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Investigation
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DATE: June 23, 2017

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Determination of
the Less-Than-Fair-Value Investigation of Finished Carbon Steel
Flanges from India

I. SUMMARY

We analyzed the comments of interested parties in the less-than-fair-value (LTFV) investigation of finished carbon steel flanges from India. As a result of our analysis, and based on our findings at verification, we made changes to the margin calculations for R. N. Gupta & Co., Ltd. (Gupta) and Norma (India) Limited (Norma), the two mandatory respondents in this case. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this LTFV investigation for which we received comments from interested parties:

- Comment 1: Excess Cash Deposits
- Comment 2: Adverse Facts Available for Norma's Cost Data
- Comment 3: Offset to Costs for Miscellaneous Income
- Comment 4: Currency Conversion
- Comment 5: Gupta's Reported Scrap Offset Claim
- Comment 6: Adjustment of Gupta's Reported Costs Due to an Alleged Understatement of the Costs
- Comment 7: Adjustment of Gupta's General and Administrative Expenses for Costs Incurred by an Affiliate
- Comment 8: Adjustment of Gupta's General and Administrative Expenses for Unreported Costs
- Comment 9: Gupta's Reported Financial Expenses
- Comment 10: Differential Pricing Test



II. BACKGROUND

On February 8, 2017, the Department published in the *Federal Register* the preliminary determination in the LTFV investigation of flanges from India.¹ Between February 13, 2017, and March 21, 2017, the Department conducted sales and cost verifications of both Gupta and Norma.²

We invited parties to comment on the *Preliminary Determination*. On March 8, 2017, Weldbend Corporation and Boltex Manufacturing Co., L.P. (petitioners) and Gupta submitted requests for a hearing.³ On March 9, 2017, Norma submitted a request for a hearing.⁴ On May 2, 2017, the petitioners, Gupta, and Norma submitted case briefs.⁵ On May 8, 2017, the petitioners, Gupta, and Norma submitted rebuttal briefs.⁶ On May 9, 2017, Gupta and Norma withdrew their requests for a hearing.⁷ On June 14, 2017, the Department held an *ex parte* meeting with counsel for the petitioners.⁸ On June 16, 2017, the petitioners withdrew their request for a hearing.⁹

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2015, through March 31, 2016.

¹ See *Finished Carbon Steel Flanges from India: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 82 FR 9719 (February 8, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Finished Carbon Steel Flanges from India: Verification Report for R. N. Gupta & Company, Ltd.,” dated April 21, 2017 (Gupta Sales Verification Report); Memorandum, “Verification of the Cost Response of R.N. Gupta & Company Limited in the Antidumping Duty Investigation of Finished Carbon Steel Flanges from India,” dated April 20, 2017 (Gupta Cost Verification Report); Memorandum, “Verification of the Cost Response of Norma (India) Limited in the Antidumping Duty Investigation of Finished Carbon Steel Flanges from India,” dated April 17, 2017 (Norma Cost Verification Report); Memorandum, “Finished Carbon Steel Flanges from India: Verification Report for Norma (India) Limited,” dated April 17, 2017 (Norma Sales Verification Report).

³ See Letter from petitioners, “Finished Carbon Steel Flanges from India: Request for Hearing,” dated March 8, 2017. See also Letter from Gupta, “Re: Finished Carbon Steel Flanges from India: Request for Hearing,” dated March 8, 2017.

⁴ See Letter from Norma, “Re: Finished Carbon Steel Flanges from India: Request for Hearing,” dated March 9, 2017.

⁵ See Petitioners’ Case Brief, “Finished Carbon Steel Flanges from India; Case Brief – Weldbend Corporation and Boltex Manufacturing Co., L.P.,” dated May 2, 2017 (Petitioners Case Brief); Gupta’s Case Brief, “Finished Carbon Steel Flanges from India: Case Brief of R.N. Gupta & Company Limited,” dated May 2, 2017 (Gupta Case Brief); Norma’s Case Brief, “Finished Carbon Steel Flanges from India: Case Brief of Norma (India) Limited,” dated May 2, 2017 (Norma Case Brief).

⁶ See Petitioners’ Rebuttal Brief, “Finished Carbon Steel Flanges from India; Rebuttal Brief – Weldbend Corporation and Boltex Manufacturing Co., L.P.,” dated May 8, 2017 (Petitioners Rebuttal Brief); Gupta’s Rebuttal Brief, “Finished Carbon Steel Flanges from India: Rebuttal Brief of R.N. Gupta & Company Limited,” dated May 8, 2017 (Gupta Rebuttal Brief); Norma’s Rebuttal Brief, “Finished Carbon Steel Flanges from India: Rebuttal Brief of Norma (India) Limited,” dated May 8, 2017 (Norma Rebuttal Brief).

⁷ See Letter from Gupta, “Finished Carbon Steel Flanges from India: Withdrawal of Request for a Hearing,” dated May 9, 2017. See also Letter from Norma, “Finished Carbon Steel Flanges from India: Withdrawal of Request for a Hearing,” dated May 9, 2017.

⁸ See Memorandum, “Finished Carbon Steel Flanges from India: *Ex Parte* Meeting Held on June 14, 2017,” dated June 16, 2017.

⁹ See Letter from petitioners, “Re: Finished Indian Carbon Steel Flanges: Withdrawal of Request for Hearing,” dated June 16, 2017.

