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MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

FROM: John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review on Refined Brown Aluminum Oxide from the People's Republic of China

DATE: May 13, 2009

Summary

We have analyzed the comments of the interested parties on the preliminary results of the 2006-2007 administrative review of the antidumping duty order on refined brown aluminum oxide (RBAO) from the People's Republic of China (PRC). As a result of our analysis, we have made changes in the margin calculation for the respondent, Qingdao Shunxingli Abrasives Co. Ltd. (Qingdao Shunxingli) in the final results. 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 administrative review for which we received comments from the interested parties.

Comment 1: Valuation of Crude Brown Aluminum Oxide
Comment 2: Selection of Indian Financial Statements for Calculating Surrogate Value Ratios
Comment 3: Alleged Errors in Calculation of Surrogate Value Ratios

Background

On December 1, 2008, the Department published in the Federal Register the preliminary results of the 2006 - 2007 administrative review of the antidumping duty order on RBAO from the PRC. See Refined Brown Aluminum Oxide from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 73 FR 72767 (December 1, 2008) (Preliminary Results). We invited parties to comment on the Preliminary Results. On January 22, 2009, the domestic producers Washington Mills, C + E Minerals, and Treibacher Schleifmittel Corp. (collectively, "domestic producers"), and Qingdao Shunxingli submitted case briefs. On January 29, 2009, the domestic producers and Qingdao Shunxingli submitted rebuttal briefs. We held a public hearing on February 6, 2009. Based on our analysis of the comments contained in the briefs, we have revised our calculation of the margin for Qingdao Shunxingli from the margin calculated in the Preliminary Results.

Margin Calculation

We calculated export price (EP) and normal value (NV) using the same methodology described in the Preliminary Results, except as follows below:

- We revised the selling, general, and administrative (SG&A) expense and profit ratios used to calculate the surrogate values for SG&A expenses and profit based on corrections made to the ratios derived from the financial statements of two Indian producers of comparable merchandise. See Comment 3 below.

Discussion of the Issues

Comment 1: *Valuation of Crude Brown Aluminum Oxide*

Crude brown aluminum oxide (CBAO) is the only raw material consumed by Qingdao Shunxingli to produce RBAO. In the Preliminary Results, as we were unable to identify an appropriate surrogate value from India, the selected surrogate country in this review, for CBAO; we relied on the average U.S. price, derived from the data reported in the Defense Logistics Agency (DLA) FY2000 Annual Report, as described in the November 21, 2008, "Preliminary Results Valuation Memorandum" (Valuation Memo). This source was also used to value CBAO in the less-than-fair-value (LTFV) investigation segment of this proceeding. See Notice of Final Determination of Sales at Less Than Fair Value: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China, 68 FR 55589 (September 26, 2003) (LTFV Final Determination), and accompanying Issues and Decision Memorandum at Comment 3.

The domestic producers contend that the Department should value CBAO for the final results based on European Union (EU) import statistics for artificial corundum (largely aluminum oxide), as submitted for the record in the domestic producers' submissions of September 30, 2008, and December 15, 2008. According to the domestic producers, the EU import statistics are more specific than the DLA price because they are categorized by aluminum oxide concentration (98.5 percent concentration or more, or less than 98.5 percent concentration), where the 98.5 percent or greater aluminum oxide concentration is more likely to include white and pink aluminum oxide, and the less-than 98.5 percent concentration is more likely to include brown aluminum oxide. Similarly, the domestic producers note that the EU import statistics are also categorized by particle size (less than 50 percent of the particles having a diameter of more than 10 mm of the total weight, or more than 50 percent of the particles having a diameter of more than 10 mm of the total weight), where the former represents refined aluminum oxide and the latter represents crude aluminum oxide. The domestic producers assert that the DLA price for CBAO does not specify either aluminum oxide concentration or particle size.

Further, the domestic producers state that the EU import statistics data are more contemporaneous with the instant period of review (POR) of November 1, 2006, through October 31, 2007, as the EU data cover the period from January through June 2008 (i.e., shortly after the POR), while the DLA price is based on sales from the DLA's strategic and critical materials stockpile during the period October 1999 through September 2000. Finally, the domestic producers claim that the DLA sales were liquidated at prices that did not reflect the market at the time. Accordingly, the domestic producers assert that the Department should value CBAO based on EU import statistics for artificial corundum with less than 98.5 percent aluminum oxide concentration, and more than 50 percent of the particles having a diameter of more than 10 mm of the total weight.

