel responded on June 12, 2002, that he was representing

Mukand in the instant review. See Declaration Memo. Thus, there can be no question that Mukand had counsel and that counsel was aware that the Department was reviewing Mukand in the current review prior to the June 28, 2002, deadline.⁵ Moreover, counsel received a copy of the questionnaire before the June 28, 2002, deadline. See Mukand's Case Brief at pg. 3. Finally, the Department notified the general public that it was reviewing Mukand in the instant review through publication of an initiation notice on March 27, 2002 (see 67 FR 14696).

For the aforementioned reasons the Department determines that Mukand, through company officials and legal counsel, had notice (1) that the Department was reviewing Mukand and (2) of the June 28, 2002, deadline. Thus, if Mukand was unable to comply with the deadline, it should have requested an extension, as Mukand's counsel did for other respondents. See Isibars Extension Memo. Because Mukand did not seek an extension, its August 2, 2002, submission was untimely filed and properly rejected. Furthermore, as Mukand did not provide the Department with a timely response to its questionnaire, Mukand failed to act to the best of its ability and application of adverse facts available with an adverse inference are warranted pursuant to section 776(b) of the Act.

Mukand argues that it is entitled to a "second chance" because it is the Department's practice to give respondents who represent themselves a "second chance" to meet deadlines for questionnaire responses. The Department disagrees that such a practice exists. While it is true that the Department affords respondents additional assistance (e.g. small companies) when they have difficulty meeting reporting requirements, (see section 782(c) of the Act) all respondents are required to submit information in a timely manner. Moreover, as discussed above, Mukand was not representing itself.

Next, Mukand argues that the Department has not acted in accordance with the statute and its obligations under the WTO Agreements because it refused to consider the information in Mukand's August 2, 2002, untimely filed submission. The Department's decision to reject untimely filed information is fully in accordance with the Act. See, e.g., section 782(e) of the Act which states that information must be filed in a timely manner in order to be considered by the Department. Moreover, as the United States has fully implemented its obligations under the WTO into the Act, Mukand's WTO-specific arguments need not be individually addressed. See the Statement of Administrative Action, H.DOC.No. 103-316, Vol. 1 at 669 (1994) reprinted in U.S.C.A.N. 3773, 4163 (hereinafter "SAA")

Finally, Mukand argues that the Department did not corroborate the adverse facts available rate. However, in the preliminary results the Department corroborated the adverse facts available rate by "compar{ing} it to individual transaction margins for companies in this administrative review with weighted-average margins above *de minimis*. We found that the selected margin falls within the range of individual transaction margins and that there was a significant number of sales, made in the ordinary course of trade, in commercial quantities, with margins near or exceeding 21.02 percent. This evidence

⁵Counsel for Mukand (i.e., the same attorney) represented multiple companies in this review and was fully aware of the June 28, 2002, deadline. One of these companies is Isibars, which was not represented by counsel at the time the Department issued its questionnaires on May 22, 2002. Subsequently, Isibars retained the same attorney as Mukand as counsel, who requested an extension of time in which to respond to the May 22, 2002, questionnaire on behalf of Isibars on June 19, 2002. The Department granted this request on June 19, 2002. See June 19, 2002, Memorandum to the File RE: Extension of time for submitting questionnaire response in the Antidumping Duty Administrative Review of Stainless Steel Bar from India ("Isibars Extension Memo").

supports the reliability of this margin and an inference that the selected rate might reflect Mukand's actual dumping margin." See Preliminary Results at 11060. Mukand has provided no comment with respect to the corroboration methodology set forth in the preliminary results. In addition, Mukand argues that the Department did not provide evidence of its corroboration of the AFA rate. In fact, the Department corroborated this rate (as discussed above) and in so doing, employed information submitted by other respondents in the instant review. Thus, the Department's corroboration of this rate is supported by substantial evidence on the record of this review.

Accordingly, for the final results, we are continuing to assign Mukand an antidumping duty rate of 21.02 percent as total adverse facts available. This is consistent with section 776(b) of the Act which states that adverse inferences may include reliance on information derived from the petition. See also Preliminary Results.

Comment 2: Isibars' Start-up Adjustment

The petitioners contend that the Department should continue to deny Isibars' claim for a start-up adjustment for the final results. The petitioners argue that Isibars did not meet the criteria for receiving a start-up adjustment established in section 773(f)(1)(c)(ii) of the Act. First, the petitioners assert that Isibars' claimed "new" bar and rod mill is not new as Isibars began production of subject merchandise at the mill in 1998. Furthermore, the petitioners argue that the Department determined in its preliminary results that Isibars reached commercial production prior to the POR. The petitioners further argue that Isibars did not meet the second prong of the Department's test because Isibars' ongoing production difficulties are not associated with technical factors associated with the initial phase of commercial production. Finally, the petitioners assert that Isibars' comparison of its actual production volumes to a theoretical production volume does not meet the requirements of the Department's test. The petitioners point to the SAA at 836 which states that the attainment of peak production levels will not be the standard for identifying the end of the start-up period because the start-up period may end well before the company achieves optimum capacity utilization. Accordingly, the petitioners assert that Isibars has not met the requirements for a start-up adjustment and, therefore, the Department should deny Isibars' claimed start-up adjustment for the final results.

Isibars did not comment on this issue.

Department's Position:

We agree with the petitioners that a start-up adjustment is not warranted for Isibars in this case. Section 773(f)(1)(C)(ii) of the Act authorizes adjustments for start-up operations “only where (I) a producer is using new production facilities or producing a new product that requires substantial additional investment, and (II) production levels are limited by technical factors associated with the initial phase of commercial production.” Based on our analysis of the information Isibars provided to support its claim, we determine that Isibars’ operations do not meet either of these criteria.

First, Isibars has not shown that its hot-rolling mill is a new facility within the definition of section 773(f)(1)(c)(ii)(I) of the Act. The SAA and the Department’s regulations define new production facilities as including “the substantially complete retooling of an existing plant during the period of investigation or review” (SAA at 836; 19 CFR 351.407(d)(1)(i)). This substantial retooling must involve the replacement of nearly all production equipment and a complete revamping of existing machinery (SAA at 836). While we acknowledge that Isibars’ hot-rolling mill was a wholesale replacement of the company’s previous hot-rolling mill, as of the beginning of the POR (*i.e.*, February 2001), the hot-rolling mill had already been in service producing goods for over two-and-a-half years. In the Notice of Final Determination of Sales as Less Than Fair Value: Certain Preserved Mushrooms from Chile, 63 FR 56613 (October 22, 1998), the Department determined that because the respondent’s production facilities were three years old at the start of the period of investigation (“POI”), the respondent’s production facilities were not new during the POI. Furthermore, Isibars did not claim a start-up adjustment during the administrative review period when the hot-rolling mill began production (*i.e.*, February 1998 through January 1999). See Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review and New Shipper Review and Partial Rescission of Administrative Review, 65 FR 48965 (August 10, 2000).

Even if we were to assume, *arguendo*, that Isibars’ rolling mill satisfies the criteria of section 773(f)(1)(C)(ii)(I) of the Act, a start-up adjustment is not warranted because Isibars’ operations do not meet the second criteria of the Department’s two-prong test. The second prong of the Department’s test states that production levels must be limited by technical factors associated with the initiation phase of commercial production. The SAA further clarifies that production levels must be limited by technical factors associated with the initial phases of commercial production and “not by factors related to startup, such as marketing difficulties or chronic production problems” (*see* SAA at 838). Based on our analysis of Isibars’ submissions as well as the information obtained during verification,⁶ we have determined that the problems incurred by Isibars in regard to its hot-rolling mill are chronic⁷ problems rather than technical factors associated with the initiation phase of commercial production. The problems incurred by Isibars are of long duration in that these problems have existed since the company began production at the rolling mill in 1998.