IV. SCOPE OF THE INVESTIGATION

The scope of this investigation covers finished carbon steel flanges. Finished carbon steel flanges differ from unfinished carbon steel flanges (also known as carbon steel flange forgings) in that they have undergone further processing after forging, including, but not limited to, beveling, bore threading, center or step boring, face machining, taper boring, machining ends or surfaces, drilling bolt holes, and/or de-burring or shot blasting. Any one of these post-forging processes suffices to render the forging into a finished carbon steel flange for purposes of this investigation. However, mere heat treatment of a carbon steel flange forging (without any other further processing after forging) does not render the forging into a finished carbon steel flange for purposes of this investigation.

While these finished carbon steel flanges are generally manufactured to specification ASME B16.5 or ASME B16.47 series A or series B, the scope is not limited to flanges produced under those specifications. All types of finished carbon steel flanges are included in the scope regardless of pipe size (which may or may not be expressed in inches of nominal pipe size), pressure class (usually, but not necessarily, expressed in pounds of pressure, *e.g.*, 150, 300, 400, 600, 900, 1500, 2500, *etc.*), type of face (*e.g.*, flat face, full face, raised face, *etc.*), configuration (*e.g.*, weld neck, slip on, socket weld, lap joint, threaded, *etc.*), wall thickness (usually, but not necessarily, expressed in inches), normalization, or whether or not heat treated. These carbon steel flanges either meet or exceed the requirements of the ASTM A105, ASTM A694, ASTM A181, ASTM A350 and ASTM A707 standards (or comparable foreign specifications). The scope includes any flanges produced to the above-referenced ASTM standards as currently stated or as may be amended. The term “carbon steel” under this scope is steel in which:

- (a) iron predominates, by weight, over each of the other contained elements:
- (b) the carbon content is 2 percent or less, by weight; and
- (c) none of the elements listed below exceeds the quantity, by weight, as indicated:
 - (i) 0.87 percent of aluminum;
 - (ii) 0.0105 percent of boron;
 - (iii) 10.10 percent of chromium;
 - (iv) 1.55 percent of columbium;
 - (v) 3.10 percent of copper;
 - (vi) 0.38 percent of lead;
 - (vii) 3.04 percent of manganese;
 - (viii) 2.05 percent of molybdenum;
 - (ix) 20.15 percent of nickel;
 - (x) 1.55 percent of niobium;

- (xi) 0.20 percent of nitrogen;
- (xii) 0.21 percent of phosphorus;
- (xiii) 3.10 percent of silicon;
- (xiv) 0.21 percent of sulfur;
- (xv) 1.05 percent of titanium;
- (xvi) 4.06 percent of tungsten;
- (xvii) 0.53 percent of vanadium; or
- (xviii) 0.015 percent of zirconium.

Finished carbon steel flanges are currently classified under subheadings 7307.91.5010 and 7307.91.5050 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also be entered under HTSUS subheadings 7307.91.5030 and 7307.91.5070. The HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

V. DISCUSSION OF THE ISSUES

Comment 1: Excess Cash Deposits

Gupta and Norma's Case Brief

- The Department erred in the cash deposit instructions it issued following publication of the preliminary determination by failing to adjust the antidumping (AD) cash deposit rates by the amount of export subsidies found in the companion countervailing duty (CVD) investigation of carbon steel flanges from India.
- Following issuance of the final determination, the Department should issue liquidation instructions to U.S. Customs and Border Protection (CBP) to refund the excess cash deposits collected by CBP due to the non-adjustment of the preliminary AD cash deposit rate by the amount of export subsidies preliminarily found in the companion CVD investigation.

Petitioners' Rebuttal Brief

- Petitioners did not submit rebuttal comments on this issue.

Department's Position

We agree with Gupta and Norma that in both the *Preliminary Determination* and the preliminary cash deposit instructions issued to CBP, the Department failed to adjust the AD preliminary cash deposit rates by the amount of export subsidies preliminarily found in the companion CVD investigation. The Department examined this issue as a result of the ministerial error comments

submitted by Gupta and Norma following publication of the *Preliminary Determination*.¹⁰ We issued a ministerial error memorandum, finding that the error was ministerial, but did not issue an amended preliminary determination.¹¹

The Department's regulations state that allegations concerning preliminary determinations must demonstrate how the alleged ministerial error is significant.¹² A ministerial error is considered to be "significant" if, singly or in combination with other errors, the correction would result in: (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the preliminary determination; or (2) a difference between a weighted-average dumping margin of zero (or *de minimis*) and a weighted-average dumping margin of greater than *de minimis* or vice versa.¹³

We stated in the Ministerial Error Memorandum:

We find that this error is ministerial because it constitutes a "clerical error resulting from inaccurate copying, duplication, or the like." However, we find that the error is not "significant" because correcting it, whether singly or in combination with other errors, would not result in a change to the weighted-average dumping margin.¹⁴

Because we found this to be a ministerial error, we have made the appropriate CVD offset to the AD cash deposit rate for this final determination. We also intend to issue cash deposit instructions following this final determination which include the appropriate CVD offset to the AD cash deposit rate.