Qingdao Shunxingli disputes the domestic producers' contention that the EU import statistics data are more specific to the CBAO consumed by Qingdao Shunxingli than the DLA price, and supports the Department's Preliminary Results decision to value CBAO based on the DLA data. In particular, Qingdao Shunxingli asserts that the 98.5 percent aluminum oxide concentration level demarcation does not adequately distinguish between white and pink aluminum oxide, and brown aluminum oxide. Qingdao Shunxingli points to the domestic producers' own submission of December 15, 2008, at Attachment 2, which identifies the 2007 Harmonized Tariff System (HTS) classification for white, pink or ruby aluminum oxide as containing 97.5 percent or more aluminum oxide by weight. Thus, Qingdao Shunxingli contends that the EU import statistics data do not adequately distinguish between brown aluminum oxide and other forms of aluminum oxide. With respect to particle size, Qingdao Shunxingli reported that it consumes CBAO of a particle size significantly larger than 10 mm, so that the material covered by the EU import statistics may be only slightly larger than 10 mm and less comparable to the Qingdao Shunxingli input. Qingdao Shunxingli further asserts that the product-specificity of the DLA price as a surrogate value is more important for the Department's consideration than the contemporaneity of that data.

Qingdao Shunxingli contests the domestic producers' assertion that the DLA sold CBAO at below-market prices, citing the Department's finding in the LTFV Final Determination at Comment 3 that "the DLA is required by law to sell its inventory at market prices and the domestic producers failed to show that the DLA acted contrary to law, or that its inventory was defective in any way such that it was not sold at market prices." Moreover, Qingdao Shunxingli argues that the EU import statistics data are flawed because there is no information on the record to demonstrate how the information was collected, what specific information is included, whether it is all-inclusive of imports, and whether the data may include misclassifications. Therefore, based on the reasoning outlined above, Qingdao Shunxingli asserts that the Department must continue to value CBAO based on the DLA price because it is the most reliable, product-specific information on the record representative of the input consumed by Qingdao Shunxingli.

Department's Position:

We valued CBAO based on information derived from the DLA FY2000 Annual Report in the final results of this review. As discussed in detail below, although this information is several years old, it remains the best available information among the very limited data on the record for valuing this input.

The Department's practice when selecting the best available information for valuing factors of production, in accordance with section 773(c)(1) of the Tariff Act of 1930, as amended (the Act), is to select, to the extent practicable, surrogate values which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR and exclusive of taxes and duties. The Department undertakes its analysis of valuing the factors of production on a case-by-case basis, carefully considering the available evidence in light of the particular facts of each industry. There is no hierarchy for applying the above-stated principles. Thus, the Department must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to the "best" surrogate value for each input. See, e.g., Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the Eleventh Administrative Review and New Shipper Reviews, 72 FR 34438 (June 22, 2007), and accompanying Issues and Decision Memorandum at Comment 2 (Garlic).

In this review, the Department faces the same situation as it did in the LTFV Final Determination, where "{n}one of the CBAO value options on the record of this investigation represents an ideal source. Accordingly, we have had to select a surrogate value that we consider to be the best among these options." See LTFV Final Determination at Comment 3. Thus, we considered which of the two surrogate value options available, the DLA price or the EU import statistics, constituted the best available information in light of the criteria outlined above.

With respect to product specificity, the Department considered whether the surrogate values submitted represent materials equivalent to the input Qingdao Shunxingli used to produce RBAO. It is clear that the DLA price is for CBAO, the exact input which we seek to value. This price was derived from the DLA sales of "Aluminum Oxide Fused Crude." Both the domestic producers and Qingdao Shunxingli have accepted this value as being reflective of sales of CBAO. See, e.g., Qingdao Shunxingli October 10, 2008, letter at page 8, and the domestic producer's December 15, 2008, submission at page 10 (as marked) of Attachment 1.

In analyzing the EU data for product specificity, the Department examined the two major characteristics that are identified by the EU HTS number for the import data submitted by the domestic producers: particle size and aluminum oxide concentration. As stated above, the relevant HTS category includes material in which more than 50 percent of the particles have a diameter of more than 10 mm total weight, with aluminum oxide concentration of 98.5 percent or less. With respect to particle size, while Qingdao Shunxingli acknowledges that it consumes CBAO greater than 10 mm in diameter, it also states that the material it consumes is normally much larger in size and it cannot be determined to what extent the EU data reflect material closer to 10 mm in diameter, which is close in size to RBAO, or larger than 10mm in diameter. See Qingdao Shunxingli's October 10, 2008, submission at page 4.