Moreover, we find that the production problems incurred by Isibars are recurrent. In Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the

⁶ See Verification Report on the Cost of Production and Constructed Value Data Submitted by Isibars Limited and Zenstar Impex (“Isibars Cost Verification Report”) dated June 18, 2003, at page 3.

⁷ See Webster’s New Collegiate Dictionary, G. & C. Merriam Company (Springfield, MA) 1981 where it defines “chronic” as “marked by long duration or frequent recurrence.”

Antidumping Duty Order: Brass Sheet and Strip From the Netherlands, 65 FR 742 (January 6, 2000) (“Brass Sheet and Strip”), the Department granted the respondent a start-up adjustment because the respondent’s production facility satisfied the first prong of the Department’s two-prong test and the problems incurred by the respondent were determined to be technical in nature and associated with the initial phases of commercial production. Unlike the instant case where Isibars has experienced the same problems on a recurring basis, the respondent in Brass Sheet and Strip encountered successive problems (*i.e.*, resolving one problem led to another problem) related to the initial phase of commercial production. Therefore, the Department has determined that the problems encountered by Isibars are chronic in nature and do not satisfy the criteria of section 773(f)(1)(C)(ii)(II) of the Act.

Finally, we agree with the petitioners that Isibars’ comparison of its actual production levels to its theoretical production capacity does not support Isibars’ claim for a start-up adjustment. The Department’s regulations at section 351.407(d)(3)(i) and (ii) state that, for purposes of determining when a producer reaches commercial production levels under section 773(f)(1)(C)(ii) of the Act, the Department will measure production levels on the basis of units processed and a producer’s projections will be accorded little weight (*see also* SAA at page 837). In light of the analysis of units processed, we continue to accord little weight to Isibars’ projections. Therefore, for the aforementioned reasons, the Department has denied Isibars’ claim for a start-up adjustment.

Comment 3: Isibars’ Variable and Fixed Overhead Costs

The petitioners assert that the Department should adjust Isibars’ reported per-unit costs because, as noted in Isibars Cost Verification Report at page 3, Isibars did not apply a wastage factor for the hot-rolling process to the variable overhead (“VOH”) and fixed overhead fixed overhead (“FOH”) costs of billets. The petitioners state that Department should correct this error by increasing the per-unit VOH and FOH costs for hot-rolled products by the wastage factor (*i.e.*, by applying a yield factor).

The petitioners also assert that, consistent with the preliminary results, the Department should continue to adjust Isibars’ reported FOH charges to include the unreported lease and hire charges related to the steel melt shop and rolling mill.

Isibars did not comment on this issue.

Department’s Position:

We have decided to adjust Isibars’ variable and fixed overhead costs should be adjusted for the final results. The steel billets produced by Isibars are the direct material inputs for Isibars’ hot-rolling mill. As such, all costs incurred to produce those billets (*i.e.*, direct materials, VOH, and FOH) are considered direct materials costs for hot-rolled merchandise. Any yield loss incurred by the hot-rolling mill applies to the total cost of inputs of the hot-rolling process. In its reported costs, Isibars applied the hot-rolling mill yield loss factor to the direct materials costs of the inputs (*i.e.*, steel billets) but did not apply the yield loss to the VOH and FOH of the inputs. Therefore, for the final results, we have increased Isibars’ reported per-unit VOH and FOH costs for hot-rolled products. Because the cost of hot-rolled merchandise carries over as the input cost for cold-rolled merchandise, we have also adjusted Isibars’ reported costs of cold-rolled merchandise. We have increased the direct materials costs of the cold-rolled merchandise by the same amount as the hot-rolled merchandise, adjusting for the yield loss of the cold-rolling mill for each of the three reported size categories.

We also agree with the petitioners in regard to Isibars' lease and hire charges. The lease and hire charges are lease payments for steel-making assets leased by Isibars. The lease of these assets is considered an operating lease in Isibars' normal books and records, and the payments are, consequently, recorded as period expenses. However, Isibars reported this lease to the Department as a capital lease and, therefore, included only depreciation charges⁸ and the interest on the lease payments in its reported costs.

The Department's practice, as directed by section 773(f)(1)(A) of the Act, is to rely on a company's normal books and records if such records are in accordance with home country generally accepted accounting principles ("GAAP") and reasonably reflect the costs associated with the production of the merchandise (see, e.g., Brass Sheet and Strip and Notice of Preliminary Results, Partial Recision of Antidumping Duty Administrative Review, and Preliminary Determination to Not Revoke Order in Part: Canned Pineapple Fruit from Thailand, 68 FR 38291 (June 27, 2003)). Isibars' audited financial statements for the cost-reporting period recorded this lease as a period cost (i.e., not a capital lease). Moreover, Isibars has not provided any evidence that this lease has not been properly considered a period cost. Therefore, consistent with Isibars' normal books and records, these charges are properly included as part of the costs associated with the production of the merchandise under review. Accordingly, for the final results, we have increased Isibars' FOH costs of steel billets by the amount of the unreported lease payments (i.e., the difference between the total lease payments for the cost-reporting period and the depreciation charges included in the reported costs).

Comment 4: Isibars' General and Administrative Expenses

The petitioners argue that the Department should exclude administrative labor costs from the denominator of Isibars' general and administrative ("G&A") expense ratio because these costs are included in the numerator of Isibars' G&A ratio, as evidenced in Isibars Cost Verification Report at page 4.

The petitioners also argue that the Department should correct Isinox' omission of its repair and maintenance expenses from its reported costs by including these expenses in Isinox's G&A expenses.

Department's Position:

We agree with the petitioners in part. Isibars' administrative and labor costs are examples of G&A expenses. Accordingly, these costs should be included in the total G&A expenses numerator of the G&A ratio calculation and not in the cost-of-sales denominator. Since Isibars included these costs in both the numerator and denominator of the G&A ratio calculation (see Isibars Cost Verification Report at page 4), we have revised Isibars' calculation to exclude these costs from the denominator of the G&A expense ratio.

We disagree with the petitioners that Isibars omitted Isinox' repair and maintenance expenses from the reported cost. Record evidence shows that Isibars included these costs in Isinox' reported cost of manufacturing (see the January 27, 2003, supplemental section D questionnaire response at exhibit 63).

⁸ These depreciation charges were calculated by Isibars only for purposes of responding to the Department's antidumping duty questionnaire. Depreciation is not recorded for these assets in Isibars' normal books and records.

Repair and maintenance expenses are reasonably considered part of the cost of manufacture. Therefore, because Isinox has already properly accounted for these expenses in its reported costs, we have not included them in Isinox's G&A expenses.

Comment 5: Isibars' Offsets for Reimbursements of Insurance Claims

The petitioners contend that the Department should disallow the offsets to Isibars' reported costs for reimbursement of insurance claims. These reimbursements are related to claims for a fire at the production plant, an employee accident, and a motor vehicles. The petitioners argue that these reimbursements should not be used to offset expenses because Isibars has not demonstrated that the related costs were fully expensed during the POR and included in the reported costs. Furthermore, the petitioners assert that Isibars did not report these reimbursements in a timely manner and instead waited until verification (i.e., after the deadline for the submission of new factual information) to report the reimbursements as minor errors. The petitioners claim that as a result of Isibars' failure to submit this information in a timely manner, the Department was not able to determine whether the corresponding expenses were included in Isibars' cost of production/constructed value ("COP/CV") data base. Therefore, according to the petitioners, the Department should reject the insurance claim reimbursement offsets for purposes of the final results.