However, we do not agree with Gupta and Norma that we should issue liquidation instructions to CBP to refund any excess cash deposits made following the *Preliminary Determination*. As noted above and in accordance with our regulations, because the Department's ministerial error in the *Preliminary Determination* was not significant,¹⁵ we did not issue an amended preliminary determination to correct the error.¹⁶ As a result, the preliminary cash deposit instructions issued to CBP reflect the preliminary margins as published in the *Federal Register* for the *Preliminary Determination*. Thus, we do not have a basis on which to instruct CBP to refund cash deposits at this time.

Consistent with the Act and the Department's regulations, if this antidumping investigation results in the issuance of an AD order, an antidumping liability will be assessed on a respondent's entries of subject merchandise at the rates determined in the first administrative review.¹⁷ If this investigation does not result in issuance of an AD order, all entries of subject

¹⁰ See Memorandum, "Preliminary Determination of the Less-Than-Fair-Value Investigation of Finished Carbon Steel Flanges from India: Ministerial Error Allegation," dated April 25, 2017 (Ministerial Error Memorandum).

¹¹ *Id.*

¹² See 19 CFR 351.224(d).

¹³ See 19 CFR 351.224(g).

¹⁴ See Ministerial Error Memorandum.

¹⁵ See 19 CFR 351.224(g).

¹⁶ See Ministerial Error Memorandum.

¹⁷ See 19 CFR 351.205(d) and 19 CFR 351.221(b)(6).

merchandise will be liquidated without regard to antidumping duties, and all estimated antidumping duties deposited on entries of subject merchandise will be refunded.¹⁸

Comment 2: Adverse Facts Available for Norma's Cost Data

Petitioners' Case Brief

- Norma incorrectly reported its cost of production (COP) data by consolidating its costs with the costs of its collapsed affiliates, rather than reporting its costs on a company-specific basis, as required by the Department.
- The Department requested that Norma revise its costs to report a separate cost database for each production facility by allocating each facility's actual costs to the products produced at the facility. Beginning with its consolidated cost database, Norma incorrectly allocated the costs to each affiliated company based on production quantities. The costs reported on a consolidated approach are significantly different than if they were reported on a company-specific basis, and they are significantly underreported.
- Norma's justification for not reporting its costs on a company-specific basis by claiming that direct material costs per the companies' normal records are distorted is without merit. All four affiliated companies' financial statements were either audited or certified, and it would have been impossible for the companies to have passed the financial statement audits had raw materials, the major component of cost, not been accurate. The fact that purchases of raw materials were centralized within the group is irrelevant, because each company kept its own raw materials records that, eventually, became part of each company's costs, as reflected in their audited financial statements, and these were the raw material costs that should have been reported.
- The Department included Bansidhar Chiranjilal (BDCL), an affiliated processor, in the collapsed group in the *Preliminary Determination*, and under the Department's collapsing methodology, Norma should have submitted a company-specific cost database for BDCL. Each collapsed entity should have reported costs separately based on its own records, except the inputs obtained from other collapsed entities are stated at those entities' costs, and not at transfer price. Further, the cost of the input would be reported by both companies. Therefore, BDCL should have reported the cost of the unfinished forgings it processed for its affiliates based on those affiliates' costs. This is different than consolidation, where the collapsed companies become one company, with all intercompany transactions being eliminated.
- The cost reconciliation presented by Norma is flawed and did not explain the reconciling differences between the costs per each company's normal records and the reported costs. Norma started with the total expenses as per the financial statements, and then removed the raw material costs per its normal records and simply replaced them with the raw material costs that were reported.
- Norma was granted several opportunities by the Department to remedy its deficient cost reporting, but Norma ignored the Department's instructions. Norma failed to cooperate in the proceeding by not acting to the best of its ability to comply with a request for information from the Department; therefore, an adverse inference is appropriate under

¹⁸ See section 735(c) of the Act; 19 CFR 351.211.

section 776(b) of the Act. The refusal to provide company-specific cost databases has been a basis for the application of adverse facts available (AFA) in prior cases.¹⁹

- As AFA, the Department should use the highest direct material cost (DIRMAT) and the lowest scrap offset in any of the submitted cost databases for all reported products by product matching control numbers. If the Department does not apply AFA, it should adjust each company's reported costs by replacing the raw material costs as reported with each company's actual raw material costs.

Norma's Rebuttal Brief

- Norma submitted a cost database for each affiliated company which produced subject merchandise, along with a collapsed database.
- Norma correctly reported raw material costs on a consolidated basis because: 1) purchasing of raw materials was done centrally by the same person for the whole group of companies, and, therefore, there was no difference in rates paid by the affiliated companies at any given time; 2) only one grade of raw material was used to produce merchandise under consideration; and 3) scrap materials that were sold and recorded by one company often times related to work it did on an affiliate's products and would not correspond to where the related raw materials costs of the product were booked. This would cause a distortion in the net raw materials cost if they were reported on a company-specific basis. It is necessary to eliminate the intercompany transactions and replace them with actual cost to report the costs accurately.
- Contrary to the petitioners' contention, Norma calculated a separate cost for BDCL and correctly accounted for BDCL's costs in its submitted cost file for Norma. BDCL did not produce subject merchandise during the POI, but rather only performed job work for Norma.