More significant, however, is the aluminum oxide concentration level and whether the EU data are limited to brown aluminum oxide in this regard. The domestic producers contend that the HTS category in question excludes high-purity white and pink aluminum oxide, thus implying that it is limited to brown aluminum oxide. However, as Qingdao Shunxingli points out, the 2007 U.S. HTS classification for white, pink or ruby aluminum oxide is defined as containing 97.5 percent or more aluminum oxide by weight. In addition, there is no information on the record to suggest definitively that pink and white aluminum oxide are not sold at less than 98.5 percent concentration levels. Accordingly, based on our analysis of the EU data, while it is clear that the data may include CBAO, it is also possible that the data may include low-purity white or pink aluminum oxide, or aluminum oxide that is refined to a greater extent than the CBAO consumed in Qingdao Shunxingli's production of the subject merchandise. Conversely, the DLA price represents the value of material that all parties agree is comparable to the CBAO consumed by Qingdao Shunxingli. Therefore, we find that the DLA price is more specific to the factor of production to be valued.

With respect to the "representative of a broad market average" criterion, we note, first of all, that the Department normally finds official government publications to be reliable and creditable sources of information. See, e.g., Sebacic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 69 FR 75303 (December 16, 2004), and accompanying Issues and Decision Memorandum at Comment 1. The EU import statistics are compiled by Eurostat. Eurostat is the official statistical service of the EU. See "Memoirs of Eurostat: Fifty years serving Europe," publicly available at http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-49-02-183/EN/KS-49-02-183-EN.PDF (sample pages are included in the Final Results Valuation Memo at Attachment 4). Thus, material from Eurostat may be considered equivalent to that of an official government publication.

We note that the Department normally finds a unit value derived from a country's official import statistics to be "representative of a broad market average." See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the First Administrative Review, 71 FR 14170 (March 21, 2006), and accompanying Issues and Decision Memorandum at Comment 3. Thus, unit values derived from the EU import statistics, which represent the imports of goods from outside the EU into the member nations of the EU, would appear to be representative of a broad market average. However, a closer examination calls into question not only whether the specific data relied upon to derive the average are representative of a broad market average, but also whether that data may be distortive in other respects. The relevant import data as submitted by the domestic producers show a total quantity of 32,440 metric tons (MT) imported into the EU during the January – June 2008 period. Of that quantity, 24,482 MT, or about 75 percent, are identified as imports from the PRC and are excluded from the unit value calculation. In addition, when relying on surrogate values based on import statistics, the Department disregards prices which it has reason to believe or suspect may be subsidized. The Department has found in other proceedings that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized because these countries maintain broadly available, non-industry-specific export subsidies.[1] Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. Accordingly, imports from South Korea, which are included in the EU import data, should also be excluded from the calculation of the unit value.

Of the remaining quantity, 5,745 MT, or about 72 percent of the 7,955 MT non-PRC and non-South Korean imports, are identified as imported from "Non-EU Supp." This category may represent imports where the importer has requested that the origin of the goods be withheld or suppressed from public statistics in order to protect the confidentiality of the commercial activity. See "Suppression and Confidentiality in the Overseas Trade Statistics

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[1] See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004) (CTVs), and accompanying Issues and Decision Memorandum at Comment 7; see also Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 70 FR 12651 (March 15, 2005), and accompanying Issues and Decision Memorandum at Comment 4.

and Importers' Details," published by UK trade info, a part of Her Majesty's Revenue & Customs (United Kingdom) and publicly available at https://www.uktradeinfo.com/pagecontent/datapages/notes/suppression.pdf (and included at Attachment 5 of the Final Results Valuation Memo). In any event, the source of these imports is unknown to the Department and possibly may include data from the PRC or other countries which the Department normally excludes from its unit value calculations, as discussed above. The remaining 2,210 MT of imports originate from a handful of countries and include country-specific unit values ranging from €509.77 to €4,333,333 per MT. We are unable to determine whether these import values are representative of a broad market average for CBAO, or whether some may include import values for white or pink aluminum oxide, as discussed above.