Isibars did not comment on this issue.

Department's Position:

We disagree with the petitioners that we should disallow Isibars' claimed offsets related to insurance claims. In its submissions prior to the cost verification, Isibars did not include the reimbursement for insurance claims as offsets to its reported costs. However, the total value of the offsets was included in Isibars' divisional trial balances presented in Isibars' January 27, 2003, submission at exhibit 23. At verification, Isibars presented these offsets as minor corrections to its reported costs (see Isibars Cost Verification Report at page 5).

We disagree with the petitioners' claim that the offsets constitute new factual information and rather find this information to be of the type and magnitude that we consider to be a minor correction. The total value of the insurance claim reimbursements was on the record prior to the cost verification. Isibars' correction of its omission of the offsets was a change to its reported calculated costs, not new factual information. Because of the insignificant value of these offsets relative to Isibars' reported costs, the Department has determined that the correction of these offsets to Isibars' reported costs was correctly presented to the Department as a minor error at verification. We disagree with the petitioners that Isibars did not provide us with ample time to determine whether the related expenses were included in the reported costs. At verification, the Department had such an opportunity. However, due to the insignificant value of the offsets relative to Isibars' reported costs, we elected not to test whether the related expenses are included in the reported costs. As such, we have allowed Isibars' offsets for the reimbursement of insurance claims for the final results.

Comment 6: Isibars' Interest Expenses

The petitioners assert that, consistent with the preliminary results, the Department should continue to include Isibars' exchange rate differences in the numerator of Isibars' interest expense ratio calculation.

The petitioners also argue that the Department should deny Isibars' claim that interest paid on bills and checks should be excluded from the numerator of its interest expense ratio because these costs are included in imputed credit expenses. The petitioners assert that Isibars has not provided any evidence to support its claim that interest paid on bills and checks account for the same expenses as imputed credit.

In addition, the petitioners contend that the Department should reject Isibars' claim that imputed inventory carrying costs should be excluded from the numerator of its interest expense ratio calculation because Isibars has failed to prove that these expenses were included in Isibars' interest expenses. The petitioners point to Isibars Cost Verification Report at page 41.

Isibars did not comment on this issue.

Department's Position:

We agree with the petitioners that we should include Isibars' net foreign exchange gains and losses in the numerator of the interest expense ratio calculation. Consistent with our practice regarding foreign exchange gains and losses (see e.g., Certain Preserved Mushrooms From Indonesia: Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke Order in Part, 68 FR 11051 (March 7, 2003)), we have revised Isibars' interest expense ratio calculation to include the net foreign exchange gains and losses in the numerator (i.e., interest expenses) of the ratio.

We also agree with petitioners that Isibars' claimed offsets to the interest expense ratio calculation should not be allowed. Isibars claims that the interest paid on bills and checks and interest paid on working capital is related to the imputed credit expenses and inventory carrying costs reported in its sales databases. As stated in the Department's questionnaire, credit expenses are "the interest expense incurred (or interest revenue foregone) between shipment of merchandise to a customer and receipt of payment from the customer."⁹ The Department normally imputes this expense to capture the "opportunity costs (rather than actual costs) that are not reflected in the financial records of the company being investigated, but which must be estimated and reported for purposes of an antidumping inquiry."¹⁰ Isibars did not demonstrate, neither in its questionnaire responses nor at verification, that these expenses were directly related to the sales-specific imputed credit and inventory carrying costs reported in its sales databases. In other words, Isibars has not shown that the Department is double counting these expenses by including the expenses in the interest expense ratio calculation and in the sales databases (i.e., as direct selling expenses captured in the price calculation). Furthermore, the accounts that hold these expenses are recorded in Isibars' normal books and records as interest expenses. Therefore, for the final results and consistent with Isibars' normal books and records, we included these interest expenses in the interest expense ratio calculation.

Comment 7: Isibars' Indirect Selling Expenses

The petitioners argue that the Department did not include Isibars' expenses for doubtful debts written

⁹See the Department's antidumping questionnaire, Appendix I at "Credit Expense"

¹⁰Id. at "Imputed Expenses"

off in the calculation of indirect selling expenses in the preliminary results. The petitioners assert that it is the Department's normal practice to include these expenses in its calculation of indirect selling expenses and that the Department should revise Isibars' final results calculations accordingly. They cite, as examples, Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 68 FR 6713 (February 10, 2003) ("Sheet and Strip") and Notice of Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands, 67 FR 62112 (October 3, 2002) ("Cold-Rolled").

Isibars did not comment on this issue.

Department's Position:

We agree with the petitioners that Isibars' bad debt expenses should be included in the calculation of indirect selling expenses. It is the Department's normal practice to include bad debts written off in the indirect selling expenses calculation (see, e.g., Sheet and Strip and Cold-Rolled). Consistent with our practice, for the final results, we have included Isibars' bad debt expenses in the indirect selling expense calculation.

Comment 8: Isibars' Excise Taxes

The petitioners state that the Department reduced Isibars Limited's ("Isibars") gross unit price in the preliminary results by 16 percent to account for an excise tax charged on Isibars' U.S. sales of subject merchandise. The petitioners acknowledge that the Department determined at verification that these excise taxes were not included in Isibars' reported U.S. prices. Accordingly, for the final results, the petitioners contend that, rather than adjusting Isibars' reported U.S. sales prices, the Department should add 16 percent to the cost of production ("COP") for the final results because Isibars has not demonstrated that these excise tax payments were refunded. Specifically, the petitioners argue that the Department attempted to verify the tax refunds by tying several invoices to bond export documents but it is still unclear what amounts Isibars actually paid during the POR and what amounts were refunded. To support this assertion, the petitioners argue that the Department requested certain information concerning these excise taxes in a supplemental questionnaire to which Isibars provided deficient or unexplained responses.

Isibars did not comment on this issue.

Department's Position:

We disagree with the petitioners that we should add 16 percent to Isibars' COP to account for excise taxes. As explained in the Sales Verification Report—Isibars Limited dated June 19, 2003 ("Isibars Sales Verification Report") at page 16, the Government of India ("GOI") exempts companies from paying this excise tax if the merchandise is destined for export. Under this excise tax program, the GOI issues companies a bond to pay the taxes. Once the entire amount of the bond has been used, the companies submit the appropriate bills of lading for all of their export sales. The GOI confirms that the sales were exported and issues the companies a new bond (see Isibars Sales Verification Report at page 16).

Isibars participated in this bonding scheme and, therefore, never actually paid the tax on its export sales. We verified this information by tracing the amounts listed on selected sales invoices to bond export documents and to the bond itself (see Isibars Sales Verification Report at Exhibit 14). The bond documents collected at verification are copies of official documents issued by the GOI which specifically state that the bond permits Isibars to “remove from time to time the excisable goods...from his registered factory...for export to foreign countries *without payment of duty*” {emphasis added} (see id. at page 1). The petitioners argue that Isibars did not provide sufficient documentation showing that it was refunded the amount of the tax. However, as the language on the above-cited GOI bond illustrates, Isibars never actually pays the tax. Therefore, it would be impossible for Isibars to show that it received refunds for payments that were never made.

For the aforementioned reasons, the Department determines that Isibars did not incur an expense associated with this excise tax. Thus, this tax was neither an expense to be deducted from Isibars’ U.S. sales price nor a cost to be embedded in Isibars’ COP. Accordingly, for the final results, we have removed the 16 percent decrease in Isibars’ U.S. price that we included in the preliminary results. In addition, we have not increased Isibars’ COP by 16 percent for the final results.