Department's Position

For this final determination, we have continued to collapse the affiliated producers with Norma, and we do not find that the application of AFA to Norma's costs is appropriate, based on the information on the record. As explained below, we find that, while Norma provided the Department with the requested information and an explanation for information not in the form specifically requested by the Department, its cost reporting methodology was reasonable, and, thus, Norma acted to the best of its ability in reporting its costs to the Department. As described below, we do not find that Norma's submissions were deficient. Further, we find that had costs been reported using the methodology that the petitioners suggest, the resulting COP would be less accurate. Lastly, as we find that Norma's reporting of raw materials costs was reasonable, no adjustment to Norma's reported direct materials costs is necessary.

The petitioners claim that Norma ignored the Department's requirement to report company-specific cost data for each producer.²⁰ The petitioners claim that Norma did not adequately respond to the Department's request for company-specific data because Norma started with the consolidated cost database that it had previously submitted and allocated the costs to each company based on production quantities. Thus, the petitioners argue that the reported costs

¹⁹ See *Light-Walled Rectangular Pipe and Tube from Turkey, Final Determination of Sales at Less Than Fair Value*, 69 FR 53675 (September 2, 2004) (*Pipe and Tube Turkey Final*) and accompanying Issues and Decision Memorandum at Comment 11.

²⁰ See Petitioners' Case Brief, at 2.

cannot be reconciled to the companies' financial statements. Although we agree with the petitioners that Norma's reported material costs are based on the POI average raw material costs incurred by all of the producing companies, we find that Norma did provide separate product-specific cost files for each producing company.²¹ We note that this is a different fact pattern than in *Pipe and Tube Turkey Final*, cited as support by the petitioners, where separate cost files were not provided.²² In this case, the conversion costs reported for each producing company reconcile to the corresponding financial statements, and the total cost of raw materials consumed by all of the collapsed companies reconciles to the companies' books and records.²³ Thus, we find that information on the record supports finding that Norma accounted for all actual costs incurred in the production of merchandise under consideration.

We agree with Norma that it was not required to provide a separate cost database for BDCL because BDCL did not produce or sell subject merchandise during the POI but, rather, only performed job work (processing) services for Norma. We found during the verification of Norma that BDCL did not purchase raw materials or take title to the products for which it performed job work services for Norma. Furthermore, all costs incurred by BDCL were included in the reported costs, and BDCL's trial balance shows that its revenues consist almost exclusively of job work charges received.²⁴ Therefore, as BDCL was not a producer or seller of the merchandise under consideration, Norma was not required to provide a separate cost database for BDCL.

The Act requires the Department to rely on the costs as recorded in a company's normal books and records, unless such costs do not reasonably reflect the costs associated with the production of the merchandise under consideration.²⁵ The petitioners further argue that Norma did not follow the Department's cost-reporting instructions and that it departed from reporting its costs based on the normal books and records of each company. However, we find that Norma's reporting methodology eliminates distortions that exist in its normal books and records with regard to material costs. In reporting its raw material costs, Norma relied upon the POI average cost incurred by all of the producing companies.²⁶ In doing so, Norma allocated the same average raw material costs to all products produced using the same grade of raw material. Under this reporting methodology, there are no resulting differences in raw material costs that are unrelated to differences in the physical characteristics of the subject merchandise produced.

We agree with Norma that, because some of the collapsed companies performed job work for each other, and in many cases the recovered scrap is kept by the company performing the job work, the use of net raw material costs as recorded on each company's books and records would have resulted in inaccurate and distortive product-specific per-unit costs. As described in the cost verification report,²⁷ arrangements exist among Norma and its affiliates where raw materials used in production, and scrap generated during that production, may be recorded on the books of different collapsed companies. Furthermore, because of the significant value of the offset for

²¹ See Norma's February 23, 2017 Supplemental Questionnaire Response (Norma February 23, 2017 SQR), Exhibits SD3-1, SD3-2 and SD3-3.

²² See *Pipe and Tube Turkey Final*.

²³ See Memorandum, "Verification of the Cost Response of Norma (India) Limited in the Antidumping Duty Investigation of Finished Carbon Steel Flanges from India," dated April 17, 2017 (Norma Cost Verification Report), at 12-15.

²⁴ See Norma Cost Verification Report, at exhibit 5, pages 165-168.

²⁵ See section 773(f)(1)(A) of the Act.

²⁶ See Norma Cost Verification Report, at 12-13.

²⁷ See Norma Cost Verification Report, at 10.

scrap, the per-unit raw material costs (net of the scrap offset) calculated per each company's normal books would not accurately represent the net raw material cost incurred. Therefore, we find that if Norma had used the company-specific net raw material costs as recorded in the normal books of the producing companies, the result would be inaccurate and distortive because it would attribute the benefit of the value of scrap generated in production of one product as an offset to the material cost of different products produced by another company. We find that using a POI average combined raw material cost, and allocating the scrap offset based on each product's relative yield loss, as was done by Norma, eliminates such distortions.