The DLA price was obtained from an official U.S. government publication, as noted above. The DLA price is the price at which the DLA sold the material to dispose of inventory in excess of its stockpile requirements. See Qingdao Shunxingli's May 9, 2008, surrogate value submission at Attachment 2. We do not have sufficient data to determine whether it is "representative of a broad market average." On the other hand, while the domestic producers have claimed that the DLA value reflects sales below-market price, there is no quantitative evidence on this record to support that contention. The information provided by the domestic producers in support of this claim, such as the excerpts from the 2003 International Trade Commission hearing in their December 15, 2008, submission, is anecdotal and cannot be corroborated quantitatively. In the LTFV Final Determination, we found that "there is no evidence that the DLA inventory was sold outside the ordinary course of trade. These parties {i.e., the respondent and certain importers} noted that the DLA is required by law to sell its inventory at market prices and the petitioners failed to show that the DLA acted contrary to law, or that its inventory was defective in any way such that it was not sold at market prices." This situation is unchanged in this review.

In sum, while it is unclear whether the DLA price is representative of a broad market average of prices, we are not convinced that unit values derived from the EU import statistics are more representative. Furthermore, the exclusion of the majority of imports due to PRC sourcing, and the unknown source for most of the remaining imports, further calls into question whether EU import statistics are an appropriate surrogate value source in this instance.

With respect to public availability of the data, both the DLA price and the EU import statistics meet this criterion. The DLA price appeared in a U.S. government publication, "Strategic and Critical Materials Report to the Congress" (included at Exhibit 3 of Qingdao Shunxingli's May 9, 2008, submission) and this information has been disseminated widely in this proceeding. The EU import statistics data are available to the public through such services as Business & Trade Statistics (the source of the domestic producers' data submission) and the World Trade Atlas (WTA). The Department has previously determined that such data constitute publicly available information. See, e.g., Garlic.

With respect to contemporaneity of the two surrogate values, the value derived from the EU import statistics is more contemporaneous with the POR. The EU information dates from January through July 2008; the first month of this period is two months after the last month of the POR. The DLA price dates from the period October 1999 through September 2000; the last month of this period is about 6 years prior to the first month of the POR.

Finally, with respect to pricing exclusive of taxes and duties, we do not have specific information on the record to indicate the tax- and duty-exclusivity of either value in question. Based on the circumstances surrounding the DLA price, in which the merchandise was sold from the DLA's excess inventory, it is reasonable to assume that the price does not include any duties. EU import statistics are available from the WTA and the Department has found data from the WTA to be tax- and duty exclusive. See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China, 72 FR 9508 (March 2, 2007), and accompanying Issues and Decision Memorandum at Comment 16. Accordingly, it is reasonable to assume that the value based on EU import statistics is exclusive of taxes and duties.

Based on our analysis of the two available surrogate values for CBAO, considering the criteria discussed above, we find that the DLA price is superior to the EU import statistics. First, the DLA price is more specific to the material to be valued because it is undisputed that it is comparable to the material Qingdao Shunxingli consumed to produce RBAO and it is both "crude" and "brown."[2] The EU import statistics data, which may contain imports of CBAO, may also likely contain imports of other material, and it is unclear from the record evidence how much of the other material imports contained within the EU data would be unusable for surrogate value calculation purposes. Therefore, the DLA price is more product-specific.

Secondly, while we acknowledge that it is uncertain the extent to which the DLA price is representative of a broad market average, there is no conclusive evidence on the record that it is not, in fact, representative. Furthermore, the fact that only a small portion of the EU import data could be used to calculate a surrogate value, due to the lack of information about the exporter country sources of that data, substantially undermines the assertion that the EU import statistics data represent a broad market average. As to the public availability of the data, both the DLA price and the EU import statistics value equally meet this criterion. While we acknowledge that the EU import statistics data are more contemporaneous with the POR, this factor alone is not sufficient to outweigh our other concerns about the EU import statistics data discussed above. In addition, we were able to adjust the DLA price to account for inflation to a level consistent with the POR.

Comment 2: *Selection of Indian Financial Statements for Calculating Surrogate Value Ratios*

To value factory overhead (FOH), SG&A, and profit in the Preliminary Results, the Department relied on record data derived from the annual reports of two Indian producers of RBAO: Carborundum Universal Limited (CUMI) and Orient Abrasives, Ltd. (OA). The Department did not use data from a third Indian company, Fairfab Engineering Pvt. Ltd. (Fairfab), the financial statement of which was placed on the record by Qingdao Shunxingli in its May 9, 2008, submission.