Comment 9: Viraj’s Selling Expenses

The petitioners assert that the Department discovered at verification that, for certain U.S. sales during the POR, Viraj ImpoExpo Limited (“VIL”) sold subject merchandise to its affiliate Viraj Forgings Limited (“VFL”) which it in turn sold it to Viraj USA Inc. (“VUI”). The petitioners argue that VFL must have incurred selling expenses for these sales, even if it never actually took possession of the merchandise. Accordingly, the petitioners contend that the Department should deduct VFL’s selling expenses from the reported U.S. prices for the final results. The petitioners argue that the Department should use VIL’s direct and indirect selling expenses as a proxy for VFL’s selling expenses for U.S. sales in which VFL is involved. To do this, the petitioners argue that the Department should deduct the above-mentioned selling expenses twice from U.S. price (1) to account for the actual reported selling expenses associated with VIL and (2) as a proxy for selling expenses associated with VFL. The petitioners argue that, if the Department is unable to determine which U.S. sales were made from VIL to VFL and then to VUI, it should make the above-described deduction from every U.S. sale. The petitioners argue that such an adjustment would be warranted because Viraj had several opportunities to describe VFL’s role in Viraj’s selling and distribution functions in its questionnaire responses and chose not to disclose this information.

Viraj responds that its questionnaire response states that VFL sometimes arranges export bill discounting for VIL. Viraj asserts that VFL never actually takes possession of the merchandise and that VFL merely forwards export documents to the bank under VFL’s discounting arrangement. Viraj contends that the effort to forward these export bills is *de minimis*. Viraj also asserts that it has already included the costs of VFL forwarding the export bills in its reported direct selling costs and that no additional indirect selling expense is incurred. Viraj then points to each expense it reported as an indirect selling expense and argues that there are no additional increases to those expenses as a result of the above-described arrangement. Viraj also asserts that it is too late for the petitioners to raise this issue now, for the first time, in their case briefs.

Department’s Position:

We disagree with the petitioners that we should deduct VIL's selling expenses twice from U.S. price to account for alleged unreported expenses incurred by VFL. At verification, we noted that VIL occasionally made sales through VFL to VUI in order to obtain credit from Viraj's banks (see Sales Verification Report–Viraj Group dated May 30, 2003 (“Viraj Sales Verification Report”) at page 8). The petitioners assert that VFL “must have” incurred selling expenses related to the sales transfers through VFL. However, the petitioners point to no evidence on the record to support this claim. Each of the Viraj companies in India reimburses VUI in the United States for expenses incurred to sell their products. VIL reimburses VUI for expenses incurred on bright bar sales (see id. at page 5) and, similarly, VFL reimburses VUI for expenses incurred on wire rod sales. We examined VFL's ledger account associated with these reimbursements and found no unreported expenses associated with bright bar sales (see id. at page 6). When examining VIL's chart of accounts, we saw nothing to indicate that VIL reimburses VFL for the transfer sales to VUI. Moreover, we tested for any unreported selling expenses at VAL, VIL, and VFL and found none (see Viraj Sales Verification Report at pages 5-6). The record evidence demonstrates that all of Viraj's selling expenses were properly reported. Therefore, the petitioners' proposed deduction from U.S. price to account for “unreported” VFL selling expenses is unwarranted. Accordingly, for the final results, we have calculated Viraj's U.S. selling expenses as we did in the preliminary results.

Comment 10: Collapsing the Viraj Group of Companies

The petitioners argue that the three Viraj companies, Viraj Alloys Limited (“VAL”), VIL, and VFL, should not be collapsed into one entity for purposes of this administrative review. The petitioners assert that the record evidence indicates that substantial retooling of VAL's or VIL/VFL's production operations would be necessary for VAL and VIL/VFL to be able to produce similar or identical merchandise covered by the subject antidumping duty order, as is required by 19 CFR 351.401(f)(1) for affiliated companies to be collapsed. The petitioners argue that VAL's and VIL/VFL's production operations are significantly different in that VAL melts steel and makes billets whereas VIL/VFL only has the capability to anneal and pickle stainless steel bar.

The petitioners argue that the facts of this review do not differ, for purposes of the collapsing analysis, from those in the stainless steel wire rod review for the 1997-1998 period. In that review, the petitioners assert, the Department analyzed this issue and determined that collapsing the Viraj Group was not appropriate. The petitioners assert that this methodology has been scrutinized and upheld by the Court of International Trade, citing Viraj Group, Ltd. v. United States, 162 F. Supp. 2d 656,669 (2001) (“Viraj CIT”). The petitioners argue that the court characterized the business relationship between VAL and VIL to be limited to that of manufacturer and supplier, despite their affiliated status, and that the production facilities necessary to manufacture these diverse products were sufficiently different so as to require substantial retooling of either facility in order to restructure manufacturing priorities. The petitioners assert that this relationship has not changed since the 1997-1998 period and the circumstances are virtually the same in this administrative review. The petitioners argue that the Department should follow the methodology affirmed in Viraj CIT because not doing so will disregard the Department's well-established principle that the Department cannot change its practice in the context of identical facts, absent adequate justification. They cite Tung Mung Dev. Co. v. United States, 25 CIT 1059, Slip Op. 01-83 at 31-32 (July 3, 2001) and Cultivos Miramonte S.A. v. United States, 21 CIT 1059, 1064 980 F. Supp. 1268, 1275 (1997).

The petitioners argue that, for the final results, the Department should not collapse the companies of the

Viraj Group and that the use of home market sales made by VAL as a basis for normal value is inappropriate. The petitioners contend that the Department should invoke the major input rule and use the highest of the market or transfer price or COP of the input black bar from VAL to VIL/VFL pursuant to 19 CFR 351.407(b).

Viraj argues that under section 771(33) of the Act the Department considers the Viraj Group of companies to be affiliated. Specifically, Viraj argues, the directors of VAL, VIL, and VFL are family members and hold over 5 percent of voting stock in VAL, VIL, and VFL. Viraj also argues that the directors and the Viraj Group jointly own over 20 percent of voting stock of each company and that VUI is a wholly-owned subsidiary of VFL. Viraj contends that the directors make decisions for all three companies and treat them as one entity. Viraj further asserts that it has a demonstrated practice of subcontracting various processing operations whereby each company can produce subject merchandise.

Viraj also argues that the Department collapsed the Viraj Group in the 2000-2001 stainless steel bar and stainless steel flanges administrative reviews and in the 1999-2000 stainless steel wire rod administrative review. Viraj asserts that, in the wire rod review, the Department required Viraj to submit third country sales but did not use third country data in its margin calculations; rather the Department collapsed Viraj and used VAL's home market sales as the basis for normal value. For the final results, Viraj argues that the Department should collapse the Viraj Group as it did in the preliminary results.

Department's Position:

In order for the Department to consider two or more producers as one entity, it must find that (1) the "producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities" and (2) "there is a significant potential for the manipulation of price or production." See 19 CFR 351.401(f). We agree with Viraj that the Viraj Group of companies should be collapsed under 19 CFR 351.401(f) for this administrative review. However, Viraj's argument focuses mainly on the second portion of the collapsing test, and the petitioners did not dispute that the Department was correct in the preliminary results in determining that Viraj meets this portion of the test. Rather, the petitioners contend that the Department was incorrect in determining that Viraj meets the first portion of the test, stating that VAL and VIL/VFL's production processes are significantly different and would require substantial retooling of either facility in order to restructure manufacturing priorities.