We disagree with the petitioners that, given that each of the affiliates' financial statements were either audited or certified, the material costs recorded on the companies' financial statements would not be distorted.²⁸ While it may be appropriate to report the results of such intercompany transactions in aggregate on each entity's financial statements, this arrangement causes distortions for purposes of reporting product-specific per-unit costs for the dumping analysis as described above. In addition, since only one grade of steel was used to produce all of the merchandise under consideration, and this grade was purchased centrally at the same prices for all of the collapsed companies within the group, we find that the record does not show a significant difference in value of the raw materials recorded on the books of each company versus the average material cost used by Norma.²⁹

The petitioners correctly point out that under the Department's collapsing methodology, no new consolidated entity is created, and each collapsed entity should report costs separately based on its own records. We note, however, that the Department's practice of collapsing affiliated producers, which is codified in 19 CFR 351.401(f), recognizes that "there is a significant potential for the manipulation of price or production" among collapsed entities. Further, the Department's determination in *Flowers Colombia Final* details the concerns underlying the Department's practice of collapsing affiliates:

Because the Department calculates margins on a company-by-company basis, it must ensure that it reviews the entire producer or reseller, not merely part of it. The Department reviews the entire entity due to its concerns regarding price and cost manipulation...³⁰

Thus, while we normally request that each collapsed company report costs separately based on its own records, we also must consider the possibility of shifting production costs among collapsed entities. In this regard, we note that the possibility exists that, through manipulation of scrap transfers among collapsed companies, Norma may inappropriately lower production costs of products produced by some companies while increasing the production cost of others. Furthermore, we note that the product-specific raw material costs, as reported by Norma, accurately account for cost differences associated with differences in the physical characteristics of the products produced. Therefore, we consider it reasonable and appropriate to calculate the material cost based on the combined raw material costs incurred by all Norma companies and properly attribute the scrap offset to the relative yield losses associated with the products

²⁸ See Petitioner's Case Brief, at 3-4.

²⁹ See Norma Cost Verification Report, at exhibit 6, pages 4 and 19.

³⁰ See *Certain Fresh Cut Flowers from Colombia, Final Results of Antidumping Duty Administrative Review*, 61 FR 42833, 42853 (August 19, 1996) (*Flowers Columbia Final*).

produced, notwithstanding on which company's books the materials or scrap offset were recorded.

Comment 3: Offset to Costs for Miscellaneous Income

Norma's Case Brief

- The Department should allow the offset for miscellaneous income related to the write-off of a debt to a creditor in the calculation of the general and administrative (G&A) expense ratio.
- The income relates to the general operations of the company, and it is the Department's practice to allow an offset for miscellaneous income in the calculation of the G&A expense ratio if the offset relates to the general operations of the company.³¹

Petitioners' Rebuttal Brief

- The Department's well-established practice is to exclude gains and losses from the cost calculation that relate to periods other than the period under consideration.³²

Department's Position

While we agree with Norma that the Department may include income offsets that are related to the general operations of the company in the calculation of the G&A expense ratio, we disagree that it would be reasonable in this case to offset current costs because the income item relates to costs incurred in a prior period.

Norma reported miscellaneous income related to the write-off of debt to a creditor, and argues that the Department should grant an offset for this miscellaneous income in the calculation of the G&A expense ratio. In the *Rebar Turkey Final* and *Melamine Trinidad and Tobago Final*,³³ the Department described its practice of excluding gains and losses related to periods other than the period under consideration. In the *Rebar Turkey Final*, the Department excluded interest expenses related to periods prior to the period of review; in the *Melamine Trinidad and Tobago Final* the Department disallowed income from insurance proceeds related to expenses recognized prior to the POI. We note that the cases cited by Norma (i.e., *Tires PRC Final*, *Paper PRC Final*, and *Hangers PRC Final*) support the Department's practice of allowing an offset to G&A

³¹ See Norma Case Brief at 4-6, citing *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China, Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) (*Tires PRC Final*), and accompanying Issues and Decision Memorandum at Comment 18.B; *Lightweight Thermal Paper from the People's Republic of China, Final Determination of Sales at Less Than Fair Value*, 73 FR 57329 (October 2, 2008) (*Paper PRC Final*) and accompanying Issues and Decision Memorandum at Comment 3; and *Steel Wire Garment Hangers from the People's Republic of China, Final Results and Final Partial Rescission of the 2009-2010 Administrative Review*, 77 FR 12553 (March 1, 2012) (*Hangers PRC Final*) and accompanying Issues and Decision Memorandum at Comment 4.

³² See Petitioners Rebuttal Brief, at 3, citing *Certain Steel Concrete Reinforcing Bars from Turkey, Final Results of 2004-2005 Review*, 71 FR 65082 (November 7, 2006) (*Rebar Turkey Final*) and accompanying Issues and Decision Memorandum at Comment 49.

³³ See *Melamine from Trinidad and Tobago, Final Determination of Sales at Less Than Fair Value*, 80 FR 68846 (November 6, 2015) (*Melamine Trinidad and Tobago Final*) and accompanying Issues and Decision Memorandum at Comment 3.

expenses for income related to the general operations of the company, but they do not address the timing of such income and its associated expenses.

In certain instances, such as in the case of insurance reimbursements, the Department normally allows an offset for reimbursements up to the amount of related expenses incurred during the same reporting period.³⁴ However, at verification in the instant case, we confirmed that the income associated with the write-off was related to the purchase of machinery many years prior to the POI.³⁵ Furthermore, the record contains no additional information on expenses related to the machinery at issue, such as whether depreciation expense related to the machinery was included in the reported costs. Therefore, we have excluded the entire miscellaneous income resulting from the write-off of a debt related to machinery Norma purchased in a prior period from the calculation of the G&A expense ratio.