Qingdao Shunxingli contends that the Department erred in excluding Fairfab's financial statement data from the calculation of the surrogate value ratios for FOH, SG&A, and profit. According to Qingdao Shunxingli, information in its May 9, 2008, submission demonstrates that Fairfab is a manufacturer of RBAO and thus the exclusion of Fairfab's financial statement data is

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[2] See, e.g., transcript of February 6, 2009, public hearing at pages 46 – 49.

contrary to the Department's practice to use the greatest number of financial statements possible from the relevant manufacturing sector in order to calculate the most representative and accurate surrogate value. In support of its position, Qingdao Shunxingli cites, among other cases, Amended Final Results of Antidumping Duty Administrative Review and New Shipper Reviews: Wooden Bedroom Furniture From the People's Republic of China, 72 FR 46957 (August 22, 2007), and accompanying Issues and Decision Memorandum at Comment 17. Thus, Qingdao Shunxingli argues that the Department must include the Fairfab financial statement data in the calculation of the surrogate value ratios.

The domestic producers assert that the Department properly excluded the Fairfab financial statement data from the calculation of the surrogate value ratios for FOH, SG&A, and profit because the record evidence does not demonstrate that Fairfab is a significant producer of comparable merchandise. According to the domestic producers, the information submitted by Qingdao Shuxingli may suggest that an affiliate of Fairfab, Met Fab Export House (Met Fab), may sell brown aluminum oxide products, among others, but there is no indication that either Fairfab or Met Fab actually produced these products. The domestic producers assert further that Fairfab's own website describes Fairfab as a sheet metal fabricator with no reference to any production of brown aluminum oxide.

Department's Position:

We agree with the domestic producers. In order to value the factors of production under Section 773(c)(1) of the Act, the Department calculates FOH, SG&A expenses and profit based on non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country, in accordance with 19 CFR 351.408(c)(4). In this review, the information on the record establishes that both CUMI and OA are producers of abrasives including RBAO in the surrogate country of India. See Domestic Producers' April 11, 2008, submission at Exhibit III (CUMI annual report), especially pages 4 and 5; and the Department's July 1, 2008, Memorandum to the File at Attachment 1 (general information about OA) and Attachment 2 (OA annual report) at page 4.

By contrast, we were unable to find any information supporting Qingdao Shunxingli's contention that Fairfab is an Indian producer of identical or comparable merchandise. The information provided by Qingdao Shunxingli in its May 9, 2008, surrogate value submission does not demonstrate that Fairfab is a producer of such merchandise. In particular, we note that the company information included at Attachment 4 of that submission referred only to Met Fab and identified Met Fab as "a Central Govt. Recognised Merchant Export House." There is no information in Qingdao Shunxingli's surrogate value submission indicating that either Fairfab or Met Fab produces merchandise identical or comparable to RBAO.

Further, our review of the available information regarding Fairfab, including the website www.fairfab.net cited by the domestic producers in their rebuttal brief, supports the domestic producers' assertion that Fairfab's main line of business is sheet metal fabrication and that there is no information that it also produces RBAO. We noted as well that Fairfab's affiliate Met Fab may sell abrasives including brown aluminum oxide, but we found no indication that either Met Fab or Fairfab manufactures abrasives. Accordingly, we find no basis to incorporate Fairfab financial statement data in our calculation of the surrogate values for FOH, SG&A expenses, and profit.

Comment 3: *Alleged Errors in Calculation of Surrogate Value Ratios*

Qingdao Shuxingli contends that the Department made certain errors in the calculation of FOH, SG&A expenses, and profit based on the CUMI and OA financial statement data, as found in the worksheets in Attachment 5 of the Valuation Memo. Each of the alleged errors is discussed below, followed by the Department's response. The domestic producers did not comment on any of these alleged errors.

a) Qingdao Shunxingli contends that the Department used an incorrect amount for CUMI's SG&A expense when calculating the denominator for the CUMI profit calculation.

Department's Position:

We agree. We erroneously input an incorrect SG&A expense amount as part of the CUMI profit calculation. For the final results, we have corrected this error. This correction is included in the revised CUMI financial ratios worksheet at Attachment 1 of the "Final Results Valuation Memorandum" (Final Results Valuation Memo).

b) Qingdao Shunxingli contends that the Department incorrectly applied the profit figure from CUMI's consolidated financial statements, which includes its subsidiaries and joint ventures, rather than the profit amount from the unconsolidated financial statement, to calculate the CUMI profit ratio. Qingdao Shunxingli notes that the Department relied on the unconsolidated CUMI profit and loss statement for all other expenses; therefore, it is inappropriate for the Department to rely on the profit from a consolidated group and apply it to the expenses of a single entity of the group.

Department's Position:

We agree. We incorrectly applied the profit amount from CUMI's consolidated financial statement, rather than the profit amount from the unconsolidated financial statement from which we obtained the other expenses used to calculate the financial ratios. We have corrected this error for the final results. This correction is included in the revised CUMI financial ratios worksheet at Attachment 1 of the Final Results Valuation Memo.

c) Qingdao Shunxingli asserts that the Department erred in excluding the amount for "Goods Purchased for Resale" (i.e., traded goods) from the SG&A expense and profit ratio calculations for OA. Qingdao Shunxingli states that it is the Department's practice to include the purchase of traded goods to calculate the SG&A expense and profit ratios because a company incurs SG&A expenses and realizes profit on traded goods. Qingdao Shunxingli points out that the Department explained this practice in CTVs at Comment 20, and continued to apply it in such cases as Helical Spring Lock Washers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 4175 (January 24, 2008), and accompanying Issues and Decision Memorandum at Comment 6b.

Department's Position:

We agree. The Department's practice is to include the value of traded good purchases in the denominator of the SG&A expense and profit ratio calculations. See, e.g., CTVs at Comment 20. This correction is included in the revised OA financial ratios worksheet at Attachment 2 of the Final Results Valuation Memo.

d) According to Qingdao Shuxingli, the Department incorrectly included "excise duty on stock" expenses and "rates and taxes" as SG&A expenses in the calculation of the CUMI and OA SG&A expense ratios. Qingdao Shunxingli cites Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative Review and Preliminary Notice of Intent To Rescind the 2004/2005 New Shipper Review, 71 FR 26736, 26744 (May 8, 2006) (unchanged in Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review, 71 FR 66304 (November 14, 2006)) as an example of the Department's practice to exclude excise duties from the financial statement ratio calculations.

Department's Position:

We agree with Qingdao Shunxingli with respect to excise taxes. It is the Department's practice to exclude taxes assessed on raw materials or other consumption items from the SG&A expenses used to calculate the SG&A expense ratio. Accordingly, we have corrected the CUMI and OA financial expense ratios in this regard for the final results. See Attachments 1 and 2 of the Final Results Valuation Memo. However, "rates and taxes" are normally included as part of SG&A expenses. See, e.g., Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Review, 73 FR 14216 (March 17, 2008), and accompanying Issues and Decision Memorandum at Comment 2. Therefore, we have continued to include this expense item in the calculation of the SG&A expense ratio.

e) Qingdao Shunxingli asserts that the Department erroneously included certain sales-related line items, such as "rebates and allowances" and "cash discounts on sales," in the calculation of the CUMI and OA SG&A expense ratios. Citing such cases as 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), and accompanying Issues and Decision Memorandum at Comment 18.C (Tires), Qingdao Shunxingli contends that these items are price adjustments and are separately valued in the NV calculation.

Department's Position:

We agree. As stated in Tires:

> {T}he Department typically examines the financial statements on the record of the proceeding and categorizes expenses as they relate to MLE {materials, labor, and energy}, factory OH {overhead}, SG&A and profit, and excludes certain expenses (*e.g.*, movement expenses) consistent with the Department's practice of accounting for these expenses elsewhere…. Because the Department deems rebates and discounts to be price adjustments that are accounted for elsewhere in the margin calculation, we have excluded them from the financial ratio calculations for purposes of the final determination.

Accordingly, we have excluded "turnover discounts" and "rebates and allowances" from the SG&A expenses in the CUMI SG&A expense ratio calculation, and excluded "cash discounts on sales" from the SG&A expenses in the OA SG&A expense ratio calculation. These corrections are included in the revised CUMI and OA SG&A expense ratio worksheets at Attachments 1 and 2 of the Final Results Valuation Memo.

Recommendation

Based on our analysis of the comments contained in the briefs received, we recommend adopting all of the above positions. If this recommendation is accepted, we will publish the final results of review and the final weighted-average dumping margin for the reviewed firm in the Federal Register.

Agree ____/s/_______ Disagree ________________

/s/
____
Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

_____May 13, 2009______________
(Date)