We disagree with the petitioners' claim that the facts of this case do not permit the collapsing of VAL with VIL because VAL melts steel and makes billet whereas VIL only anneals and pickles the stainless steel bar. As the petitioners point out, VAL melts raw material inputs and produces billet. However, VAL also reheats the billet and then rolls and shapes it to produce the finished product, stainless steel black bar. Similarly, VIL heats black bar and then draws or peels it and polishes or grinds it to produce the finished product, stainless steel bright bar (see [Viraj Sales Verification Report](#) at page 9). The information on the record demonstrates that both VAL and VIL heat steel and apply some finishing operations to produce the finished product (i.e., black bar and bright bar). The production of billet, as done by VAL, requires melting raw material inputs and additional processing. Arguably, considerable retooling would be required for VIL to produce billets. However, the relevant question is not whether substantial retooling would be required for both affiliates to produce billets but rather whether

substantial retooling would be required to make stainless steel bar. Both VAL and VIL already produce stainless steel bar (i.e., black bar and bright bar). Therefore, the petitioners' argument that VAL and VIL should not be collapsed because VAL "melts steel" and "makes billets" and VIL does not is irrelevant. Billet and stainless steel bar are two different and distinct products. It is not necessary for a company to produce billets in order to produce stainless steel bar. In fact, VAL sells billets in the home market to unaffiliated companies, presumably, to make stainless steel bar (see id. at Exhibit 3, pages 25-29). Theoretically, VAL could stop its production of billets and purchase billets from a supplier to produce bar, just as VIL purchases the black bar input to produce bright bar. Similarly, substantial retooling of VAL would not be required for it to perform the finishing operations on the black bar (i.e., drawing and peeling and polishing and grinding) that VIL currently performs.

We also disagree with the petitioners' interpretation of Viraj CIT. Contrary to the petitioners' interpretation, the decision to collapse VAL and VIL in this review is supported by Viraj CIT. The question before the court in that case was whether the Department properly chose not to collapse VAL and VIL for purposes of valuing the steel billet input in the COP of stainless steel wire rod. The court upheld the Department's decision not to collapse VIL and VAL, agreeing with the Department's conclusion "that the production facilities necessary to manufacture these diverse products were sufficiently different as to require substantial retooling of either facility in order to restructure manufacturing priorities" (see Viraj CIT at 26). The court also explained that "the transaction between VAL and VIL is analogous to a sale between [a] manufacturer and supplier" (see id. at page 27). In this review, however, both VAL and VIL produce and sell the merchandise under review (i.e., black bar and bright bar). Thus, the business relationship between VAL and VIL is not simply "limited to that of manufacturer and supplier," and the stainless steel bar that they both produce and sell is not "sufficiently different."

Our treatment of the Viraj Group companies in this administrative review is consistent with other administrative reviews we have conducted (see Stainless Steel Wire Rods From India: Final Results of Antidumping Duty Administrative Review, 68 FR 26288 (May 15, 2003), and Stainless Steel Wire Rods from India: Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review, 68 FR 38,301 (June 27, 2003) (collectively, "Wire Rod"), and accompanying Issues and Decision Memorandum for the Administrative Review of Certain Stainless Steel Wire Rods from India for the Period of Review Covering December 1, 2000 through November 30, 2001 ("Wire Rod Decision Memorandum") at Comment 10). In Wire Rod, the Department collapsed VAL and VIL and also determined that the petitioners misinterpreted the court's ruling in Viraj CIT.

In addition to Wire Rod, the Department has collapsed Viraj in other antidumping proceedings. See Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review, 67 FR 45956 ("SSB India") (July 11, 2002), and Certain Forged Stainless Steel Flanges From India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 10358 (March 7, 2002), affirmed in Certain Stainless Steel Flanges From India: Final Results of Antidumping Duty Administrative Review, 67 FR 62439 (October 7, 2002).

Therefore, we have collapsed VAL, VIL, and VFL for the final results.

Comment 11: Viraj's Calculation of Depreciation

Viraj argues that it already included the current depreciation expense related to the POR in VAL's

fixed overhead. Viraj explains that the Verification Report on the Costs of Production and Constructed Value Data Submitted by Viraj Group, Ltd. (“Viraj Cost Verification Report”), dated June 16, 2003, states that Viraj incurred additional depreciation expenses. However, Viraj argues that the additional depreciation expense pertains to prior periods (i.e., up to ten years prior to the POR) and should not be included in the G&A expense rate calculation. Viraj states that the additional depreciation expense was due to a change in depreciation methods (i.e., from straight line method (“SLM”) to written down value (“WDV”)) and was shown in VAL’s financial statements as a “below the line” item (see Viraj’ February 7, 2003 section D supplemental questionnaire response at Exhibit 20). Viraj further claims that under the SLM method, the original value of assets is amortized over the assets’ useful lives in equal portions every year. Therefore, the depreciation rate and the depreciation expense amount is the same for each year. Under the WDV method, Viraj explains, depreciation expense is calculated on the written down value of the assets. Thus, it asserts, the depreciation rate for the WDV method is much higher than the SLM rate in the earlier years. Under both methods, Viraj comments, the assets are fully depreciated over their useful lives. According to Viraj, the matching principle requires that, if the income statement is prepared for a 12-month period, only costs for that 12-month period should be considered. Since the additional depreciation relates to ten years prior to the POR, Viraj argues, its inclusion in G&A expense is incorrect according to GAAP and for purposes of calculating an accurate dumping margin.

The petitioners state that the Department’s normal practice is to use a respondent’s normal books and records when calculating COP and CV. Further, they assert, the Department’s policy regarding extraordinary depreciation expenses is to include them in the cost calculations. Based on these practices, the petitioners contend that the Department should reject VAL’s argument and include the additional depreciation in the G&A expense ratio calculation. The petitioners argue that depreciation is not a charge that was actually paid by VAL but was an imputed expense that was allocated based on the company’s accounting procedures and the opinion of its auditors. Thus, they contend, the important issue in this case is not “what period” the additional depreciation covers, but “what year” it was expensed in VAL’s audited financial statements. The petitioners assert that the Department dealt with an almost identical issue in Certain Cold-Rolled Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review, 63 FR 804 (January 7, 1998) (“Cold-Rolled Flat Products”). The petitioners state that in Cold-Rolled Flat Products, the respondent, Union Steel Manufacturing Co., Ltd. (“Union”), argued that an expense item described as “special depreciation” should be omitted from the calculation of its G&A expense ratio. Specifically, Union argued that its special depreciation expense was “an extraordinary item on its audited financial statements” as, the petitioners assert, VAL has done in this case. The petitioners point out that, in Cold-Rolled Flat Products, the Department rejected Union’s arguments. Therefore, the petitioners contend that the Department should adhere to the precedent set forth in prior proceedings and include the additional depreciation expense in the calculation of VAL’s G&A ratio.

Department’s Position:

We disagree with both Viraj and the petitioners. As stated above, during the POR, VAL changed its depreciation method from the SLM to the WDV method resulting in a one-time adjustment to recognize the cumulative change (i.e., additional depreciation) that would have been recognized in prior years under WDV. VAL reported the current-year depreciation using the WDV method in its current operating expense and reported the prior-year effects as a “below the line item” in its financial statements.