Comment 4: Currency Conversion

Norma's Case Brief

- The Department erred in the SAS program used for the *Preliminary Determination* by converting two of the comparison-market variables that were incurred in U.S. dollars (*i.e.*, gross unit price and imputed credit) into Indian rupees, and later converting them back into U.S. dollars.
- The Department should use the original U.S. dollar-denominated price for purposes of calculating the normal value used in the margin calculation.

Petitioners' Rebuttal Brief

- The petitioners did not submit rebuttal comments on this issue.

Department's Position

We examined this issue following publication of the *Preliminary Determination* when Norma alleged that this error constituted a ministerial error. In our Ministerial Error Memorandum, we stated:

Because Norma's allegation relates to whether the Department should have made certain currency conversions, rather than "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error," we find that Norma's allegation is methodological, not ministerial in nature. In addition, the currency conversions made in the *Preliminary Determination* were not inconsistent with the Department's description of its methodology.³⁶

Consistent with our determination in the Ministerial Error Memorandum, we have, in this final determination, again found Norma's error allegation to be methodological in nature, but agree

³⁴ See *Melamine Trinidad and Tobago Final*.

³⁵ See Norma Cost Verification Report at 18-19.

³⁶ See Ministerial Error Memorandum at 4.

with Norma that we made unnecessary currency conversions in the *Preliminary Determination*. Accordingly, we have revised the currency conversions in this final determination.³⁷

Comment 5: Gupta's Reported Scrap Offset Claim

Gupta's Case Brief

- Contrary to the Department's finding at verification, Gupta has appropriately included as its offset to manufacturing costs, generated scrap related to subject merchandise under consideration only, and not total scrap generated from subject and non-subject merchandise, as the Department suggested in its cost verification report.³⁸

Petitioners' Case Brief

- The Department noted at the cost verification that Gupta included scrap for subject and non-subject merchandise under consideration as an offset to its manufacturing costs. The amount for non-subject merchandise should be disallowed. Since the Department found this at verification, the Department should make the adjustment for the final determination.³⁹

Gupta's Rebuttal Brief

- The Department erroneously found that Gupta included the value of the scrap generated during the POI for non-subject merchandise in its scrap offset reduction.⁴⁰
- Gupta's cost data file shows the amount taken for the scrap offset includes only the value of scrap generated from subject merchandise under consideration.

Petitioners' Rebuttal Brief

- At Gupta's cost verification, Gupta explained its scrap offset to the verifiers, and at that time had the opportunity to convince the verifiers that Gupta included in its scrap offset only the scrap generated from subject merchandise. However, because the verifiers were not convinced, the Department should continue with its verification observation and disallow the amount of the offset related to non-subject merchandise scrap for the final determination.⁴¹

Department's Position

For the final determination, the Department reexamined record evidence and finds that Gupta's reported scrap offset appropriately reflects only the scrap generated from production of the merchandise under consideration. The analysis included reviewing Gupta's cost data file, the

³⁷ See Memorandum, "Re: Analysis for the Final Determination of the Antidumping Duty Investigation of Finished Carbon Steel Flanges from India: Norma (India) Limited," dated June 23, 2017.

³⁸ See Memorandum, "Verification of the Cost Response of R.N. Gupta & Company Limited in the Antidumping Duty Investigation of Finished Carbon Steel Flanges from India," dated April 19, 2017 (Gupta Cost Verification Report), at 2, 11, and 12.

³⁹ See Petitioners Case Brief, at 8.

⁴⁰ See Gupta Rebuttal Brief at 4, 5, and 6. See also Gupta Case Brief at 4, 5, and 6.

⁴¹ See Petitioners Rebuttal Brief, at 1 and 2.

cost reconciliation, and the documents supporting the scrap offset.⁴² Although noted as a potential issue at verification, upon reevaluation and examination of arguments provided in case briefs, as well as information on the record of this investigation, the Department finds that Gupta's scrap offset for subject merchandise under consideration has been accurately reported. As such, we made no adjustment for scrap for the final determination.

Comment 6: Adjustment of Gupta's Reported Costs Due to an Alleged Understatement of the Costs

Gupta's Case Brief

- Contrary to the Department's finding at the cost verification, Gupta has appropriately excluded from G&A expenses an amount for other expenses composed of losses on the sale of assets, losses for obsolete inventory (*i.e.*, machinery), and Duty Entitlement Passbook Scheme (DEPB) expenses. Specifically, the loss on sale of fixed assets did not occur during the regular business activity of Gupta and, therefore, it is appropriate to exclude it in calculating its G&A expense rate.⁴³
- DEPB expenses were also appropriately excluded from its G&A expense rate because they are "abnormal" items occurring outside of Gupta's normal operating business of flange production.
- Gupta also excluded "Profit on SBI Mutual Funds" from its total expenses, and the same principle should apply in that for the final determination. If the Department includes loss on sale of assets, then the profit on the sales of assets should also be included in its G&A expenses.

Petitioners' Case Brief

- Since the Department noted in the verification report that it may be appropriate to include these G&A related expense items in its G&A expense rate calculation, it should include them for the final determination.⁴⁴

Gupta's Rebuttal Brief

- The loss on sale of fixed assets did not occur during the regular business activity for Gupta; therefore, it is appropriate to exclude the loss in calculating its G&A expense rate.
- Like the losses on fixed assets, DEPB expenses are also "abnormal" items occurring outside of Gupta's normal operating business of flange production, and should also be excluded from its G&A rate calculation.⁴⁵

Petitioners' Rebuttal Brief

- If the expenses at issue were, indeed, extraordinary as Gupta has argued, they would have been reported as such on Gupta's financial statements, but they were not. Therefore, the Department should follow its normal practice and include the amounts in Gupta's G&A

⁴² See Gupta's January 5, 2017, Supplemental Questionnaire Response (Gupta January 5, 2017 SQR) at Revised Exhibit D-19.