The issue in this case is how to treat a change in accounting method in the context of an antidumping case. Both the SLM and the WDV methods of depreciation are in conformity with Indian GAAP and both appear to reasonably allocate costs to the merchandise under review when the same depreciation methodology is used across the life of an asset. VAL is participating in the seventh review of this order. During those prior reviews, VAL reported its costs using the SLM, which resulted in lower costs of production reported to the Department. As VAL states, under the SLM, the yearly depreciation costs associated with each asset is the same each year over the asset's life. If VAL had used the WDV method, its depreciation costs and, thus, its reported costs, would have been significantly higher in prior years and the future years will be significantly lower. Now that the period is coming to an end where the WDV method results in higher costs than the SLM, VAL is switching methods to the one that will favor it in future periods and recognize in aggregate the cumulative "prior-year effect" as a "below the line item." The result of this change in method will be that, during the pendency of this proceeding, a significant amount of costs associated with the production of the merchandise will never be allocated to product costs. Rather, the entire cumulative adjustment will be expensed in the current year's financial statements.¹¹

We also disagree with the petitioners that we should increase current-year production costs by the total additional accumulated depreciation expenses, because depreciation expenses belonging to several years would be attributed to just the POR; such an adjustment would not result in a cost that reasonably reflects the actual cost of producing the merchandise. In Cold-Rolled Flat Products, the case cited by the petitioners, Union's accelerated depreciation expense pertained to that particular review period and was not related to the other periods. As the petitioners stated, it is the Department's normal practice to include all of the accelerated depreciation in the reported costs if the costs relate only to that investigation or review period. However, if the accelerated costs are related to a different period than that of the particular investigation or review, then the production costs would not reasonable reflect the actual cost of producing the merchandise during the POR.

As discussed above, the distinctive effect of the change in accounting method in this case is that significant amounts of production costs will never be allocated to products. This is different from other changes in accounting methodologies that affect the timing of when the cost will be recognized. There are two possible ways in which to correct this problem. The Department could require VAL to continue to report costs using the SLM or the costs in question could be allocated over the remaining estimated useful lives of VAL's assets. We have selected the latter method because we do not have on the record the current periods' depreciation expense under the SLM, nor can we calculate the amount. Since we do not have complete information on VAL's individual fixed assets, we estimated the average remaining life of VAL's fixed assets based on the information we obtained from VAL's prior year financial statements. Then, the additional depreciation was divided by the estimated average remaining life of VAL's fixed assets to calculate the current review period's annual amortization amount. We included an annual amortization expense in the G&A expense rate calculation for the current review. See Cost of Production and Constructed Value Calculation Adjustments for the Final Results dated August 4, 2003, for a detailed discussion of the calculation. In addition, VAL excluded current-year depreciation expenses from the denominator of the G&A expense ratio calculation. Therefore, the Department also included the current-year depreciation expense in the denominator of the G&A

¹¹Depreciation expenses represent expenses incurred on assets during the life of those assets. Thus, unlike other expenses that a producer incurs (e.g., cost of inputs), the reasonableness of depreciation expenses can only be evaluated by considering these expenses over a period of time.

expense ratio calculation for the final results.

Comment 12: Viraj's Forgiven Interest Expense

Viraj argues that the interest expenses waived by its bank should be excluded from VAL's interest expense ratio calculation. According to Viraj, VAL's fiscal year 2002 financial statements were prepared and audited prior to receiving notification from the bank of the approval to waive the interest fees. Thus, the interest expense that VAL did not pay and will never pay was included in the fiscal year 2002 financial statements. Viraj stated that, after the approval of the waiver, this interest was written off retroactively. Thus, Viraj asserts the waived interest expense should be excluded from the interest expense ratio calculation.

The petitioners state that Viraj claims that the waived interest expenses in question were only recorded in its audited financial statements because it had not yet received a letter from its creditors indicating that the interest had been waived. Petitioners argue that Viraj is essentially claiming that its audited financial statements are "wrong" and must be adjusted to eliminate interest expenses that were waived. The petitioners make the following arguments with respect to VAL's waived interest expense: (1) subjectively altering the data contained in VAL's audited financial statements can only add uncertainty and inaccuracy in the Department's calculations and (2) VAL's admission that the letter waiving its interest expense was received after the publication of its financial statements makes clear that any changes would have to be made in a future annual report rather than in the already published statements. Thus, the petitioners hold that the most accurate way for the Department to calculate Viraj's margin is simply to use the financial statements published by VAL and approved by its auditors. The petitioners contend that VAL made the same waived interest expense argument in Wire Rod and the Department rejected VAL's argument. The petitioners maintain that, as in Wire Rod, the Department should include the waived interest expense as reported in VAL's audited financial statements in VAL's interest expense ratio calculation.

Department's Position:

We agree with Viraj that the waived interest expense should be excluded from VAL's interest expense ratio calculation. Under Indian GAAP, Indian companies are not allowed to record the waiver of interest expense in their financial statements until they receive notification of the waiver from their financial institutions (*i.e.*, until it is certain that the benefit is realized). VAL received the waiver notification after publishing its audited financial statements. Therefore, the waiver was not reflected in the current-year financial statements (*i.e.*, during the POR). At the cost verification, the Department verified that the interest expense was waived. According to section 773 (f)(1)(A) of the Act, "costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise" (emphasis added). In the instant case, including the waived interest expense in the interest expense ratio calculation would result in applying costs that do not reasonably reflect the actual costs associated with the production of the merchandise. Further, in the Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe from Italy, 60 FR 31991 (June 19, 1995), at Comment 17, the Department stated that, "if the Department is able to verify that an operating expense accrual or an equipment or inventory write-down recorded during the POI is subsequently adjusted because the company overestimated the

cost, we will use the corrected figure, but only for the same period in which the accrual or write-down occurred.” Since the accrual of the interest expense and its related waiver were related to the same period, the Department finds it appropriate to exclude the waived interest expense from the interest expense ratio calculation for the final results.

The petitioners reference Wire Rod where the Department included the waived interest expense in the interest expense ratio calculation. However, the Wire Rod Decision Memorandum did not specifically address this issue. Rather, it broadly stated that, “{a}ctual interest expenses incurred are used for the build-up of net interest expenses to obtain the interest expense ratio used to calculate CV.” Unlike Wire Rod, the information on the record in this administrative review was verified and clearly indicates that Viraj did not actually incur this interest expense (i.e., it was waived). The Department makes decisions on a case-by-case basis using the distinct information on the record of each particular case. Since the information on the record in this review clearly demonstrates that these expenses were waived, we allowed the waived interest expense offset to the interest expense ratio calculation for the final results.

Comment 13: Viraj’s Unconsolidated Financial Statements

When arguing about the waived interest expenses, Viraj presented two different methodologies for calculating the interest expense ratio. In one methodology, Viraj calculated two separate interest expense ratios for VAL and VIL using each company’s respective financial statements. In the other methodology, Viraj calculated a combined interest expense ratio using interest expenses from all of the companies in the Viraj Group (i.e., VAL, VIL and VFL) with a proposed elimination of inter-company transactions.

The petitioners did not comment on this issue.

Department’s Position:

As explained in Viraj’s questionnaire responses, the Viraj Group of companies does not prepare consolidated financial statements in the normal course of business. VAL prepared a consolidated interest expense ratio by adding each company’s interest expenses and costs of sales without eliminating inter-company transactions. It is Department’s practice to use the financial statements at the highest level of consolidation to calculate the interest expense ratio. See Notice of Final Determination of Sales at Less than Fair Value: Stainless Steel Round Wire from Canada, 64 FR 17324 (April 9, 1999). Since the Viraj Group does not prepare consolidated financial statements, for purposes of the final results, we have revised VAL’s reported interest expense ratio using only VAL’s financial statements. Therefore, the Department calculated the interest expense ratio based on VAL and VIL’s individual financial statements. Finally, because we are basing our calculation of the interest expense only on VAL, the issue of neutralizing inter-company transactions as suggested by Viraj is moot.

Comment 14: Viraj’s Offset To Interest Expenses

Viraj argues that the Department was incorrect in including certain interest expenses (i.e., “interest usance - exports”) and bank charges in Viraj’s interest expense ratio calculation because these expenses were already accounted for in the U.S. price calculation as credit and other direct selling expenses. Viraj claims that double counting would result if these items were included in the interest

expense ratio calculation.

The petitioners argue that, with respect to the bank charges, Viraj has provided no evidence that the bank charges reported as direct selling expenses in the U.S. sales database relate to those incorporated into the calculation of Viraj's interest expense ratio calculation. Therefore, the petitioners argue, the Department should not offset Viraj's interest expense ratio calculation with the bank charges.

With respect to the interest expenses, the petitioners argue that the Department previously examined the same issue in Wire Rod and determined that VIL's payments related to "interest usance-exports" should be included in the interest expense ratio calculation. The petitioners argue that the account "interest usance-exports" in question in this review, as in Wire Rod, pertained to interest paid by VIL on advances of customer payments received from Viraj's bank and do not relate to the imputed credit expenses calculated for Viraj's U.S. sales. To support this assertion, the petitioners point to the Wire Rod Decision Memorandum at Comment 11 where the Department stated that "{t}he Department's practice is to deduct an amount for imputed credit, a direct expense, from CEP and home market price" and that "{a}ctual interest expenses incurred are used for the build-up of net interest expenses to obtain the interest expense ratio used to calculate CV." The petitioners assert that because the expense item in question in this review is the same as that in Wire Rod the Department's analysis and determination should be the same. Accordingly, they contend, the Department should continue to include these interest expenses in the interest expense ratio calculation.

Finally, for both the bank charges and interest expenses, the petitioners cite the Department's standard antidumping duty questionnaire at Section D, which states that the only offset to the interest expense calculation permitted by the Department is for interest income earned by the company on short-term investments of its working capital. The petitioners argue that neither Viraj's expenses included in the account "interest usance-export" nor the bank charges in question meet this criterion. Thus, the petitioners maintain that the Department should include the interest expenses and bank charges in Viraj's interest expense ratio calculation.

Department's Position:

We agree with Viraj in part. The bank charges reported by Viraj as a U.S. direct selling expense are sale-specific expenses incurred by Viraj and, thus, are accounted for on a sale-specific basis in the U.S. price calculations. The Department verified that the bank charges reported in the U.S. sales database represented the actual expenses incurred by the company (see Viraj Sales Verification Report at page 13). At the cost verification, the Department also verified that VIL's general ledger reconciles to the company's audited financial statements (see Viraj Cost Verification Report). Moreover, the nature of these charges is similar to a bank fee rather than interest expenses. Therefore, we agree with Viraj that the bank charges should not be included in the interest expense ratio calculation because they are properly considered direct selling expenses and not interest expenses. Accordingly, for the final results, the Department excluded the bank charges from the interest expense ratio calculation.

We disagree with Viraj that the interest expense ratio calculation should be offset by the account "interest usance-exports." As stated in the Department's questionnaire, credit expenses are "the interest expense incurred (or interest revenue foregone) between shipment of merchandise to a

customer and receipt of payment from the customer.”¹² The Department normally imputes this expense to capture the “opportunity costs (rather than actual costs) that are not reflected in the financial records of the company being investigated, but which must be estimated and reported for purposes of an antidumping inquiry.”¹³ Viraj claims that this account is related to the imputed credit expenses reported in its U.S. sales database. However, Viraj did not report this expense as a direct selling expense. Moreover, in its questionnaire responses and at verification, Viraj did not demonstrate that this account was directly related to the sales-specific imputed credit expenses reported in its U.S. sales database. In other words, Viraj has not shown that the Department is double counting an expense by including both “interest usance-exports” in the interest expense ratio calculation and imputed credit expenses in the U.S. sales database. Furthermore, the account is recorded in Viraj’s normal books and records as an “Interest & Finance Charge.” Therefore, for the final results and consistent with Viraj’s normal books and records, we included the account “interest usance-export” in the interest expense ratio calculation.

Comment 15: Venus’ Scrap Realization Offset

Venus asserts that the Department should allow its claimed scrap realization offset based on its audited financial statements for the final results. Venus further states that physical count of inventory, including inventory of scrap, is taken only at year end. Venus claims that it has observed a 1.5 percent yield loss in the past few years and, therefore, a 1.5 percent yield loss should be considered for the POR.

The petitioners argue that the Department was justified in disallowing the scrap realization offset for the preliminary results and should continue to reject Venus’ reported scrap realization offset for the final results. Additionally, the petitioners state that Venus admits it does not track sales of scrap generated from production of the subject merchandise.

Department’s Position:

We agree with Venus that the scrap realization offset should be included in the final results. The Department disallowed the scrap realization offset for the preliminary results because Venus was unable to explain the methodology it used to determine the 1.5 percent yield loss included in its reported direct materials cost. However, during verification, the Department reviewed Venus’ yield loss and scrap loss calculations based on its FY 2001-2002 audited financial statements. The Department was able to tie to Venus’ production records both the gross quantities of stainless steel grades used in the production of stainless steel bar and the net output quantities of stainless steel bar used in the yield loss calculation. The stainless steel scrap sales for which Venus is requesting the offset are of the same grades as the merchandise under review. Thus, we disagree with the petitioners’ assertion that the scrap sold is not related to the subject merchandise (see Venus Wire Industries Limited Cost of Production and Constructed Value Calculation Adjustments for the Final Results (“Venus Cost Verification Report”) dated August 4, 2003, at page 22). Accordingly, we have included the scrap realization offset for the final results.

¹²See the Department’s antidumping questionnaire, Appendix I at “Credit Expense”

¹³Id. at “Imputed Expenses”

Comment 16: Venus' General and Administrative Expense Ratio Adjustments

Venus claims that, for the purposes of the final results, the Department should reduce the numerator of the G&A expense ratio by the amounts for donations, prior-year adjustments, and losses on the sale of assets. Venus states that it does not consider these accounts as G&A expenses for purposes of this review because donations are voluntary and not required by law, prior-year adjustments are not related to the current fiscal year, and, since a gain on the sale of assets would not be allowed to be deducted from G&A expenses, a loss on the sale of assets should not be included in G&A expenses. Venus further argues that adjustments the Department made to G&A accounts that are split between selling and G&A expenses for the preliminary results were incorrect because the two selling expense reconciliations were on the record (*i.e.*, POR selling expenses and FY 2001-2002 selling expenses). The selling expense categories within both reconciliations are the same. Since the fiscal year and the POR do not coincide for this review, the selling expenses used in the sales databases (*i.e.*, POR) and the selling expenses reported in the cost database (*i.e.*, FY 2001-2002) will not agree.

The petitioners claim that the Department was correct in adding donations, prior-year adjustments, and losses on the sale of assets to the G&A ratio for the preliminary results and should continue to include these indirect expenses related to the general operations of Venus in the G&A ratio for the final results. The petitioners cite Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Concrete Reinforcing Bars From the Republic of Korea, 66 FR 8348 (January 30, 2001) and Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Preliminary Results and Partial Recession of Antidumping Duty Administrative Review, 66 FR 41530 (August 8, 2001).

Department's Position:

We agree with the petitioners that the donations and losses on the sale of assets accounts as reported in Venus's FY 2001-2002 financial statements should be included in the G&A ratio for the final results. Donations are made on behalf of the entire company and are, thus, included in G&A expense (*see* Stainless Steel Sheet and Strip From the Republic of Korea: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 64950 (December 17, 2001)). Gains or losses on the sale of assets are included in G&A expenses, not cost of sales, because the asset is no longer a productive asset and, thus, no longer relates to a particular product (*see* Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Final Results of Antidumping Duty Administrative Review, 65 FR 8935 (February 23, 2000)). Accordingly, we have included Venus' loss on the sale of fixed assets in G&A expense.

We disagree with the petitioners regarding the inclusion of prior-period adjustments in G&A expenses. The prior-period adjustments are related to taxes and all of the prior-period adjustments are unrelated to costs for the current year. *See, e.g.*, Final Determination of Sales at Less Than Fair Value, Carbon and Certain Alloy Steel Wire Rod From Canada, 67 FR 55782 (August 30, 2002).

We agree with Venus that the adjustments to G&A expenses we made for the preliminary results (*i.e.*, conveyance and traveling, advertising, and sales promotion) are no longer warranted. At verification, we reviewed the classification of expenses between selling and G&A and confirmed that these expenses were reported as indirect selling expenses. Thus, we have not included these expenses in the

G&A ratio calculation (see Venus Cost Verification Report at page 28). For the final results, we have based the division of accounts between G&A and selling expenses for purposes of calculating the G&A ratio on Venus's FY 2001-2002 financial statements.

Comment 17: Venus' Interest Expense Ratio Adjustment

Venus asserts that the Department should reduce the numerator of the interest expense ratio by the amount of the "bank interest - post shipment" account for the final results. Venus states that it reported the interest expense attributable to export invoices in the U.S. sales database and including them again in the interest expense ratio calculation would result in double counting.

The petitioners argue the interest attributable to export invoices should not be deducted from the numerator of the interest expense ratio calculation because it is not income earned from short-term loans. The petitioners cite Wire Rod Decision Memorandum at Comment 34 to support their argument.

Department's Position:

We agree with Venus in part. For the large majority of its U.S. sales, Venus calculated imputed credit expenses using a commercially available interest rate because it did not take out any short-term U.S. dollar borrowings during the POR. However, for certain U.S. sales during the POR, Venus reported the sales-specific amount incurred for "foreign bills discounting." For these sales, Venus explained, and we verified, that its bank purchased its sales invoices at a discounted rate after the sales invoice date (*i.e.*, date of discounting). Venus' customer then paid the bank the entire amount of the invoice at a later date (*i.e.*, date of realization). Venus reported the expense associated with this arrangement as its credit expense for these sales (see Sales Verification Report—Venus Wire Industries Limited ("Venus Sales Verification Report") dated May 27, 2003, at pages 12-13). However, we do not agree with Venus that these expenses are imputed credit expenses. As stated in the Department's questionnaire, credit expenses are "the interest expense incurred (or interest revenue foregone) between shipment of merchandise to a customer and receipt of payment from the customer."¹⁴ The Department normally imputes this expense to capture the "opportunity costs (rather than actual costs) that are not reflected in the financial records of the company being investigated, but which must be estimated and reported for purposes of an antidumping inquiry."¹⁵

For the sales in question, Venus reported the date of realization as the payment date. However, the information on the record demonstrates that Venus' actual payment date is the date of discounting since the date of discounting is the date on which Venus actually received payment. Therefore, for the final results, we imputed credit expenses from the date of shipment to the revised date of payment (*i.e.*, date of discounting) using the commercially available U.S. dollar interest rate Venus used to impute credit expenses for its U.S. sales.

The actual expenses originally reported by Venus as credit expenses for these sales are real,

¹⁴See the Department's antidumping questionnaire, Appendix I at "Credit Expense."

¹⁵*Id.* at "Imputed Expenses"

transaction-specific expenses, which we confirmed at verification (see *id.* at pages 12-13 and Exhibit 5). Moreover and as discussed above, they are properly considered direct selling expenses. Therefore, the petitioners' reference to Wire Rod is misplaced because in Wire Rod the Department did not allow Viraj to offset its interest expense ratio calculation with imputed credit expenses. However, we have allowed Venus' offset to its interest expense ratio calculation with expenses that are already captured in the U.S. price calculation as direct selling expenses. Accordingly, for the final results, we offset Venus' interest expense ratio calculation for direct selling expenses that Venus actually incurred and reported in the U.S. sales listing since those expenses are already captured in the U.S. price calculation.

Comment 18: Venus' Depreciation Expense and Repairs and Maintenance Expense

Venus asserts that its reported depreciation expenses and repair and maintenance expenses should not be adjusted. Venus points out that the depreciation rates are fixed by statute at a rate irrespective of the useful lives of the assets and states it based its allocation of depreciation and repair and maintenance expenses on the relative value of assets for the bright bar division and wire division as of April 1, 2001.

The petitioners did not comment on this issue.

Department's Position:

We agree with Venus. The allocation method for building depreciation was based on square meter usage by the bright bar division and wire division. Also, the dies and molds were allocated 100 percent to the wire division as they are not used in the production of bright bar. As for plant and machinery depreciation, electrical installations depreciation, and repairs and maintenance expenses, after further analysis, the Department finds that the allocation methodologies used were reasonable because the Department did not find any evidence of the shifting of costs between the merchandise under review and other products (see Venus Wire Industries Limited Cost of Production and Constructed Value Calculation Adjustments for the Final Results dated August 4, 2003, at Attachment 2).

Comment 19: Venus' Foreign Exchange Gains and Losses

Venus asserts that the loss on cancellation of forward contracts should not be included in the interest expense ratio as the Department uses its own conversion rate.

The petitioners respond that the Department correctly included the foreign exchange gains and losses in its preliminary results. The petitioners state that it is Department practice to distinguish between exchange gains and losses from sales transactions and exchange gains and losses from purchase transactions. The petitioners cite Notice of Final Determination of Sales Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Ship from the Republic of Korea, 56 FR 16305 (April 22, 1991). The petitioners point out that Venus has not presented any documentation to demonstrate that the exchange losses recorded in its financial statements were exclusively related to sales transactions. The petitioners maintain that the Department should therefore continue to include the foreign exchange gains and losses in the final results.

Department's Position:

We disagree with Venus. At verification, we examined Venus' general ledger account which records foreign exchange gains and losses (see Venus Cost Verification Report at Exhibit 8, page 6). We found no evidence that the amounts included in this account did not relate to its foreign exchange gains and losses. It is the Department's new practice to include all foreign exchange gains and losses in the interest expense ratio calculation regardless of whether they are related to sales or purchase transactions as explained in Certain Preserved Mushrooms From Indonesia: Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke Order in Part, 68 FR 39521 (July 2, 2003)). Therefore, for the final results, we included Venus' foreign exchange gains and losses in the interest expense ratio calculation.

Comment 20: Venus' Income Tax Provision

Venus notes that the Department verified that the provision for income tax was not included in reported costs.

The petitioners did not respond to this comment.

Department's Position:

The Department agrees that the provision for income taxes was not included in reported costs. Income taxes are not considered a component of cost of manufacturing and are specifically excluded from the antidumping duty analysis (see section 773(a)(6)(B)(iii) of the Act). Therefore, the provision for income taxes was not included in reported cost.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions and adjusting all related margin calculations accordingly. If these recommendations are accepted, we will publish the final results of this administrative review in the Federal Register.

Agree _____ Disagree _____

Joseph A. Spetrini
Acting Assistant Secretary
for Grant Aldonas, Under Secretary

(Date)