⁴³ See Gupta Cost Verification Report at 11.

⁴⁴ See Petitioner's Case Brief at 10.

⁴⁵ See Gupta Rebuttal Brief at 9 and 10. See also Gupta's Case Brief, at 6 and 7.

expenses for the final determination.⁴⁶

Department's Position

We have included the loss on the sale of assets, loss on obsolete machinery, and DEPB expenses in Gupta's G&A expenses for the final determination. Likewise, we have included the revenue offset associated with the DEPB expenses up to the expense amount incurred during the POI.

It is the Department's practice to include losses and gains on the routine sales of fixed assets in the G&A expense ratio calculation.⁴⁷ The Department follows this practice because it is expected that a producer will periodically replace production equipment and, in doing so, will incur miscellaneous gains or losses. Replacing or disposing of production equipment is a normal and necessary part of doing business. Therefore, we find Gupta's explanation that the losses on the sales of fixed assets should be excluded from its G&A expenses because they occurred outside the course of its normal business operations to be unpersuasive. Accordingly, as we determined in *Rod Korea Final*, we have included the gains and losses on the sale of assets in Gupta's G&A expenses for the final determination.⁴⁸

With respect to the DEPB expenses, Gupta officials state in its response that the expense is associated with fees paid in obtaining licenses associated with the merchandise export incentive scheme (MEIS), and the income from the MEIS licenses have not been considered as an offset to reported cost.⁴⁹ Hence, the costs related to obtaining such licenses have also not been considered in the reported cost.⁵⁰ For the final determination, we have included the DEPB expenses in the reported costs, and allowed the revenue associated with the MEIS up to the amount of the fees paid for the licenses. Regarding Gupta's argument that, if the Department includes other expenses in Gupta's G&A expenses for the final determination, it should also include the profit on SBI Mutual funds as an offset to the total expenses by following the same principle, we disagree. The income generated by mutual funds relates to investment activity, not the general operations of the company. As we stated in *Cattle Canada Final*,⁵¹ the Department normally does not include gains or losses from investment activity in G&A expenses because they do not relate to the general operations of the company. Therefore, consistent with our practice, we have excluded the profit on SBI Mutual Funds in the calculation of the G&A expenses for the final determination.

Comment 7: Adjustment of Gupta's General and Administrative Expenses for Costs Incurred by an Affiliate

Petitioners' Case Brief

- At verification, the Department indicated that Gupta's costs were understated; therefore,

⁴⁶ See Petitioner Rebuttal Brief at 2 and 3.

⁴⁷ See *Final Results of the Antidumping Administrative Review of Stainless Steel Bar from France*, 70 FR 46482 (August 10, 2005) (*Stainless Steel Bar France Final*) and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁸ See *Stainless Steel Wire Rod from Korea, Final Results of Antidumping Duty Administrative Review*, 67 FR 6685 (February 13, 2002) (*Rod Korea Final*) and accompanying Issues and Decision Memorandum at Comment 4.B.

⁴⁹ See Gupta January 5, 2017 SQR, at 9

⁵⁰ *Id.*

⁵¹ See *Notice of Final Determination of Sales at Less Than Fair Value: Live Cattle from Canada*, 64 FR 56739, 56758 (October 21, 1999) (*Cattle Canada Final*).

the Department should increase Gupta's costs for the unreconciled difference for the final determination.⁵²

Gupta's Rebuttal Brief

- The Department incorrectly presented Gupta's cost reconciliation in its cost verification report, and there is not actually a reconciliation difference.⁵³
- The Department used the incorrect POI cost of manufacturing in the reconciliation table on page 10 of the cost verification report, and the value the Department used in the table did not include a previously reported adjustment for beginning and ending inventory of purchased semi-finished flanges.
- Had this value been used in the reconciliation table found on page 10 of the cost verification report, there would not have been an unreconciled difference between the POI cost of manufacturing for subject merchandise under consideration and the total extended cost of manufacturing on Gupta's cost of production file.

Department's Position

We have re-examined record evidence and agree with Gupta that the minor unreconciled difference between the POI cost of manufacturing for subject merchandise under consideration and the total extended cost of manufacturing was due to the adjustment between the beginning and ending inventory of purchased semi-finished flanges. We note that the Department did examine the inventory change in question at verification, and inadvertently excluded the amount in the presentation of the cost reconciliation in the cost verification report.⁵⁴ Therefore, for the final determination, since there is no unreconciled difference, we have not adjusted Gupta's manufacturing costs.

Comment 8: Adjustment of Gupta's General and Administrative Expenses for Unreported Costs

Petitioners' Case Brief

- Gupta was partially owned during the POI by R.N.G. Construction Equipment Pvt. Ltd. (RNG Construction), which had no operations during the POI. RNG Construction's sole purpose was acting as a holding company for Gupta. As such, whatever net operating expenses RNG Construction incurred during the POI were for the benefit of Gupta, and should be added to Gupta's G&A expenses.
- It is the Department's normal practice to include the net expenses of a non-producing holding company in the reporting company's G&A expenses. In *Pipe Fittings Italy Final*, the Department stated, "{i}n cases where a parent company is an investment holding company, it is the Department's practice to allocate a portion of G&A expenses incurred by the parent company to the respondent, under the theory that the parent's

⁵² See Petitioner Case Brief, at 8 and 9. See also Gupta Cost Verification Report at 12.

⁵³ See Gupta Rebuttal Brief at 6, 7, and 8, citing Gupta Cost Verification Report at 10, 11, and 12.

⁵⁴ See Gupta Cost Verification Report at Exhibit 6, page 46.

G&A expenses are incurred on behalf of and as a result of the parent's investment holdings."⁵⁵

- Thus, for the final determination, the Department should include RNG Construction's operating costs in Gupta's G&A expenses.⁵⁶

Gupta Rebuttal Brief

- Gupta's relationship with RNG Construction is that of an associate company and not a parent or subsidiary company.
- Gupta does prepare consolidated financial statements and, therefore, is not required to include RNG Construction's operating expenses in its G&A.⁵⁷
- Under the Indian Companies Act, the investing company is required to reflect the current value of its investment under the investment schedule and reflect its accumulated share of profit or loss in the associate company under its reserves & surplus schedule. Because of this, there is no change in the cost of sales, expenses or financial expenses of Gupta's financial position and, therefore, there are no expenses or operating costs to be added to Gupta's G&A expenses.

Department's Position

We disagree with the petitioners' argument that RNG Construction, by virtue of it not having any operations during the POI, existed for the sole purpose of acting as a holding company for Gupta. At the cost verification, the Department discussed with company officials the specific details of RNG Construction and noted that, while the company was non-operational during the POI, it, nonetheless, was created specifically for the business of crane rentals.⁵⁸ According to company officials, Gupta never actualized operations due to changing market conditions.⁵⁹ Moreover, an examination of RNG Construction's audited year-ended March 31, 2016, financial statements reveals that RNG Construction reported no revenue, and that the only business activity of RNG Construction was "other expenses," which were related to two expenditures that are specific to RNG Construction: statutory audit fees, and fees and subscriptions. The audit fees incurred by RNG Construction relate to the preparation and issuance of RNG Construction's audited financial statements and, as such, these audit fees were not incurred for the benefit of Gupta. In addition, there is no record evidence to support the claim that the subscription fee was incurred for the benefit of Gupta, and even if it were, the subscription fee is insignificant in amount, so as to have no impact on Gupta's reported costs. Accordingly, the activities associated with these two cost items appear to have no benefit to Gupta and, therefore, we do not consider it appropriate to attribute them to the respondent's reported cost of producing the merchandise under consideration.

Therefore, because record evidence shows that RNG Construction is in the construction business, and not a holding company for the sole purpose of benefiting Gupta, and there is no indication that the cost incurred by RNG Construction was for the benefit of Gupta, we have not included RNG Construction's other expenses in Gupta's G&A expenses for the final determination.

⁵⁵ See Petitioners' Case Brief at 9, citing *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from Italy*, 65 FR 81830 (December 27, 2000) (*Pipe Fittings Italy Final*), and accompanying Issues and Decision Memorandum at Comment 1.C.

⁵⁶ See Petitioners Case Brief at 9 and 10.

⁵⁷ See Gupta Rebuttal Brief at 9 and 10.

⁵⁸ See Gupta Cost Verification Report at 4.

⁵⁹ *Id.*, at 3 and 4.

Comment 9: Gupta's Reported Financial Expenses

Petitioners' Case Brief

- The Department should continue to apply the “transactions disregarded” rule to Gupta’s related interest expenses on affiliated loans, as it did for the *Preliminary Determination*.⁶⁰
- The Department confirmed its finding at the cost verification and, therefore, should continue to adjust Gupta’s interest expense rate to include market interest rates for financing obtained from affiliated parties.⁶¹

Gupta's Rebuttal Brief

- Gupta did not submit rebuttal comments on this issue.

Department's Position

We agree with the petitioners, and have continued to apply the transactions disregarded rule in analyzing and adjusting for Gupta’s loans from affiliated parties for the final determination, for the same reasons provided in the *Preliminary Determination*.

Comment 10: Differential Pricing Test

Gupta's Case Brief

- In performing the differential pricing analysis, the Department erred by using the field for “state” (STATEU), rather than the field for “zip code” (DESTU).
- Because the STATEU field contained the complete name of the state, rather than the two-letter abbreviation, the differential pricing test incorrectly assigned the state as the region, rather than assigning the normal regional designations (*e.g.*, “northeast,” “south”). This error resulted in a higher Cohen’s *d* test result.

Petitioners' Rebuttal Brief

- The petitioners did not submit rebuttal comments on this issue.

Department's Position

We agree with Gupta, and in this final determination have used the DESTU field for identifying the region in the differential pricing test, rather than the STATU field.

⁶⁰ See Memorandum, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – R.N. Gupta & Company, Ltd.,” dated January 26, 2017 (Preliminary Cost Calculation Memorandum) at 1 and attachment 3.

⁶¹ See Petitioners Case Brief at 10 and 11.

VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final determination and the final dumping margins in the *Federal Register*.



Agree _____



Disagree _____

6/23/2017

X

Ronald K. Lorentzen

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance