A-583-844
AR3: 9/1/2012 – 8/31/2013
Public Document
AD/CVD/OII: DC

DATE: April 6, 2015

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

FROM: James P. Maeder
Senior Director, Office I
Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review on Narrow Woven Ribbons with Woven Selvedge from Taiwan

---

SUMMARY

We analyzed the case and rebuttal briefs of interested parties in the 2012-2013 administrative review of the antidumping duty order on narrow woven ribbons with woven selvedge (NWR) from Taiwan. The review covers two mandatory respondents: King Young Enterprise Co., Ltd. and its affiliates, Ethel Enterprise Co., Ltd. (Ethel) and Glory Young Enterprise Co., Ltd. (Glory Young), (collectively, King Young) and Hen Hao Trading Co. Ltd. a.k.a. Taiwan Tulip Ribbons and Braids Co. Ltd. (Hen Hao). As a result of our analysis, and based on our findings at verification, we have made changes to the margin calculations for King Young. Moreover, after considering the facts on the record as well as the comments received, we made no changes to the adverse facts available (AFA) margin assigned to Hen Hao in these final results. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues for which we have received comments and rebuttal comments from the interested parties:

1. The Appropriate Unit of Measure On Which to Base Sales and Cost Data for King Young
2. Limiting the Model Matching Methodology for Width and Length
3. Allegation That King Young's Piece Sales Are Outside the Ordinary Course of Trade
4. Allegation That King Young's Channel 3 Sales Are Outside the Ordinary Course of Trade
5. Level of Trade (LOT) for King Young
6. Clerical Error in King Young's Preliminary Dumping Margin
7. King Young's Unaffiliated Suppliers' Cost of Production (COP)
8. General and Administrative (G&A) Expense Ratio for King Young
9. Financial Expenses for King Young

10. Labor and Overhead Ratios for King Young
11. King Young's Allocation of Fixed Overhead (FOH) Costs
12. AFA Rate for Hen Hao

BACKGROUND

On October 7, 2014, the Department published in the Federal Register the preliminary results of the 2012-2013 administrative review of the antidumping duty order on NWR from Taiwan.[1] The period of the review (POR) is September 1, 2012, through August 31, 2013. The Department conducted a sales verification of King Young at its offices in Taiwan from September 29 through October 3, 2014, and a cost verification from November 12 through 16, 2014.

We invited parties to comment on the Preliminary Results. In January 2015, we received timely case briefs from Berwick Offray LLC and its wholly-owned subsidiary Lion Ribbon Company, Inc. (the petitioner), King Young, Morex Ribbon Corp. (Morex) and Papillon Ribbon & Bow Inc. (Papillon), importers of subject merchandise. Also in January 2015, we received timely rebuttal briefs from the petitioner and King Young. On January 15, 2015, the Department postposed the final results by 60 days.[2] Based on our analysis of the comments received, as well as our findings at verification, we recalculated the weighted-average dumping margin for King Young from the Preliminary Results. For Hen Hao, based on our analysis of the comments received, we have based the final dumping margin for this company on AFA. We made no changes to the AFA margin assigned to Hen Hao in these final results.

MARGIN CALCULATIONS

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

- We revised our margin calculations to take into account our findings from the sales and cost verifications.

- We corrected a clerical error in the calculation of King Young's preliminary dumping margin. See Comment 6.

- We based King Young's sales involving unreported greige costs from unaffiliated suppliers on partial AFA, based on a finding that King Young's unaffiliated suppliers did not act to the best of their ability in reporting these costs. See Comment 7.

[1] See Narrow Woven Ribbons with Woven Selvedge from Taiwan; Preliminary Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 60449 (October 7, 2014) (Preliminary Results).

[2] See the January 15, 2015, memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations through Irene Darzenta Tzafolias, Acting Director, Office II from David Crespo, Senior International Trade Compliance Analyst, Office II, entitled, "Narrow Woven Ribbons with Woven Selvedge from Taiwan: Extension of Deadline for Final Results of Antidumping Duty Administrative Review."

- We revised King Young's G&A expense ratio to exclude Ribbon King Happy House Co. Ltd.'s[3] (Ribbon King's) G&A expenses and cost of sales (COS). See Comment 8.

- We adjusted King Young's reported financial expense ratio for the following: 1) to include its total interest expenses; and 2) to exclude Ribbon King's financial expenses and COS. See Comment 9.

- We recalculated King Young's labor and overhead allocation ratios to exclude from the denominators sales quantities reported for merchandise not produced during the POR. See Comment 10.

- We revised King Young's reported FOH expenses so that the control number (CONNUM)-specific FOH expenses more reasonably reflect King Young's CONNUM-specific manufacturing processes. See Comment 11.

SCOPE OF THE ORDER

The scope of the order covers narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man-made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene teraphthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the order may:

- also include natural or other non-man-made fibers;

- be of any color, style, pattern, or weave construction, including but not limited to single faced satin, double-faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;

- have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;

- have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;

- have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;

- have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;

[3] Ribbon King, an affiliate of King Young, is a tourist-oriented retailer that sells mostly non-subject merchandise.

- have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;

- consist of such ribbons affixed to like ribbon and/or cut-edge woven ribbon, a configuration also known as an "ornamental trimming;"

- be wound on spools; attached to a card; hanked (i.e., coiled or bundled); packaged in boxes, trays or bags; or configured as skeins, balls, bateaus or folds; and/or

- be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon.

Narrow woven ribbons subject to the order include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this antidumping duty order.

Excluded from the scope of the order are the following:

(1) formed bows composed of narrow woven ribbons with woven selvedge;

(2) "pull-bows" (i.e., an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;

(3) narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (i.e., filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States (HTSUS), Section XI, Note 13) or rubber thread;

(4) narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;

(5) narrow woven labels and apparel tapes, cut-to-length or cut-to-shape, having a length (when measured across the longest edge-to-edge span) not exceeding eight centimeters;

(6) narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;

(7) cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;

(8) narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;

(9) narrow woven ribbons constructed from pile fabrics (i.e., fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric);

(10) narrow woven ribbon affixed (including by tying) as a decorative detail to non-subject merchandise, such as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise;

(11) narrow woven ribbon that is (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a "belly band" around a pair of pajamas, a pair of socks or a blanket;

(12) narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel; and

(13) narrow woven ribbon(s) included with non-subject merchandise in kits, such as a holiday ornament craft kit or a scrapbook kit, in which the individual lengths of narrow woven ribbon(s) included in the kit are each no greater than eight inches, the aggregate amount of narrow woven ribbon(s) included in the kit does not exceed 48 linear inches, none of the narrow woven ribbon(s) included in the kit is on a spool, and the narrow woven ribbon(s) is only one of multiple items included in the kit.

The merchandise subject to the order is classifiable under the HTSUS statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050 and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise covered by the order is dispositive.

DISCUSSION OF THE ISSUES

Comment 1: *The Appropriate Unit of Measure on Which to Base Sales and Cost Data for King Young*

In the preliminary results, we based our margin calculations for King Young on prices, expenses, and costs stated on a per-spool basis, in accordance with the Department's practice established in the less-than-fair-value (LTFV) investigation.[4] Because King Young's U.S. sales and a

[4] See Notice of Final Determination of Sales at Less than Fair Value: Narrow Woven Ribbons with Woven

significant majority of its home markets sales were made on a per-spool basis,[5] this methodology is also consistent with the Department's general practice of basing its calculations using sales data on the unit of measure in which products are sold.[6]

King Young requests that the Department depart from this practice and instead use its reported prices, expenses, and costs stated on a square-yard basis when calculating King Young's final dumping margin. Alternatively, King Young argues that, if the Department does not calculate its margin calculations on a square-yard basis, it should use King Young's reported "spool-equivalent" values.[7] King Young claims that such a change is appropriate because: 1) NV in this review is based on home market sales, and, thus, the matches here are less similar than they were in the LTFV investigation;[8] 2) despite the Department's claim that King Young's spool sales account for a significant majority of home market sales, King Young sold more pieces than spools; 3) the Department's treatment of pieces as "spools" was distortive; 4) the Department's reliance in the Preliminary Results on Viraj 2003 is not only misplaced, but it supports King Young's position instead; and 5) the use of square yardage to compare sales would be consistent with King Young's reported cost allocation methodology (which King Young characterizes as "the only and primary basis on which {it} could make representative allocations").[9]

With respect to Viraj 2003, King Young disagrees that this case stands for the proposition that the Department must compare a respondent's merchandise in the manner in which it was sold. According to King Young, in Viraj 2003 the Court instructed the Department to either: 1) follow its practice and make its comparisons based on the manner in which the product was sold; or 2) adequately explain with substantial evidence its departure from prior practice. King Young maintains that, on remand, the Department did not follow its past practice, but instead explained to the Court why using a uniform unit of measure in its price-to-price comparisons eliminated any potentially distorting effects.[10]

According to King Young, the salient holding in Viraj 2004 was that the Department must base its calculations on a uniform unit of measure. King Young claims that a spool is not a uniform unit of measure, and, for this reason, making price comparisons on a per-spool basis results in a distorted calculation. King Young maintains that, when comparing two different sized spools, using either a square-yard or "spool equivalent" basis eliminates this distortion because they are

---

Selvedge from Taiwan, 75 FR 41804 (July 19, 2010) (LTFV Determination), and accompanying Issues and Decision Memorandum at Comment 2.

[5] See King Young's March 7, 2014, response at Exhibits A-2 (1) and A-2 (2), and King Young's U.S. and home market sales listings submitted on September 26, 2014.

[6] See Viraj Forgings, Ltd. v. United States, 283 F. Supp. 2d 1335, 1354 (CIT 2003) (Viraj 2003) (where the Court instructed the Department to "conform itself to its prior precedent and compare plaintiff's merchandise in the manner in which it was sold.").

[7] See King Young's August 5, 2014, response at pages 9-21, where it calculated a "spool-equivalent ratio" and used it to convert all of King Young's sales and cost data to a "spool-equivalent" basis.

[8] King Young notes that this differs from the situation in the LTFV investigation, where NV was based on sales to Mexico and Canada.

[9] See King Young's January 16, 2015, case brief (King Young brief) at pages 5-6.

[10] See Viraj Forgings, Ltd. v. United States, 350 F. Supp. 2d 1316, 1330 (CIT 2004) (Viraj 2004).

uniform units of measure.[11] As a result, King Young claims that they reflect the true prices and costs of its NWR.

King Young maintains that the Department's model match characteristics fail to provide any hierarchy for comparing sales of similar-sized ribbon because the quantities are not reported on a uniform basis. King Young asserts that this makes the CONNUM characteristics meaningless for the margin calculation.[12] According to King Young, if the model match did, in fact, properly account for different-sized ribbons, then there should be little or no difference between the spool and square-yard comparisons (and thus the petitioner should have no objection to King Young's proposal).

Finally, King Young contends that basing comparisons on square yard data results in better matches because they are based on a uniform comparison of the NWR size, and also because this method allows for better matches concerning the amount of yarn used (as reported in the CONNUM characteristics for the wends and picks). King Young notes that, because the control number in this case defines NWR in terms of both width and length, the Department in effect verified King Young's square yard information at the sales verification. Thus, King Young requests that the Department use its reported square-yard prices, expenses, and costs in the final margin calculations.[13]

The petitioner contends that the Department should continue to perform its margin calculations using King Young's data reported on a per-spool basis.[14] The petitioner notes that King Young fails to cite any record evidence to support its claims that: 1) the Department's margin calculations at the time of the LTFV investigation resulted in more similar comparisons than the comparisons here; and 2) the preliminary constructed value (CV) and margin calculations were distorted because the Department treated pieces as spools.[15] Further, the petitioner characterizes as misleading King Young's claim that it sold significantly more NWR in the home market in pieces than in spools, given that most of King Young's home market sales transactions during the POR were on a per-spool basis.

---

[11] King Young cites Cost Verification Exhibit 17 (CVE 17) for evidence of the distortive effects of the Department's preliminary comparisons. According to King Young, this document shows that the Department compared significantly different-sized spools and products, including NWR that was in no way similar. See the January 7, 2015, Memorandum to the File from LaVonne Clark, Senior Accountant, and Heidi Schriefer, Lead Accountant, through Neal Halper, Director, Office of Accounting, entitled, "Verification of the Cost Response of the King Young Enterprise Co. Ltd., Glory Young Enterprise Co., Ltd., and Ethel Enterprise Ltd., in the Antidumping Duty Administrative Review of Narrow Woven Ribbon with Woven Selvedge Edge from Taiwan" (Cost Verification Report) at page 15 and Exhibit 17.

[12] Specifically, King Young contends that the "non-uniform" unit of spools results in distortive comparisons between different-sized NWR models, created because there are significant differences in the width, length, and prices of these ribbons.

[13] See King Young brief at pages 1-6.

[14] According to the petitioner, King Young's alternative "spool equivalent" basis is the same as a square-yard basis.

[15] The petitioner also notes that because CV is calculated on a product-specific basis, each product reported on a per-piece basis will have its own CV, and therefore there is no inherent distortion in the Department's calculation.

Moreover, the petitioner asserts that it is simply false that square yardage represents a uniform unit of measure. According to the petitioner, a square yard of one NWR type could differ vastly from that of another in terms of product characteristics, and thus NWR is not the homogenous product that King Young makes it out to be. Further, the petitioner disagrees that the Department's comparisons of different sizes of NWR across markets highlights a problem with the Department's model matching hierarchy; according to the petitioner, difference-in-merchandise (DIFMER) adjustments account for differences in the variable cost of manufacturing (VCOM) between products, and thus comparing similar products should cause no distortion as long as the respondent has reported appropriate product-specific cost data.[16]

Department's Position:

For the final results, we have continued to base our margin calculations for King Young using its prices, expenses, and costs stated on a per-spool basis. In making its arguments, King Young has conflated two related, but independent, questions in the dumping calculation: 1) what constitutes the appropriate quantity unit in which to state prices, expenses, and costs when performing the margin calculations; and 2) how to match a U.S. NWR product to its most similar home market counterpart using the physical characteristics of the merchandise. Each of these arguments is addressed in turn, below.

With respect to the quantity issue, the Department established a reporting requirement in the LTFV investigation of using spools as the relevant unit of measure.[17] Consistent with this requirement, in this review we required King Young to report all quantities for U.S. and home market sales transactions in spools and to compute all per-unit prices and expenses using this information.[18] King Young's response to this questionnaire confirmed that this general instruction was consistent with the method in which King Young priced all of the products that it sold to the United States, and most of the products that it sold in the home market. Specifically, King Young sold NWR in the United States exclusively in spools, and a significant majority of its sales transactions in the home market were made on a spool basis as well.[19, 20] Thus, based on the information on the record of this administrative review, we continue to find that King Young primarily sold NWR on a per-spool basis, and not on a square-yard basis.[21]

---

[16] See the petitioner's January 21, 2015, rebuttal brief (petitioner rebuttal brief) at page 6.

[17] See LTFV Determination, and accompanying Issues and Decision Memorandum at Comment 2.

[18] See the Department's Antidumping Questionnaire to King Young, dated January 30, 2014 (Questionnaire) at pages B-17 – B-29 and pages C-16 – C-32.

[19] We note that King Young also sold NWR in units other than spools in the home market (i.e., pieces and yards); however, the vast majority of King Young's sales were made on a per-spool basis. See King Young's U.S. and home market sales listings submitted on September 26, 2014; see also the April 6, 2015, Memorandum to the File from David Crespo, Analyst, Office II, AD/CVD Operations, entitled, "Calculations for King Young Enterprise Co., Ltd. for the Final Results" (Final Calc Memo).

[20] Id. We find King Young's claim that it sold more pieces in the home market than spools to be misleading. This claim is based on a simple comparison of the total units of pieces and spools sold, rather than a comparison of the number of sales transactions. King Young's reported home market sales database clearly shows that the vast majority of its sales transactions were made on a per-spool basis.

[21] With respect to cost, we disagree that stating King Young's sales data on a square-yard basis would be consistent with its cost reporting methodology. As instructed by the Department's questionnaire, King Young reported its

We disagree with King Young that spools do not represent a "uniform unit of measure." In its simplest terms, a "unit of measure" is merely one (or a "unit") of a stated measurement (e.g., length in meters, weight in kilograms, etc.). By definition, the number of spools is a unit of measure (i.e., one spool equals one unit); requiring that King Young report its sales and cost data in this unit of measure across markets and in all databases makes the unit of measure "uniform."

Square yardage is also a unit of measure (i.e., one square yard equals one unit). However, despite King Young's claim to the contrary, this unit of measure is not inherently more uniform than a unit of measure stated in terms of spools. Instead, it is merely an alternative to spools. Given that King Young does not sell its products in the United States on a square-yard basis, but it does sell NWR by the spool, we find no reason to depart from our established practice of using per-spool amounts in the calculations performed for the final results.[22] Indeed, given that King Young prices its products by the spool, we find that restating these prices in terms of square yards would cause inaccuracies in the margin calculations, creating distortions instead of correcting them.

We also disagree with King Young's contention that the Department's reliance on Viraj 2003 in the Preliminary Results was misplaced. It is true that in Viraj 2003, the Court instructed the Department to "either conform itself to its prior precedent and compare plaintiff's merchandise in the manner in which it was sold, or adequately explain its departure and support all of its factual arguments with substantial evidence."[23] On remand, in Viraj 2004, the Court upheld the Department's rationale for departing from its practice of basing the margin calculations on per-piece data, and instead using per-kilogram data.[24] The Department explained to the Court that its change in practice was necessary in order to compare the respondent's data on a "uniform unit of measure."[25] Similarly, in this proceeding, as in the LTFV investigation, the Department based the respondents' margin calculations on data reported on a per-spool basis, because this was the unit of measure in which the respondents predominantly sold NWR. In that segment of the proceeding, as in this one, we required the respondents to report their data on a spool-equivalent basis only where the NWR was not sold in spools.[26] This requirement created the "least

---

costs on a per-spool basis. See Questionnaire at page D-2. Moreover, King Young does not calculate product costs in the normal course of business, and thus it departed from its normal books and records in order to comply with the Department's request to submit product-specific costs. See Cost Verification Report at page 5. Thus, while King Young may have allocated certain costs to NWR using square yardage, this allocation methodology was developed intentionally for the purpose of this review and does not reflect the company's normal books and records.

[22] See LTFV Determination, and accompanying Issues and Decision Memorandum at Comment 2.

[23] See Viraj 2003, 283 F. Supp. 2d at 1354.

[24] See Viraj 2004, 350 F. Supp. 2d at 1328.

[25] Id. at 1328-29.

[26] See LTFV Determination, and accompanying Issues and Decision Memorandum at Comment 2. This requirement was necessary in order to state all sales and cost data in the same (i.e., uniform) unit of measure, so that the Department could perform its calculations on an "apples to apples" basis. This requirement also resulted in the fewest number of unit conversions, given that the majority of sales transactions were made in spools; here, King Young's method would require unit conversions for all home market and U.S. sales quantities.

distortive manner of making comparisons," consistent with Viraj 2004.[27] While King Young has argued that the Department's treatment of pieces as spools is distortive, it has provided no evidence to support this argument.

With respect to the product matching issue, we disagree with King Young that the Department's model match characteristics fail to provide a hierarchy for comparing similar-sized ribbons due to the selection of spools as the appropriate quantity unit. As noted above, the Department's product matching methodology is separate and distinct from its unit-of-quantity selection methodology. The product matching criteria established in this case permit the Department to determine which products are closest in physical similarity to each other; the quantity unit functions as the vehicle by which total sales prices, or aggregate expense/cost amounts, can be expressed on a per-unit basis. Product comparisons determined using the established matching hierarchy are equally valid from a product-similarity perspective, irrespective of whether the quantity unit is spools or square yardage.

Finally, we disagree with King Young that the type of comparison market has any bearing on this question. King Young provided no analysis to support its assertion that the Department made more similar product matches in the LTFV investigation that it has done here, due to the fact that the comparison markets in the LTFV investigation were third countries. Instead, King Young has merely pointed out a difference between the two segments of the proceeding and made conclusory statements which are consistent with its argument. The market on which we base NV may change from segment to segment and from proceeding to proceeding, but without a compelling reason, there is no basis for the Department to revisit the appropriate unit of measure. King Young has provided no evidence demonstrating that such an extraordinary step is warranted here, and, thus, we have continued to rely on data stated on a per-spool basis for the final results of this review.

Comment 2: *Limiting the Model Matching Methodology for Width and Length*

King Young contends that, if the Department does not calculate its margin on a square-yard or "spool equivalent" basis, it should at a minimum modify its model matching methodology to compare only those products with similar widths and lengths.[28] According to King Young, the Department's current methodology compares NWR with significantly different widths and lengths, while only matching products with similar variable costs.[29] King Young argues that, by limiting the model matching methodology in this manner, the Department will also limit potential distortions in comparing NWR with different sizes and types regardless of other expenses such as printing and packaging (i.e., the cost of the traverse and flanges or lack thereof).[30]

---

[27] See Viraj 2004, 350 F. Supp. 2d at 1328.

[28] Specifically, King Young argues that the Department should only match ribbons with a width within a range of plus or minus half an inch and no more than double the reported length.

[29] To support this assertion, King Young cites to CVE 17. In addition, King Young provides a chart in its brief showing certain U.S. sales and the home market products to which they were matched. See King Young brief at pages 6-7.

[30] See King Young brief at pages 6-7.

The petitioner disagrees that the Department should revise its model matching methodology to restrict matches to the width and length ranges proposed by King Young. The petitioner maintains that the Department's methodology currently matches NWR with the most similar width and length first, and where no similar matches exist, comparisons are based on CV. According to the petitioner, the fact that the NWR products matched in the concordance program are not as similar as King Young would like does not indicate a problem with the concordance, but rather it simply reflects the differences in NWR sold in the two markets.[31]

Department's Position:

The Department's model matching hierarchy was established in the LTFV investigation.[32] Under this methodology, the Department first matches U.S. products to sales of identical merchandise in the home market. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, according to section 771(16)(B) of the Tariff Act of 1930, as amended (the Act), we compare U.S. sales to sales of the most similar foreign-like product, or CV. In making the product comparisons, we match foreign like products to the product sold in the United States based on their physical characteristics. In the order of importance, these physical characteristics are as follows: width, type, number of ends in the warp, number of weft picks, spool capacity, yarn composition, metal percentage, selvedge construction, dye process, surface finish, embellishments, dyed color, pattern type, selvedge contour, product unit packaging, and treatments.[33]

While it is not our practice to reexamine an established model matching hierarchy in each segment of a proceeding, we will reexamine it if a valid issue is raised by one or more interested parties early enough in the proceeding to allow for comment by all interested parties and consideration of such comments prior to the deadline for questionnaire responses.[34] Moreover, if we find that a revision is warranted after reviewing the merits of the arguments presented, we have the discretion to revise the hierarchy in order to make fair comparisons as required by section 771(16)(B) of the Act.

King Young raised this argument only in its case brief, too late to allow for comment or for incorporation in the Department's questionnaire. Therefore, the timing of King Young's argument prohibits the Department from changing the established model matching hierarchy at

---

[31] See petitioner rebuttal brief at pages 7-8.

[32] See Narrow Woven Ribbons with Woven Selvedge from Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 7236 (February 18, 2010) (upheld in LTFV Determination).

[33] See Preliminary Results, and accompanying Preliminary Decision Memorandum at page 9.

[34] See Certain Concrete Steel Reinforcing Bars From Turkey; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 66110 (October 30, 2002) and accompanying Issues and Decision Memorandum at Comment 1; Certain Concrete Steel Reinforcing Bars From Turkey; Final Results and Partial Rescission of Antidumping Duty Administrative Review,70 FR 67665 (November 8, 2005) and accompanying Issues and Decision Memorandum at Comment 3; Porcelain-on-Steel Cookware From Mexico; Final Results of Antidumping Duty Administrative Review, 65 FR 30068 (May 10, 2000), and accompanying Issues and Decision Memorandum at Comment 8.

this time. Moreover, in this case, we find that our existing matching hierarchy adequately captures the salient physical characteristics of NWR, and as a result, it yields matches that are accurate and, thus, representative of King Young's current dumping activity. Under this hierarchy, width is the first matching criterion and length (i.e., spool capacity) is fifth. The characteristics between these criteria are commercially significant; NWR type refers to the broad category of ribbon (ranging from sheer ribbons at one end to jacquard ribbons at the other), while the wends and picks determine the density of the weave.[35] In fact, King Young itself recognizes that wends and picks are important criteria when it argues above (see Comment 1) that taking the amount of yarn into account when comparing products yields better matches.

Further, the Department's concordance program limits comparisons to those products with DIFMERs within a 20 percent range to avoid matching significantly different products.[36] Therefore, King Young's concern that the Department must restrict matches to only those products within a narrow range of widths and lengths in order to limit distortions is unjustified, and any alteration of the existing hierarchy is unnecessary. Moreover, were the Department to restrict matches in this fashion, in this or other segments of the NWR proceeding, it could have the unintended consequence of fewer available price-to-price comparisons, a result which is clearly contrary to the statutory preference.[37] Indeed, in this segment of the proceeding, acceptance of King Young's proposal would result in comparisons to CV for all six of the examples in CVE 17 (discussed further below), because width is the first matching criterion and the closest price-to-price match involves products with widths which differ by more than half an inch.

King Young points to a small sample of NWR examined at the cost verification with different lengths and widths that it claims the Department inappropriately matched in its preliminary results calculations. However, we note that the Department at verification only examined very few out of the hundreds of products which King Young sold during the POR, and all of the products in CVE 17 were self-selected by King Young.[38] As noted above, under the Department's matching hierarchy, width is the most important criterion and type is the second. Thus, while the matches in CVE 17 are of different products, they are, in fact, the most similar matches that can be made consistent with the statutory directive that the Department make contemporaneous price-to-price comparisons.

Finally, while the Department has the discretion to revise its model matching hierarchy where it determines that it is appropriate to do so based on the facts on the record, King Young has provided no evidence in support of its contention that restricting matches in the manner it

---

[35] See, e.g., Questionnaire at B-8.

[36] King Young's implication that the Department elevates the similarity of variable costs among products over the physical characteristics is incorrect. Rather, the Department matches products based on their physical similarity according to the hierarchy noted above, and only then does it consider whether those products have variable manufacturing costs (including the cost of spools or lack thereof), which are sufficiently similar to deem that the products may be reasonably compared. This methodology is consistent with the requirements of section 771(16)(B) of the Act and 19 CFR 351.411.

[37] See section 771(16)(B) of the Act and 19 CFR 351.414.

[38] See CVE 17 at 15.

proposes would, in fact, yield better results. As a consequence, we do not find it appropriate to modify the model matching methodology in this administrative review.

Comment 3: *Allegation That King Young's Piece Sales Are Outside the Ordinary Course of Trade*

As noted above, during the POR King Young sold NWR in the home market both in pieces and spools. King Young argues that its home market sales reported on a per-piece basis are outside the ordinary course of trade, as defined by section 771(15) of the Act, because such sales were produced and sold according to unusual product specifications, and sold with abnormally high profits. As a result, King Young claims that the Department should exclude these home market sales from its analysis for purposes of the final results.

According to King Young, the Department determines sales to be outside the ordinary course of trade if the characteristics of such sales are not "ordinary"[39] when compared to a respondent's other sales in the same market.[40] In support, King Young cites 19 CFR 351.102(b)(35), as well as the SAA, which provides examples of the types of merchandise considered to be outside the ordinary course of trade, including those: 1) produced according to unusual product specifications; 2) sold at aberrational prices; or 3) sold pursuant to unusual terms of sale.[41] Further, King Young contends that, while section 771(15) of the Act does not list all situations where the Department could find sales to be outside the ordinary course of trade, it was the intention of Congress to exclude those sales which would lead to irrational or unrepresentative results.[42]

With respect to unusual product specifications, King Young notes that NWR sold on a per-piece basis, unlike NWR sold on spools, does not contain flanges or a traverse (i.e., the ends and body of a spool, respectively). Thus, King Young claims that its per-piece sales of NWR have unusual product specifications because they: 1) are not spooled; and 2) do not include the same packaging materials as NWR on spools. King Young maintains that, as a result, its per-piece sales do not have the same costs as per-spool sales,[43] leading to profits which are significantly higher.[44] Thus, King Young concludes that its piece sales are "extraordinary for the market in

[39] In support of this assertion, King Young cites CEMEX, S.A. v. United States, 19 CIT 587, 593 (1995), where the Court held that the Department makes a determination of "ordinary course of trade" on a case-by-case basis.

[40] See Statement of Administrative Action Accompanying H.R. 5110, H.R. Doc. No. 316, Vol. 1, 103d Cong., 2d Sess. (1994) (SAA) at 834.

[41] Id. at 834.

[42] Id.

[43] King Young notes that the Department required it to include the expenses related to flanges and traverses in its direct material costs.

[44] As support for this assertion, King Young cites the September 25, 2014, Memorandum to the File from David Crespo, Analyst, Office II, AD/CVD Operations, entitled, "Calculations for King Young Enterprise Co., Ltd. for the Preliminary Results," at Attachment I; and provides calculated profit percentages on a per-spool and per-piece basis in its January 16, 2015, case brief, at Attachment 1.

question," and as such, the inclusion of them in the Department's margin calculations would lead to "irrational or unrepresentative" results.[45]

The petitioner disagrees that King Young's home market sales of pieces are outside the ordinary course of trade. The petitioner points out that King Young failed to raise this argument to the Department either prior to the preliminary results or during the sales verification, and it appears to have only raised this argument now in an attempt to obtain a more favorable margin in the final results.

Moreover, according to the petitioner, King Young's per-piece sales are not inherently different from its per-spool sales, and differences in profit margins and per-unit prices do not render its per-piece sales "extraordinary." The petitioner states that King Young's argument simply represents an archetypal dumping situation, where a respondent makes certain sales with higher profit margins in order to fund its dumped sales to the United States and gain U.S. market share. The petitioner also asserts that there is no evidence on the record to substantiate King Young's claims of differences between its per-piece and per-spool sales, and further maintains that there is nothing remarkably different between the specifications and packaging of per-piece and per-spool sales. Therefore, the petitioner maintains that the Department should not exclude any of King Young's home market sales from its final margin calculations.[46]

Department's Position:

We have continued to include King Young's home market sales of NWR made on a per-piece basis in our calculations for the final results. After considering the information on the record with respect to these sales, we find that they were not made outside the ordinary course of trade.

Section 771(15) of the Act defines "ordinary course of trade" as the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind.

Pursuant to 19 CFR 351.102(b)(35), to determine that a sale is outside the "ordinary course of trade," the Department evaluates the transactions based on all the circumstances particular to the sales in question; where the Department finds that such sales or transactions have characteristics that are extraordinary for the market in question, we will determine that the sale is outside the ordinary course of trade. In addition, the Court of International Trade (CIT) has held that, for sales to qualify as being outside the ordinary course of trade, they should possess unique or unusual characteristics which make them unrepresentative of home market sales.[47]

---

[45] See King Young brief at pages 8-9.

[46] See petitioner rebuttal brief at pages 8-10.

[47] See, e.g., NSK Ltd. v. United States, 245 F. Supp. 2d 1335, 1360-61 (CIT 2003) (NSK); NTN Corp. v. United States, 306 F. Supp. 2d 1319, 1347 (CIT 2004) (NTN Corp.). The CIT found in NSK and NTN Corp. that the Department should consider the totality of the circumstances and, for sales to truly be outside the ordinary course of trade, they should possess unique or unusual characteristics that make them unrepresentative.

We have examined the data on the record of this case and find no evidence that the per-piece sales in question possess any unique or unusual characteristics which would warrant considering them to be outside the ordinary course of trade (and, consequently, excluding them from our analysis). At the sales verification, we examined the terms of sale King Young reported for its per-piece transactions and found no differences between the terms of these sales and those of King Young's per-spool transactions.[48] In addition, while King Young claims that its per-piece merchandise had unusual specifications because they are not spooled (and, therefore, do not include the same traverse and flange "packaging" as spooled products), King Young also sold other products in addition to the per-piece sales at issue without a traverse or flanges.[49] Moreover, King Young's per-piece sales do not represent an insignificant proportion of its total home market sales transactions. Thus, sales of products made without spools (i.e., without a traverse or flanges) are not inherently unique.[50]

Furthermore, we find unpersuasive King Young's argument that its per-piece sales are outside the ordinary course of trade because they garner high profits. The Department has determined, and the CIT has affirmed, that high profits by themselves are not a sufficient basis for the Department to determine that sales are outside the ordinary course of trade.[51] Further, pursuant to the SAA, the Department "may" or "could" consider sales or transactions outside the ordinary course of trade based on extraordinary characteristics, but there is no requirement that it do so.[52]

---

[48] See the December 18, 2014, Memorandum to The File from Alice Maldonado, Senior International Trade Compliance Analyst, and David Crespo, Senior International Trade Compliance Analyst, entitled, "Verification of the Sales Response of King Young Enterprise Co., Ltd. (King Young) in the 2012-2013 Antidumping Duty Administrative Review of Narrow Woven Ribbons with Woven Selvedge from Taiwan."

[49] See King Young's July 16, 2014, response at page 13.

[50] We note that King Young did not make a similar claim that their other NWR products without a traverse or flanges (e.g., per-yard sales) are outside the ordinary course of trade. Moreover, we note that many NWR products contain physical characteristics which are not shared by other NWR products, some of which have significant differences from a commercial perspective. For example, some NWR contain metalized yarn, some NWR have ruffled edges, etc.

[51] See Final Results of Antidumping Duty Administrative Reviews: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al., 62 FR 54043, 54066 (October 17, 1997) (AFBs 7) at Comment 1; Ball Bearings and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, 70 FR 54711 (September 16, 2005) (AFBS 15) at Comment 16; Ball Bearings and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part, 69 FR 55574 (September 15, 2004) (AFBs 14) at Comment 33; Ball Bearings and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Review in Part, and Determination Not to Revoke Order in Part, 68 FR 35623 (June 16, 2003) (AFBs 13) at Comment 13; Ball Bearings and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews, 63 FR 55780 (August 30, 2002) (AFBs 12) at Comment 27; Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part, 65 FR 49219 (August 11, 2000) (AFBs 10); and Notice of Final Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin From Italy, 63 FR 49080, 49082 (September 14, 1998) (Granular Resin from Italy). See also NTN Corp., 306 F. Supp. 2d at 1347 (upholding Commerce's decision to include sample sales and sales with high profits in its NV and CV profit calculation where the respondent relied on only one factor, profit levels, to support its contention that Commerce should have excluded the sales); NTN Bearing Corp. of America v. United States, 248 F. Supp. 2d 1256, 1291 (CIT 2003) (NTN 2003).

[52] See SAA at 839-40.

The Court of Appeals for the Federal Circuit (CAFC) has held that the use of "may" and "could" indicates that high profits alone are not enough to establish that the sales are outside the ordinary course of trade.[53]

In this case, King Young has provided no evidence that the sales are unusual; it merely has provided evidence that the sales do not contain a spool, which is similar to other NWR products sold in the home market. Therefore, King Young relies on only one factor, profit levels, to support its contention that its sales should be found outside the ordinary course of trade. Because King Young's has failed to demonstrate that the sales in question possess unique or unusual characteristics, we do not find the sales to be outside the course of ordinary trade.

In summary, while we agree with King Young that its per-piece sales resulted in higher profits, after considering the totality of the circumstances, we find that the facts surrounding these sales do not establish that they were made outside the ordinary course of trade.[54] For these final results, we have given full consideration to the record evidence that King Young cites in support of its contention that its per-piece sales were made outside the ordinary course of trade. However, this evidence is insufficient to establish a basis for the respondent's claim.

Comment 4: *Allegation That King Young's Channel 3 Sales Are Outside the Ordinary Course of Trade*

King Young reported that, during the POR, it made home market sales in three channels of distribution: direct sales to distributors (Channel 1), direct sales to trading companies (Channel 2), and retail sales to end users (Channel 3). In the Preliminary Results, we made no distinctions among these home market sales channels, and therefore we included sales in all three channels in our preliminary margin calculations.

King Young now contends that Channel 3 sales at the retail level are outside the ordinary course of trade, and, as a result, their inclusion in the Department's preliminary margin calculations yielded a dumping rate which was "irrationally" high. Specifically, King Young claims that the sales prices of these transactions, as well as the profit earned on them, are aberrational when compared to the price of and profit from sales in Channels 1 and 2.[55] According to King Young, the weighted-average spool price of its Channel 3 sales was almost three times higher than that of sales in Channels 1 and 2, as well as more than five times higher than the average spool price in Channels 1 and 2.[56] King Young argues that the higher prices of its Channel 3 sales are directly attributable to the higher costs of the ribbon sold through this channel, and these higher prices translate into abnormally high profits as well. Consequently, King Young argues that the Department should exclude its Channel 3 home market sales from its final margin calculations.[57]

---

[53] See Koenig & Bauer-Albert AG v. United States, 259 F.3d 1341, 1345 (Fed. Cir. 2001).

[54] See Koyo Seiko Co., Ltd, v. United States, 932 F. Supp. 1488, 1497-1498 (CIT 1996) (Koyo) ("Commerce cannot exclude sales allegedly outside the ordinary course of trade unless there is a complete explanation of the facts which establish the extraordinary circumstances rendering particular sales outside the ordinary course of trade.").

[55] See King Young brief at Attachment 1.

[56] Id. at page 10.

[57] Id. at pages 9-10.

The petitioner disagrees that King Young's Channel 3 sales are outside the ordinary course of trade. The petitioner argues that differences in per-unit prices and profit margins by sales channel alone do not inherently render sales made through that channel extraordinary or unusual. The petitioner states that, as with its per-piece argument, King Young appears to have only raised this argument now in an attempt to obtain a more favorable margin in the final results. Further, the petitioner notes that King Young provided information on such sales throughout the information-gathering stage of this review and at verification without indicating that it believed such sales were made outside the ordinary course of trade.[58]

Department's Position:

We disagree with King Young that its Channel 3 sales are outside the ordinary course of trade, and therefore we have continued to include them in our calculations for the final results.

While the average spool prices and profits of King Young's Channel 3 sales may be higher when compared to those of the other channels, King Young provides no other distinctions to support its contention that its Channel 3 sales are outside the ordinary course of trade. As noted above, 19 CFR 351.102(b)(35) requires that the Department find that "sales or transactions have characteristics that are extraordinary for the market in question" prior to determining such sales to be outside the ordinary course of trade. Further, the CIT has held that sales outside the ordinary course of trade should possess unique or unusual characteristics which make them unrepresentative of home market sales.[59]

We have examined the data on the record of this case and find no evidence that King Young's Channel 3 sales possess any unique or unusual characteristics which would warrant considering them to be outside the ordinary course of trade. Although these sales are at the retail level, there is nothing unique or extraordinary about them. In fact, they are a normal part of King Young's business, representing approximately half of its total home market sales transactions.

King Young's sole argument is that its Channel 3 sales are outside the ordinary course of trade because the prices, and the corresponding profits, of these sales are high. As noted in Comment 3, above, the Department has determined, and the CIT has affirmed, that high profits by themselves are not a sufficient basis for the Department to determine that sales are outside the ordinary course of trade.[60] Further, pursuant to the SAA, the Department "may" or "could" consider sales or transactions outside the ordinary course of trade based on extraordinary characteristics, but there is no requirement that it do so.[61]

---

[58] See petitioner rebuttal brief at pages 8-10.

[59] See, e.g., NSK, 245 F. Supp. 2d at 1360-61; NTN Corp., 306 F. Supp. 2d. at 1347.

[60] See, e.g., AFBs 7 at Comment 1; AFBs 10; AFBs 15 at Comment 16; AFBs 14 at Comment 33; AFBs 13 at Comment 13; AFBs 12 at Comment 27; and Granular Resin from Italy, 63 FR at 49082. See also NTN Corp., 306 F. Supp. 2d 1319; and NTN 2003, 248 F. Supp. 2d at 1291.

[61] See SAA at 839-40.

In this case, King Young has provided no other evidence that the sales are unusual. Therefore, King Young relies on only one factor, profit levels, to support its contention that its sales should be found outside the ordinary course of trade. Because King Young has failed to demonstrate that the sales in question possess unique or unusual characteristics, we do not find the sales to be outside the course of ordinary trade.

Comment 5: *LOT for King Young*

As noted above, King Young reported that it made sales in three channels of distribution during the POR. In the Preliminary Results, we analyzed the selling functions King Young performed at each of these claimed distribution levels and found that the selling functions did not differ significantly. As a result, we determined that King Young made home market sales at a single LOT during the POR.[62]

King Young argues that, in the event that the Department does not find that its Channel 3 sales are outside the ordinary course of trade (see Comment 4 above), then the Department should make a LOT adjustment as specified in sections 773(a)(1)(B) and (7)(A) of the Act and 19 CFR 351.412(c)(2). King Young claims that the selling functions it performed to make home market sales to Channel 3 are significantly different than those it performed to make sales to either Channel 1 or 2. Thus, King Young argues that the Department erred in finding one home market LOT in the preliminary results, when in fact there are two. As support for this contention, King Young references an exhibit attached to its section A response;[63] however, beyond a simple citation, King Young makes no specific arguments nor provides any analysis.[64]

The petitioner disagrees that King Young's selling functions for Channel 3 sales differed significantly from the functions performed for sales in Channels 1 and 2, and it notes that the Department in the Preliminary Results determined that there is only one LOT in the home market. Consequently, the petitioner maintains that no information on the record supports granting King Young a LOT adjustment in the final results.[65]

Department's Position:

We disagree with King Young that its Channel 3 sales were made at a different LOT than its sales in Channels 1 and 2, and, thus, we continue to find that King Young made home market sales at a single LOT during the POR. 19 CFR 351.412(c)(2) outlines the Department's policy regarding differences in the LOTs as follows:

> The Secretary will determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent). Substantial

[62] See Preliminary Results, and accompanying Preliminary Decision Memorandum at pages 11-12.

[63] King Young points to its March 7, 2014, submission at Exhibit 6.

[64] See King Young brief at pages 10-11.

[65] See the petitioner rebuttal brief at page 10.

> differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing.

In the preliminary results, we analyzed King Young's home market selling functions, and organized them into the following four categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Specifically, in the Preliminary Results, we stated:

> {a}ccording to King Young, it performed freight and delivery services to sell to all home market customers, and market research for sales in Channels 1 and 2.[66] However, we note that, based on King Young's questionnaire responses, it also performs order processing, packing, and provides cash discounts for sales in all home market channels.[67] Therefore, based on the four selling function categories listed above, we find that King Young performed sales and marketing and freight and delivery for certain sales. While King Young reported sales through three different channels of distribution in the home market, because the selling functions performed by King Young do not differ significantly between channels, we preliminarily determine that there is one LOT in the home market.[68]

After reexamining the information on the record with respect to King Young's selling functions, we continue to find that King Young's Channel 3 selling functions do not differ significantly from the selling functions King Young performed when making sales in Channels 1 and 2, such that they are at different marketing stages. Rather, we find that these functions differ only in the area of "market research," which King Young did not define in its questionnaire responses.[69] The performance of unspecified market research activities falls far short of the standard set forth in 19 CFR 351.412(c)(2), which requires that the differences in selling activities be "substantial."

Equally significant, we find that King Young failed to support its claim adequately. As the sole basis for its argument, King Young erroneously relies on a citation to Exhibit 6 of its March 7, 2014, response, without an accompanying narrative explanation as to how the information in this exhibit demonstrates that the Channel 3 selling functions differ significantly from the selling functions performed for other home market sales. Not only is this citation insufficient, but it is also outdated, given that King Young submitted a revised selling functions chart in its July 16, 2014, response, which supersedes the information submitted on March 7, 2014.

With respect to King Young's request for an LOT adjustment, the SAA states:

> Commerce will carefully investigate whether a level of trade adjustment should be made to increase or decrease normal value. However, if a respondent claims an adjustment to decrease normal value, as with all adjustments which benefit a

---

[66] See King Young's July 16, 2014, response at Exhibits S-ABC-2-II.B.2(1) through S-ABC-2-II.B.2(3).

[67] See King Young's March 7, 2014, response at Exhibit A-5(1).

[68] See Preliminary Results, and accompanying Preliminary Decision Memorandum at page 12.

[69] See King Young's July 16, 2014, response at page 7, where King Young states that, "{m}arket research is performed at every channel, except Home market channel 3 (end user/retailer)."

> responding firm, the respondent must demonstrate the appropriateness of such adjustment.[70]

Therefore, for the reasons noted above, we have continued to find that King Young made home market sales at a single LOT for purposes of the final results, and, thus, no LOT adjustment is possible or warranted here.

Comment 6: *Clerical Error in King Young's Preliminary Dumping Margin*

The petitioner maintains that the Department made a clerical error in King Young's preliminary margin calculations when it failed to convert U.S. sales reported in New Taiwan dollars into U.S. dollar amounts. The petitioner requests that the Department correct this error in the final results.[71]

King Young contends that, if the Department does correct the alleged error, it is imperative that it also ensure that it bases its revised calculations on the reported square yard or "spool equivalent" amounts.[72] For further discussion of this argument, see Comment 1 above.

Department's Position:

We have examined our preliminary margin calculations and agree that we failed to convert King Young's U.S. sales denominated in New Taiwan dollars to U.S. dollars.[73] Therefore, we have corrected this error for purposes of the final results. We have not changed the unit of measure used in our calculations, despite King Young's request that we do so, for the reasons outlined in the Department's position to Comment 1 above. For further discussion, see Comment 1.

Comment 7: *King Young's Unaffiliated Suppliers' Cost of Production*

During the POR, King Young manufactured greige ribbon and also purchased greige ribbon from unaffiliated suppliers. King Young further processed the greige ribbon and then sold it to U.S. and home market customers. Although King Young claimed that it was the manufacturer of NWR produced from the purchased greige ribbon, the Department preliminarily determined that the weavers of the NWR under review are the producers of this merchandise consistent with the LTFV investigation.[74] As such, we requested King Young to obtain cost information from its unaffiliated greige ribbon suppliers,[75] and we also directly contacted King Young's unaffiliated

---

[70] See SAA at 829 (emphasis added).

[71] See the petitioner's January 16, 2015, case brief (petitioner brief) at pages 8-9.

[72] See King Young's January 21, 2015, rebuttal brief (King Young rebuttal brief) at page 4.

[73] See the September 25, 2014, memorandum to The File through Shawn Thompson, Program Manager, Office II from David Crespo, International Trade Compliance Analyst, Office II, entitled, "Calculations for King Young Enterprise Co., Ltd. for the Preliminary Results."

[74] See LTFV Determination, and accompanying Issues and Decision Memorandum at Comment 19.

[75] See the Department's September 10, 2014, supplemental questionnaire.

greige ribbon suppliers to request that they report their cost information.[76] Because the information requested directly from the greige suppliers was due after the Preliminary Results of this segment of the proceeding, the Department, in the Preliminary Results, relied on facts otherwise available pursuant to section 776(a)(1) of the Act, to value the greige ribbon obtained by King Young from unaffiliated suppliers consumed in the production of the subject merchandise.[77] As preliminary facts available, the Department relied on King Young's greige ribbon acquisition costs, as reported by King Young in its data file.[78]

On October 9, 2014, the Department received letters from the greige ribbon suppliers that they were unable to provide the accounting data as requested by the Department.[79] The Department notified these suppliers on October 15, 2014, that in order for the Department to consider the companies' submissions, the companies needed to file their submissions in accordance with the Department's filing requirements, set forth at 19 CFR 351.303(g)(1).[80] On October 24, 2014, King Young submitted the suppliers' responses, stating that the suppliers had asked King Young for assistance to file the information in accordance with the Department's regulations.[81] The suppliers resubmitted their letters stating that they were unable to provide the accounting data as requested by the Department and, as an alternative, the suppliers submitted copies of their 2012 and 2013 tax returns.[82]

The petitioner asserts that, because King Young's unaffiliated greige ribbon suppliers failed to provide the requested cost data, the Department should either base King Young's antidumping duty margin in its entirety on AFA or apply partial AFA to the cost of the greige ribbon in question.[83] According to the petitioner, King Young and its greige ribbon suppliers were notified more than two years before the start of the POR that if they elected to sell NWR to the U.S. market under the antidumping duty order and were involved in a future administrative review, they would be required to provide the product-specific costs of greige ribbon.[84] The petitioner alleges that King Young and its greige ribbon suppliers elected to sell NWR to the U.S. market under the antidumping duty order; however, King Young and its greige ribbon

---

[76] See the September 18, 2014, Memorandum to the File, from LaVonne Clark, Accountant, entitled, "Greige Ribbon Constructed Value Questionnaires Sent to King Young Enterprise Co., Ltd.'s Unaffiliated Greige Suppliers" ("Greige Ribbon Questionnaires").

[77] See Preliminary Results, and accompanying Preliminary Decision Memorandum at 14.

[78] Id.

[79] See the October 9, 2014, letters from the greige suppliers, filed on behalf of King Young, in King Young's October 24, 2014, letter to the Department.

[80] See the October 15, 2014, letters from Shawn Thompson, Program Manager, Office II, Office of AD/CVD Operations, to each of the greige ribbon suppliers addressing the incorrect filing of these letters.

[81] See King Young's October, 24, 2014, response at pages 1-2.

[82] Id. at Exhibits 1-4.

[83] The petitioner did not provide specific information as to what it considers AFA for either alternative. See petitioner brief at page 7.

[84] The petitioner points to LTFV Determination, and accompanying Issues and Decision Memorandum at Comment 20.

suppliers failed to maintain the necessary records to be in a position to provide product-specific cost data to the Department.[85]

According to the petitioner, it is not possible for the Department to accurately calculate margins based on CV without product-specific cost data from King Young's greige ribbon suppliers. The petitioner alleges that the explanations given by the greige ribbon suppliers for their failure to provide product-specific cost data make it clear that King Young and its greige ribbon suppliers failed to heed the Department's notice that they would be required to provide such information in future administrative reviews.[86] The petitioner also argues that the submission of the greige ribbon suppliers' tax returns have no bearing on the transaction-specific and product-specific information required for participation in this administrative review.[87] The petitioner emphasizes that King Young and its greige ribbon suppliers made no effort to provide answers to any of the specific questions raised by the Department in the CV questionnaire. For these reasons, the petitioner claims the Department should base King Young's antidumping duty margin in its entirety on AFA. Alternatively, the petitioner suggests that the Department should apply AFA to the portion of U.S. sales that were sourced from King Young's greige ribbon suppliers.

King Young argues that the petitioner has not provided any credible reasoning as to why AFA is applicable to King Young in this administrative review.[88] King Young asserts that the record evidence shows that it has exerted its utmost efforts to comply with the Department's requests for information during the course of this proceeding.[89] King Young alleges that the Department never indicated to King Young that any of its information was deficient, nor did the Department indicate to any of the suppliers that their submitted factual information responses to the supplier questionnaires were deficient.[90]

King Young also asserts, contrary to the petitioner's arguments, that the record evidence provided by the greige ribbon suppliers supports King Young's acquisition prices and, as such, the prices represent reliable information on which to base King Young's antidumping margin.[91] King Young emphasizes that if the petitioner did not believe that the information did not represent specific product information, then the petitioner should have filed such comments with the Department at the time the information was placed on the record by King Young.

King Young concludes that it is well established by the CIT and the CAFC that the Department, "may not use an adverse inference without a finding, based on substantial record evidence, that

---

[85] See petitioner brief at pages 3-4.

[86] Id. at pages 5-6.

[87] Id. at page 7.

[88] King Young cites to section 776(b) of the Act.

[89] See King Young rebuttal brief at page 1.

[90] King Young cites to section 782(e) of the Act.

[91] See King Young rebuttal brief at page 3.

the respondent itself {} failed to cooperate as required by §1677e (b)."[92]

Department's Position:

We disagree with the petitioner that the Department should base King Young's antidumping duty margin, in its entirety, on AFA. King Young, the respondent in the proceeding, did not fail to cooperate to the best of its ability, and, therefore, we find that total AFA is not warranted pursuant to section 776(b) of the Act.

Nonetheless, we agree that the Department should use an adverse inference for the unaffiliated suppliers' cost of greige ribbon. Because the Department finds that King Young's greige ribbon suppliers have failed to cooperate to the best of their ability in reporting their costs of the greige ribbon to the Department, we have resorted to an application of partial adverse inference for these final results pursuant to section 776(b) of the Act. As partial facts available, we assigned to each CONNUM that contains only purchased greige ribbon, the higher of the reported acquisition cost or King Young's self-produced greige ribbon cost of the next most similar product.[93] For those CONNUMs that consist of purchased and self-produced greige ribbon, where King Young reported a weighted-average of the acquisition and self-produced greige ribbon costs, we assigned the higher of King Young's reported weighted-average cost or the self-produced greige ribbon cost of the next most similar CONNUM.[94] Because there is no cost investigation in this case, King Young was not required to separately report greige ribbon costs for products sold in the home market.[95] For those products sold in the home market that were identified by King Young as containing purchased greige ribbon and for which the greige ribbon costs were not reported separately from the VCOM, we applied partial AFA to those products by increasing the VCOM of those products based on the experience observed on the other products.[96]

Several provisions of the Act are instructive to our decision in the final results of this review. Section 773(e)(1) of the Act mandates that CV shall be based on "the cost of materials and fabrication or other processing of any kind employed in producing the merchandise." Section 773(b)(3)(A) of the Act states that the COP should include "the cost of materials and of fabrication or other processing of any kind." Further, section 773(f)(1) of the Act dictates that, in general, "costs shall normally be calculated based on the records of the exporter or the producer of the merchandise, if such records… reasonably reflect the costs associated with the production and sale of the merchandise." Additionally, section 771(28) of the Act instructs that "[f]or purposes of section 773, the term 'exporter or producer' includes both the exporter of the

[92] King Young cites to SKF USA Inc. v. United States, 675 F. Supp. 2d 1264, 1268 (CIT 2009) (SKF II); SKF USA Inc. v. United States, 630 F.3d 1365, 1375 (Fed. Cir. 2011) (SKF III); SKF USA Inc. v. United States, No. 07-00393, Slip Op. 12-94, 2012 WL 292404 (CIT July 18, 2012).

[93] See April 6, 2015, Memorandum to the File, from Neal Halper, Director, entitled, "Constructed Value Calculation Adjustments for the Final Results – King Young Enterprise Co., Ltd." (Final Cost Calculation Memo) at page 3.

[94] Id.

[95] Because King Young provided a CV database, greige ribbon costs were reported for all U.S. products and for home market products for which there are identical U.S. product matches.

[96] See Final Cost Calculation Memo at page 4.

subject merchandise and the producer of the subject merchandise to the extent necessary to accurately calculate the total amount incurred and realized for costs, expenses, and profits in connection with production and sale of that merchandise."[97]

In this case, King Young manufactured certain greige ribbon, and it purchased other greige ribbon from unaffiliated suppliers.[98] It then further processed the greige ribbon before selling it to U.S. and home market customers.[99] Because we consider the greige ribbon to be merchandise under consideration (MUC), we requested the unaffiliated suppliers' COP for the greige ribbon purchased by King Young in accordance with sections 773(f)(1) and 771(28) of Act.[100] The greige ribbon suppliers were put on notice pursuant to our LTFV investigation where we stated that: "(1) in any future segments of this proceeding, we will require that weavers of greige ribbon maintain records adequate to allow the reporting of product-specific costs; and (2) this decision constitutes public notice of this requirement."[101]

Section 776(a)(1) of the Act states, subject to section 782(d) of the Act, that the Department shall use facts otherwise available if necessary information is not available on the record of a proceeding. In addition, section 776(a)(2) of the Act provides that the Department shall, subject to section 782(d) of the Act, use facts otherwise available if an interested party or any other person: A) withholds information that has been requested by the Department; B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; C) significantly impedes a proceeding; or D) provides such information but the information cannot be verified, as provided in section 782(i).

In this segment of the proceeding, the unaffiliated suppliers did not submit product-specific costs as requested by the Department. The suppliers explained that they were unable to provide product-specific information because of incomplete accounting and computer systems and, as an alternative, submitted their 2012 and 2013 tax returns.[102] We find, in this proceeding, that the tax returns, which reflect revenues earned and expenses incurred on an annual basis, do not provide product-specific costs of the greige ribbon. Moreover, we cannot use the tax return information to calculate product-specific costs because the returns do not indicate whether the

---

[97] See also SAA at 835 (the purpose of section 771(28) "is to clarify that where different firms perform the production and selling functions, Commerce may include the costs, expenses, and profits of each firm in calculating cost of production and constructed value").

[98] See, e.g., King Young's September 12, 2014, response at page 6.

[99] See, e.g., King Young's March 7, 2014, response at page A-25.

[100] See LTFV Determination, where we stated that the "Department's consistent practice has been to treat both the respondent and its unaffiliated suppliers of the foreign like product that was sold by the respondent as subject to the sales-below-cost investigation initiated on the respondent company. See, e.g., Honey from Argentina: Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke Order in Part, 73 FR 79802, 79804 (December 30, 2008) (where the Department initiated a sales-below-cost investigation for a respondent and then informed the respondent that certain of its beekeeper suppliers would be requested to respond to section D of the questionnaire).

[101] See LTFV Determination, and accompanying Issues and Decision Memorandum at page 49.

[102] See King Young's October 14, 2014, response at Exhibits 1-4.

expenses reflected on the tax returns relate to products other than the greige ribbon in question. Therefore, we have not relied on the tax return information of the unaffiliated suppliers for purposes of calculating the cost of the greige ribbon.

Section 776(b) of the Act decrees that if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with the request for information, the Department may use an inference that is adverse to the interests of the party in selecting from among the facts otherwise available. The Department in the LTFV investigation stated that we would require the weavers of greige ribbon to maintain records adequate to allow the reporting of product-specific costs and public notice was given of this requirement.[103] The Department, in this segment of the proceeding, provided King Young's unaffiliated suppliers an opportunity to submit product-specific costs.[104] However, the greige ribbon suppliers reported that they were not able to comply with the Department's request for product-specific cost because they did not maintain the records necessary to calculate product-specific costs.[105] As such, we find that King Young's greige ribbon suppliers did not cooperate to the best of their ability because they failed to maintain records that would allow them to submit the product-specific costs even though the Department gave public notice of this requirement well before the beginning the POR. We note that even if we had issued a second supplemental questionnaire to the suppliers requesting product-specific costs for the greige ribbon, that attempt would have been futile because the suppliers had already stated that they did not maintain the records that would allow them to report product-specific costs.[106] While the Department is required by section 782(d) of the Act to identify deficiencies in questionnaire responses and to provide additional time to the person submitting a response to correct such deficiencies, the greige ribbon suppliers' responses were not "deficient" responses.[107] Instead, they were simply statements by the greige ribbon suppliers that they did not have the requested information. Therefore, because we find that the greige ribbon suppliers have failed to act to the best of their ability, we relied on adverse inferences for the suppliers' cost of the greige ribbon in accordance with our practice.

The SAA states that

> section 776(b) permits Commerce and the Commission to draw an adverse inference where a party has not cooperated in a proceeding. A party is uncooperative if it has not acted to the best of its ability to comply with requests for necessary information. Where a party has not cooperated, Commerce and the Commission may employ adverse

---

[103] See LTFV Determination, and accompanying Issues and Decision Memorandum at 49.

[104] See Greige Ribbon Questionnaires.

[105] See King Young's October 14, 2014, response at Exhibits 1-4; see, e.g., King Young's October 14, 2014, response at Exhibit 1 ("{W}e are unable to provide requested data because of uncomplete accounting system and computer system. Alternatively, we provide tax return for your reference.").

[106] See, e.g., King Young's October 14, 2014, response at Exhibit 1 ("{W}e are unable to provide requested data because of uncomplete accounting system and computer system. Alternatively, we provide tax return for your reference.").

[107] See, e.g., Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, 77 FR 63788 (October 17, 2012) and Issues and Decision Memorandum at Comment 23.

> inferences about the information to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.[108]

We disagree with King Young that the Department cannot apply partial AFA to the greige ribbon purchased from unaffiliated suppliers as a result of the SKF decisions. As an initial matter, the relevant facts in SKF are distinguishable from those present here. First, the CIT when it ruled in SKF II that the Department had abused its discretion in applying AFA placed considerable emphasis on the fact that the Department had rejected as untimely COP data from an unaffiliated supplier,[109] which did not happen in this review. Furthermore, rather than using substitute costs reflecting an adverse inference for the unaffiliated suppliers' cost of greige ribbon as done here, the Department in SKF applied an AFA rate to those sales of subject merchandise that the respondent had purchased from the unaffiliated supplier that failed to provide its cost information.[110] Although this particular issue was not appealed, the CAFC in SKF III discussed the Department's application of an adverse inference, by indicating that Commerce must provide an adequate explanation as to why it would apply an adverse inference if the unaffiliated supplier failed to provide cost data.[111]

In Mueller, the CAFC upheld the Department's practice of applying an adverse inference in a situation where an unaffiliated supplier failed to provide its cost of production in order to prevent the unaffiliated party from otherwise evading an antidumping rate by funneling goods through a participating respondent.[112] Specifically, the CAFC held that the Department may rely on adverse inferences for an unaffiliated party's failure to cooperate and include that inference in the margin determination for a cooperating respondent, as long as the application of the inference is reasonable given the particular facts of the proceeding and the predominate interest in accuracy is properly taken into account.[113] In this review, the unaffiliated greige ribbon suppliers produced greige ribbon and then sold the ribbon to King Young who, after further processing, exported the ribbon to the United States during the POR. As such, we consider the unaffiliated greige ribbon suppliers to be interested parties within the meaning of section 771(9)(A) of the Act. Moreover, King Young could have obtained a commitment from its suppliers up front to participate in any future review. If such suppliers refused, King Young could have sources from alternative suppliers willing to participate and maintain the required records,[114] to avoid the "collateral damage" from sourcing subject merchandise from an uncooperative producer. Because these interested parties failed to act to the best of their ability to provide the information requested by the Department, we find the use of facts available with an adverse inference to be appropriate.[115]

---

[108] See SAA at 870.

[109] See SKF II, 675 F. Supp. 2d at 1276-78.

[110] Id. at 1274.

[111] See SKF III, 630 F.3d at 1374.

[112] See, e.g., Mueller Comercial De Mexico, S. De R.L. De C.V. v. United States, 753 F.3d 1227, 1233 (Fed Cir. 2014) (Mueller).

[113] Id.

[114] See LTFV Determination, and accompanying Issues and Decision Memorandum at 49.

[115] See Honey from Argentina: Final Results of Antidumping Duty Administrative Review and Determination Not

In this segment of the proceeding, the Department's concern is the greige ribbon suppliers' failure to cooperate. Therefore, the Department, in selecting an adverse inference for the suppliers' cost of greige ribbon, considered adverse inferences as applicable only to the greige ribbon suppliers. King Young, the respondent in this case, manufactured greige ribbon and complied with the Department's requirements to maintain adequate records that permitted the reporting of product-specific costs for the self-produced greige ribbon.[116] As such, we find that King Young did act to the best of its ability and, therefore, adverse inferences are not warranted with regard to King Young's cost of self-produced greige ribbon.

In applying partial AFA to the purchased greige ribbon, we examined King Young's cost data. King Young reported, in its submitted cost data file, the per-unit cost of self-produced greige ribbon separately from the per-unit cost of purchased greige ribbon. The data show a significant diversity of the per-unit self-produced and purchased greige ribbon costs among the numerous products reported.[117] Due to the significant fluctuations in the greige ribbon costs, the Department determined that selecting the highest cost on the record of this proceeding segment as the partial adverse inference would not be appropriate. Instead, we assigned to each CONNUM that contains only purchased greige ribbon, the higher of the reported acquisition cost or King Young's self-produced greige ribbon cost of the next most similar product.[118] For those CONNUMs that consist of purchased and self-produced greige ribbon, where King Young reported a weighted-average of the acquisition and self-produced greige ribbon costs, we assigned the higher of King Young's reported weighted-average cost or the self-produced greige ribbon cost of the next most similar CONNUM.[119] For those products sold in the home market that were identified by King Young as containing purchased greige ribbon for which the greige ribbon costs were not reported separately from the VCOM, we applied partial AFA to those products by increasing the VCOM of those products based on the experience observed on the other products.

In this manner, we find the selection of the adverse inference to be reasonable because the adverse inference (i.e., the higher of the greige ribbon costs) is applied only to the greige ribbon costs of the party that failed to cooperate to the best of its ability (i.e., the unaffiliated suppliers), and considers the unique facts of this case (i.e., the significant cost disparities among products). Further, the adverse inference, as applied to home market products where the greige ribbon costs are not separately identified, considers the weighted-average percentage of all differences between the reported purchase values and the production costs of the next most similar products where greige ribbon is separately identified (i.e., rather than, for example, the highest percentage

---

to Revoke In Part, 72 FR 25245 (May 4, 2007), and accompanying Issues and Decision Memorandum at Comment 3, stating that when an interested party fails to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference that is adverse to the interests of that party in selecting among the facts otherwise available.

[116] See, e.g., Cost Verification Report at pages 15-23.

[117] See King Young's CV data file submitted to the Department on October 16, 2014.

[118] See Final Cost Calculation Memo at page 3.

[119] Id.

difference or a simple average difference).[120] We also find the Department's selection of the adverse inference allows for an accurate calculation of King Young's dumping margin because the adverse inference is based on King Young's reported greige ribbon costs (i.e., self-produced or acquisition costs) and it is applied to the greige suppliers rather than King Young.

Comment 8: *G&A Expense Ratio for King Young*

King Young calculated and reported a G&A expense ratio that combined the G&A expenses (i.e., the numerator of the ratio) and COS (i.e., the denominator of the ratio) incurred by King Young, Glory Young, Ethel and Ribbon King.[121,122] This ratio was then applied to the combined total COM of King Young, Glory Young, and Ethel to determine the reported per-unit G&A expenses.[123] Ribbon King is not a producer of the MUC, but rather a separate legal entity whose activities are separate and distinct from King Young's, Glory Young's, and Ethel's activities.[124]

The petitioner argues that Ribbon King's G&A expenses should be disregarded in the calculation of any G&A expense ratios. The petitioner concludes that, because Ribbon King is a separate legal entity and is not involved in the production of the MUC, Ribbon King's G&A expenses should not be included in the G&A expenses of the MUC.[125]

The petitioner also alleges that King Young's combined G&A expense ratio is inconsistent with the Department's normal practice of calculating producer-specific G&A expense ratios and applying each producer's G&A expense ratio to that producer's costs to determine the reported per-unit G&A expenses.[126] The petitioner asserts that the Department should calculate and apply company-specific G&A expense ratios for King Young, Glory Young, and Ethel for the final results.[127]

King Young objects to petitioner's reliance on the Department's 2009 Antidumping Manual as precedent for its arguments. King Young notes that Chapter 1 of the Department's Antidumping Manual, at page 1, clearly states "{t}his manual is for the internal training and guidance of Import Administration (IA) personnel only, and the practices set out herein are subject to change without notice. This manual cannot be cited to establish DOC practice." King Young asserts that because King Young's total COM was calculated and reported on a company-wide basis, the

---

[120] Id.

[121] See Cost Verification Report at page 23.

[122] See the June 11, 2014, memorandum to James Maeder, Director, Office II through Shawn Thompson, Program Manager, Office II from The Team, "entitled Whether to Collapse King Young Enterprise Co., Ltd., Glory Young Enterprise Co., Ltd., and Ethel Enterprise Co., Ltd. Taiwan in the 2012-2013 Antidumping Duty Administrative Review of Narrow Woven Ribbons with Woven Selvedge from Taiwan."

[123] Id.

[124] Id.

[125] Id. at pages 2 and 23.

[126] The petitioner cites to the Department's 2009 Antidumping Manual, Chapter 9 at 7, as evidence of the Department's normal practice. See petitioner brief at page 13.

[127] See petitioner brief at pages 12-13.

G&A expense ratio calculation must be on company-wide basis in order to maintain consistency. King Young argues that if the Department calculates separate G&A expense ratios for King Young, Glory Young and Ethel, then the Department must also calculate a separate COM for King Young, Glory Young, and Ethel as well.[128]

Department's Position:

We agree with the petitioner, in part, and have revised King Young's G&A expense ratio to exclude Ribbon King's G&A expenses and COS.[129] We disagree, however, based on the facts unique to this case, that separate G&A expense ratios should be calculated for King Young, Glory Young, and Ethel.

Section 773(f)(1)(A) of the Act states that the COP "shall normally be based upon 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 merchandise." Because there is no definition in the Act or regulations of what a G&A expense is or how the G&A expense ratio should be calculated, the Department has, over time, developed a consistent and predictable practice for calculating and allocating G&A expenses. This reasonable, consistent, and predictable method is to calculate the rate based on the company-wide G&A costs incurred by the producing company allocated over the producing company's company-wide COGS, and not on a consolidated, divisional, or product-specific basis.[130] The rationale for this approach is that, by definition, G&A expenses relate to the general operations of the company as a whole and not to specific products and processes. Accordingly, the Department's well-established practice is to include in the G&A expense ratio calculation certain expenses and revenues that relate to the general operations of the company as a whole.

In this case, Ribbon King is not a producer or exporter of the MUC.[131] Therefore, based on section 773(f)(1)(A) of the Act, we find the inclusion of Ribbon King's G&A expenses and COGS in the calculation of King Young's G&A expense ratio to be inappropriate.

In regard to the petitioner's argument that the G&A expense ratios and resulting per-unit G&A expenses should be calculated separately for King Young, Glory Young, and Ethel, we find that this particular case is a unique situation where the producing companies do not record transactions between each other. King Young stated that King Young, Glory Young, and Ethel "operate as one single economic entity" in the normal course of business and, in doing so, do not record internal transactions among those related companies.[132] The Department noted in the

[128] See King Young rebuttal brief at pages 6-7.

[129] See Final Cost Calculation Memo at page 23.

[130] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Large Residential Washers From the Republic of Korea, 77 FR 75988 (December 26, 2012), and accompanying Issues and Decision Memorandum at Comment 7.

[131] See, e.g., Cost Verification Report at page 23.

[132] See King Young's April 7, 2014, response at page 5. See also King Young's September 12, 2014, response at page 6.

Cost Verification Report that, "officials also explained that transfers of raw materials between King Young, Glory Young, and Ethel are not recorded. As such, raw material purchases made by one entity may be consumed by another entity in the production of the MUC."[133] The Department also noted that King Young, Glory Young, and Ethel do not calculate product costs in the normal course of business.[134] For purposes of calculating COM, King Young combined the costs of the three companies and then determined the products' costs using the allocation methodology discussed in the Cost Verification Report.[135] This methodology was not challenged by the petitioner.[136] Because the Department finds that King Young's reporting methodology provides the most reasonable basis on which to calculate product-specific costs in this case, the Department finds that the G&A expense ratio should be calculated in the same manner. As such, consistent with the Department's practice, King Young's G&A ratio is on the same basis as the COM to which the ratio is applied.[137]

Comment 9: *Financial Expenses for King Young*

King Young calculated a financial expense ratio that combined the financial expenses (i.e., the numerator of the ratio) and COS (i.e., the denominator of the ratio) incurred by King Young, Glory Young, Ethel, and Ribbon King. In the numerator of the ratio, King Young included only the interest paid on short-term loans rather than the total interest expenses as shown on King Young's income statements.

The petitioner alleges that the financial expense ratios and resulting financial expenses reported by King Young are inconsistent with the Department's normal practice because they are based on consolidated financial statements that are prepared for reporting purposes only.[138] Because King Young, Glory Young, and Ethel do not prepare consolidated financial statements in the normal course of business, the petitioner contends that the Department should not accept the consolidated financial ratio reported by King Young. The petitioner contends that, while the Department has an expressed preference for using consolidated group financial statements for the purposes of determining financial expenses, the Department does not prepare consolidated financial statements that do not already exist[139]; instead, the Department works with the financial statements that are produced in the normal course of business.[140] As a consequence, the petitioner argues that the Department should calculate and apply producer-specific financial

[133] See Cost Verification Report at page 5.

[134] Id.

[135] Id. at page 6.

[136] See petitioner brief.

[137] See Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination, 77 FR 63291 (October 16, 2012), and accompanying Issues and Decision Memorandum at Comment 2.

[138] The petitioner refers to the Cost Verification Report at pages 4 and 7.

[139] The petitioner cites to the Department's 2009 Antidumping Manual, Chapter 9 at 7, as evidence of the Department's normal practice.

[140] Id.

expense ratios based on the financial statements that are prepared in the normal course of business.

The petitioner also contends that the Department should revise the reported financial expenses to include all interest expenses, not just interest expenses incurred on short-term loans, in the numerator of the financial expense ratio.[141]

King Young again opposes the petitioner's reliance on the Department's 2009 Antidumping Manual as support for its arguments. King Young also asserts that the Department's preference is to calculate a respondent's financial expense ratio on a company-wide basis or the highest consolidation level available so that all financial expenses are captured. As a result, King Young argues that the Department should continue to use the reported consolidated expense information. King Young contends that if the Department changes its practice and calculates separate financial expense ratios for King Young, Glory Young and Ethel, then the Department must also calculate a separate total COM for King Young, Glory Young, and Ethel as well.[142]

Department's Position:

We agree with the petitioner, in part, and have revised King Young's financial expense ratio to include King Young's total interest expenses.[143] We disagree, however, based on the facts unique to this case, that it is appropriate to calculate separate financial expense ratios for King Young, Glory Young, and Ethel.

Like G&A expenses, there is no definition in the Act of what financial expenses are or how the financial expense ratio should be calculated. Therefore, the Department, over time, has developed a consistent and predictable practice for calculating and allocating financial expenses. This reasonable, consistent, and predictable method is to calculate financial expense ratios at the highest level of consolidation.[144] Where audited consolidated financial statements do not exist, we deem it appropriate to base the net financial expense calculation on the audited financial statements of the respondent (i.e., the unconsolidated financial statements).[145]

As explained above, this case is a unique situation where the producing companies do not record transactions between each other.[146] For purposes of calculating COM, King Young combined the costs of the three companies and then determined the reported product costs. To calculate the

[141] The petitioner refers to the Department's Cost Verification Report at page 26. See petitioner brief at pages 13-15.

[142] See King Young rebuttal brief at page 7.

[143] See Final Cost Calculation Memo at page 3.

[144] See, e.g., Prestressed Concrete Steel Rail Tie Wire From Mexico: Final Determination of Sales at Less Than Fair Value, 79 FR 25571 (May 5, 2014), and accompanying Issues and Decision Memorandum at Comment 5.

[145] See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part, 71 FR 65082 (November 7, 2006), and accompanying Issues and Decision Memorandum at Comment 6.

[146] See King Young's April 7, 2014, response at page 5. See also King Young's September 12, 2014, response at page 6.

reported financial expense ratio, King Young combined the short-term interest expenses and interest income from short-term interest bearing assets (numerator) and COS (denominator) of King Young, Glory Young, Ethel, and Ribbon King.[147]

While we agree with petitioner that the Department's practice is to rely on the unconsolidated financial statements of a respondent when consolidated financial statements are not prepared in the normal course of business, we note that in this case the financial expenses and COS are combined in the same manner as the reported costs.

The Department's practice considers financial expenses to be the actual interest incurred on both short- and long-term debt, reduced by the interest income earned on short-term interest bearing assets.[148] As such, we have revised King Young's financial expense ratio calculation to include King Young's interest on long-term debt.[149]

Finally, we note that, consistent with the revision to King Young's G&A expense ratio, we have excluded Ribbon King's financial expenses and COS in the calculation of King Young's financial expense ratio.[150]

Comment 10: *Labor and Overhead Ratios for King Young*

King Young reported sales quantities and surrogate costs for certain MUC that was not produced during the POR.[151] King Young included these sales quantities in the denominators of its labor and overhead ratios.[152] The labor and overhead ratios were used to allocate the labor and overhead costs incurred during the POR among all products whether or not produced during the POR.[153]

The petitioner argues the Department should revise King Young's labor and overhead ratios to exclude all sales quantities from the denominators of the ratios and then use the recalculated ratios to determine the per-unit labor and overhead costs.[154] If the Department does not make such an adjustment, the petitioner asserts that the reported costs will be understated due to the overstatement of the denominator used in the labor and overhead ratios.[155]

King Young did not address this particular issue.

---

[147] See Cost Verification Report at page 25.

[148] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy, 61 FR 30326, 30359 (June 14, 1996).

[149] See Final Cost Calculation Memo at page 26.

[150] Id.

[151] See Cost Verification Report at pages 13-15.

[152] Id.

[153] Id.

[154] The petitioner refers to Cost Verification Report at pages 13-15.

[155] See petitioner brief at page 10.

Department's Position:

We agree with the petitioner and have recalculated the labor and overhead allocation ratios exclusive of the sales quantities reported for merchandise not produced during the POR.[156] Because the costs included in the numerators of the allocation ratios are only those costs associated with production during the POR, we find that the denominators of the per-unit calculations should, as well, include only the quantities produced during the POR.[157]

Comment 11: *King Young's Allocation of FOH Costs*

King Young reported the same per-unit FOH costs (depreciation/amortization expenses) for all products.[158] At verification, the Department found that King Young was able to isolate the FOH expenses specific to the weaving, printing, and cutting processes.[159]

The petitioner asserts that the Department should revise King Young's cost data to more appropriately allocate FOH costs according to the production processes performed on specific products. The petitioner alleges that if the Department does not make such an adjustment to the FOH costs, the reported costs will not properly reflect CONNUM-specific costs based on the processes performed. The petitioner opposes King Young's claim, made during the cost verification, that the difference between the reported FOH costs and more accurately allocated FOH costs "is minimal."[160] The petitioner counters that this claim is disproven by the information presented in the Cost Verification Report.[161] The petitioner asserts that even if the approach outlined by the Department in the Cost Verification Report assigns printing FOH to certain printed products when they should not (i.e., because the products were printed by third parties rather than by King Young), King Young's reporting methodology assigned identical FOH expenses to all products, whether self-printed, printed by third parties, or not printed.[162]

King Young did not comment on this particular issue.

Department's Position:

We agree with the petitioner and have revised King Young's reported FOH expenses so that the CONNUM-specific FOH expenses more reasonably reflect the processes used by King Young to manufacture that CONNUM.[163] We also agree with the petitioner that this adjustment may

[156] See Final Cost Calculation Memo at pages 1-2.

[157] Id.

[158] See Cost Verification Report at pages 20-23.

[159] Id.

[160] The petitioner refers to the Cost Verification Report at page 22. See petitioner brief at page 11.

[161] Id.

[162] Id. at page 23.

[163] See Final Cost Calculation Memo at pages 1-3.

result in the allocation of self-printing FOH costs to ribbon printed by third parties because neither the CONNUM characteristics nor King Young's cost data file distinguish self-printed ribbon from ribbon printed by third parties. However, as noted in the Cost Verification Report, King Young's current reporting methodology has the same result – identical FOH expenses are assigned to all products, whether self-printed, printed by third parties, or not printed.[164]

Comment 12: *AFA Rate for Hen Hao*

In March 2014, Hen Hao informed the Department that it did not intend to respond to the questionnaire or participate in the administrative review.[165] Therefore, in accordance with sections 776(a)(1) and (2)(A), (B), and (C) and 776(b) of the Act, in the Preliminary Results, the Department applied facts otherwise available with an adverse inference when determining Hen Hao's rate.[166] As AFA, we selected the highest rate on the record of this proceeding (i.e., 137.20 percent, the highest margin alleged in the petition), in accordance with our practice.[167] We found that this rate is both reliable and relevant, and thus acceptable for use as AFA, because: 1) the Department used this rate as the AFA rate for non-cooperative respondents in prior reviews of this order; 2) this margin falls within the range of transaction-specific margins calculated for King Young in this administrative review; and 3) information on the record demonstrates that Hen Hao supplied NWR sold in the United States to Hubschercorp, a company which received the same AFA rate in the first administrative review.[168]

Morex and Papillon admit that Hen Hao failed to cooperate in this administrative review and, thus, they do not challenge the Department's decision to base Hen Hao's dumping margin on AFA. However, the importers contend that the AFA rate selected by the Department is not in accordance with law because it is not: 1) based on evidence on the record of this proceeding; 2) reasonable; or 3) supported by court precedent.[169]

The importers assert that the purpose behind section 776(b) of the Act is to ensure that a party "does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[170] They further maintain that the Department's task, when determining an AFA rate, is limited to "identify{ing} the amount necessary to deter non-compliance."[171, 172] According to

---

[164] See Cost Verification Report at page 43.

[165] See Hen Hao's letter to the Department, dated March 7, 2014 (Hen Hao Letter).

[166] See Preliminary Results, and accompanying Decision Memorandum at 15.

[167] Id., and accompanying Decision Memorandum at 16-17.

[168] See the petitioner's September 10, 2014, submission at Exhibits 1-3.

[169] See Morex Ribbon Corp. and Papillon Ribbon & Bow Inc.'s case brief, dated January 20, 2015, at page 4.

[170] See Preliminary Results, and accompanying Decision Memorandum at 15.

[171] See Lifestyle Enterprise, Inc. v. United States, 865 F. 2d 1284, 1292-93 (CIT 2012) (Lifestyle Enterprise II); see also Dongguan Sunrise Furniture Co. Ltd. v. United States, 931 F. 2d 1346, 1350 (CIT 2013) (Dongguan Sunrise Furniture 2013).

[172] The importers claim that the Courts generally have invalidated the Department's practice of assigning the highest prior margin as AFA. According to the importers, in Foshan Shude Yongjian Housewares & Hardware Co., Ltd. v. United States, 991 F. Supp. 2d 1322, 1331 (CIT 2014) (citing KYD, Inc. v. United States, 607 F.3d 760, 767 (Fed.

the importers, record evidence indicates that Hen Hao cannot sell NWR in the United States beyond the 4.37 percent All Others rate, and, thus, any rate above that would be a sufficient deterrent.[173,174]

The importers note that the selection of an appropriate AFA rate has been the subject of many recent rulings at both the CIT and CAFC, and they claim that these rulings support their argument that the petition rate in this case is an unreasonable choice. Specifically, the importers note that the courts have recently held that: 1) an AFA rate must be a reasonably accurate estimate of the respondent's actual rate (albeit with some increase for deterrence)[175]; 2) when establishing this rate, the Department must look to the calculated rates of cooperative respondents as a baseline (and if the Department selects a rate in multiples of the baseline, it risks having that rate deemed punitive)[176]; 3) the selected rate must be linked to the commercial reality of the non-cooperative party[177]; and 4) the rate must not only be supported by substantial evidence, but the Department must also take into account evidence that detracts from its findings.[178] Therefore, according to the importers, 137.20 percent is not a credible AFA rate

---

Cir. 2010) (KYD)), the CIT held that the presumption that the highest prior margin is the most probative rate for a non-cooperating respondent is limited to situations where the rate was calculated for the same respondent in a prior review and that party did not respond to the Department's questionnaire in any way. See Morex and Papillon's case brief at page 9.

[173] The importers claim that Hen Hao is a small company with a small U.S. presence, and its lack of cooperation was not based upon a business decision that it would gain a better (or equivalent) result by not cooperating. Rather, the importers maintain that Hen Hao simply had insufficient resources to respond to the Department's questionnaire. See Morex and Papillon's case brief at pages 7-8.

[174] The importers assert that they properly imported and declared the NWR that they purchased from Hen Hao, and thus if the margin remains the same, they are concerned that they will become "collateral damage" in the Department's deterrence efforts as they may be required to pay duties equal to substantially more than the value of the ribbons that they imported. See Morex and Papillon's case brief at page 3. Although these companies make additional arguments related to their business dealings with Hen Hao, they have claimed business proprietary treatment for them, as well as for any supporting statements. As a result, we are unable to discuss these arguments here. For further discussion, see the April 6, 2015, Memorandum to the File from the Team entitled, "Corroboration of Adverse Facts Available Rate for the Final Results in the 2012-2013 Antidumping Duty Administrative Review of Narrow Woven Ribbons with Woven Selvedge from Taiwan" (Final Corroboration Memo).

[175] See Gallant Ocean (Thailand) Co. v. United States, 602 F.3d 1319, 1323 (Fed. Cir. 2010) (Gallant Ocean).

[176] Id. at 1324-25; Lifestyle Enterprise II, 865 F.2d at 1292-1293; Lifestyle Enterprise, Inc. v. United States, 844 F. Supp. 2d 1283, 1291 n.13 (CIT 2012) (Lifestyle Enterprise I); Dongguan Sunrise Furniture Co., Ltd. v. United States, No. 10-00254, Slip Op. 15-03 at 8 (CIT January 14, 2015) (Dongguan Sunrise Furniture 2015). See Morex and Papillon case brief at 5.

[177] See Gallant Ocean, 602 F.3d at 1324-25.

[178] See Dongguan Sunrise Furniture 2013, 931 F.2d at 1350; Camau Frozen Seafood Processing Import Export Corp. v. United States, 968 F. Supp. 2d 1328, 1333 n.13 (CIT 2014) ("For an agency action to be based on substantial evidence, the agency must explain why evidence that fairly detracts from the reasonableness of its determination does not outweigh that which supports it."); Narrow Woven Ribbons with Woven Selvedge from Taiwan: Preliminary Results of Antidumping Duty Administrative Review, 77 FR 32938, 32940 (June 4, 2012) (unchanged in Narrow Woven Ribbons with Woven Selvedge from Taiwan: Final Results of Antidumping Duty Administrative Review; 2010-2011, 77 FR 72825 (December 6, 2012) (Taiwan Ribbons AR1) (which states, "where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin") (citing Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (Mexico Flowers) (where the Department disregarded the highest

because it is not a reasonably accurate estimate of Hen Hao's actual rate (plus an extra deterrent amount); it is many multiples of the highest calculated rate in this proceeding[179]; it cannot be linked to Hen Hao's commercial reality using the methods indicated in the Preliminary Results (discussed further below); and it was not established after a proper consideration of detracting evidence.

The importers assert that the Department's preliminary AFA analysis was not an analysis at all, given that it merely consisted of selecting the petition rate and then moving on to a corroboration exercise. Instead, the importers maintain that, before the petition rate can be corroborated, the Department must first explain why its baseline for determining an appropriate deterrent was the petition rate (instead of the prior calculated rates, the starting point sanctioned by the courts). According to the importers, the Department should redo its final analysis using 4.37 percent as the starting point, and then it should add a reasonable increase to deter non-cooperation. As suggestions, the importers offer the following alternatives, most derived from the preliminary margin calculations performed for King Young: 1) the 4.37 percent "All Others" rate multiplied by two; 2) the simple average of the margins calculated for all of King Young's transactions; 3) an average of all of King Young's transaction-specific margins that pass the Cohen's *d* test; and 4) the average margin calculated for the top 50 percent of King Young's transactions.[180] The importers claim that the three latter rates can be linked to Hen Hao's commercial reality, given that they are based on a sufficient number of transaction-specific margins calculated for a cooperative respondent. The importers note that all of these rates are significantly lower than the petition rate, and, thus, they argue that the Department cannot find that the petition rate is a commercially-realistic estimate of Hen Hao's rate with an added deterrent.[181]

With respect to corroboration, the importers disagree that the analysis performed in the Preliminary Results was satisfactory. The importers contend that, although the Department calculated margins for King Young at or above the petition rate, these margins did not represent a sufficient percentage of King Young's sales.[182] The importers argue that, because the subject

---

calculated margin as AFA because the margin was based on a company's uncharacteristic business expense resulting in an unusually high margin))).

[179] The importers note that the calculated rates in this proceeding are zero, the 4.37 percent "All Others" rate, and King Young's preliminary dumping margin of 3.38 percent.

[180] See Morex and Papillon's case brief at pages 11-12 and Exhibits 1 and 2. The importers note that the Court has found that applying statistical tests to the Department's selection of an AFA rate "makes good practical sense" because it would "identify the probable commercial realities of an uncooperative respondent . . . ." See Nan Ya Plastics Corp., Ltd. v. United States, 6 F. 3d. 1362,1369 (CIT 2014). The specific averages advocated by Morex and Papillon in their case brief are business proprietary in nature and thus are not disclosed in this memorandum.

[181] The importers also urge the Department to consider King Young's transactions that are most similar in physical characteristics to the products that they purchased from Hen Hao. Because the importers have claimed BPI treatment for this information, see Morex and Papillon's case brief at page 12 and Exhibit 4 for further discussion.

[182] To support this assertion, the importers cite Lifestyle Enterprise II, 865 F.2d at 1290 ("Generally, a larger percentage of a party's sales data is needed to support a very high margin."); Dongguan Sunrise Furniture 2015, Slip Op. 15-03 at 8 ("50 % of Fairmont's reported sales of similar merchandise is sufficiently representative of Fairmont's commercial reality in selling those types of products."); Dongguan Sunrise Furniture Co., Ltd. v. United States, 997 F. Supp. 2d 1330, 1337-38 (CIT 2014) (Dongguan Sunrise 2014) (where the Court directed the Department to either use "a much greater portion of the reported sales in order to achieve an AFA rate consistent with {the respondent's} commercial reality" or "some other reasonable methodology for tying the unreported sales

merchandise encompasses a wide variety of products with dramatically different transaction-specific margins, the Department must use a greater portion of these sales to achieve an AFA rate consistent with commercial reality.[183]

The importers further argue that it is irrelevant that the Department used the petition rate as AFA in prior segments. The importers note that: 1) Hen Hao did not participate in those segments[184]; 2) the Department lacked better information to use as AFA then[185]; 3) the first administrative review was only one segment removed from the investigation[186]; 4) the Department was able to link the petition rate to Hubschercorp (the respondent in the first administrative review) because it sold NWR in a similar spool size as sales of NWR by respondents in the LTFV investigation, and these LTFV sales had margins of a magnitude that served to corroborate the petition margin[187]; and 5) the Department linked the same petition rate to the uncooperative respondents in the second administrative review because both were both Canadian resellers, like the respondent in the first review.[188] The importers note that, in contrast to prior segments where there was no evidence aside from the petition from which to derive an appropriate AFA rate, here, there is abundant record evidence from which to select an AFA alternative.

Finally, the importers note that the Department linked the petition rate to Hen Hao based on its transactions with Hubschercorp during the first administrative review. However, the importers claim that this linkage is invalid because: 1) Hen Hao is not Hubschercorp, nor is there any evidence showing that the companies are affiliated; 2) there is no evidence to show that Hen Hao either was Hubschercorp's only supplier or knew its merchandise was destined for the United States; and 3) there is nothing in the record of the current segment that ties the AFA rate assigned to Hubschercorp directly to Hen Hao.[189,190] The importers find it equally inappropriate to rely on

---

here to the reported sales used to calculate the AFA rates (such as through a comparison of the U.S. prices"). See Morex and Papillon's case brieft at page 11.

[183] See Dongguan Sunrise 2014, 997 F. Supp. 2d at 1337-38.

[184] See Gallant Ocean, 602 F.3d at 1324 (holding that nothing in the record ties the petition rate to the non-cooperative company because it did not participate in the investigation or the first review).

[185] See Taiwan Ribbons AR1, and accompanying Issues and Decision Memorandum at Comment 1; Narrow Woven Ribbons with Woven Selvedge from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 29703 (May 21, 2013) (Taiwan Ribbons AR2 Prelim) and accompanying Preliminary Issues and Decision Memorandum at page 7 (unchanged in Narrow Woven Ribbons with Woven Selvedge from Taiwan: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 50377 (August 19, 2013)) (Taiwan Ribbons AR2)).

[186] See Taiwan Ribbons AR1, and accompanying Issues and Decision Memorandum at Comment 1. The importers cite to Lifestyle Enterprise I, 844 F. Supp. 2d at 1290, where the Court found a prior AFA rate inappropriate because it was from a segment which was three to four years before the administrative review at issue.

[187] See Taiwan Ribbons AR1, and accompanying Issues and Decision Memorandum at Comment 1; the petitioner's September 10, 2014 submission at Exhibit 3. Morex and Papillon further assert that information on the record of this administrative review shows that spool size is not a reliable indicator of price, and therefore not a valid method of corroboration. See Morex and Papillon's October 14, 2014, submission of factual information.

[188] See Taiwan Ribbons AR2, and accompanying Issues and Decision Memorandum at page 7.

[189] See Gallant Ocean, 602 F.3d at 1324.

[190] See Morex and Papillon's case brief at pages 18-19.

the Court's upholding of the same rate as AFA for Hubschercorp. The importers note that the Court based this ruling upon a finding that the Department "basically infer{red} from Hubscher's spool size that Hubscher deals in relatively higher margin merchandise," and there is no evidence on the record that Hen Hao also "deals in higher margin merchandise."[191] Thus, the importers request that the Department assign to Hen Hao one of the AFA alternatives proposed above for purposes of the final results.

The petitioner disagrees with Morex and Papillon, arguing that the Department should continue to assign an AFA rate to Hen Hao of 137.20 percent. According to the petitioner, this rate is in full accordance with the law and is not beyond what is necessary to deter non-cooperation because it was obviously insufficient to compel Hen Hao to participate in the review. The petitioner notes that the rate is based on a reasonably accurate estimate of Hen Hao's actual rate, is grounded in commercial reality, and is corroborated by record evidence. As a result, the petitioner maintains that it would be inappropriate to base the AFA rate for Hen Hao on King Young's sales data.[192] Therefore, the petitioner maintains that the Department's preliminary finding that King Young dumped numerous sales at rates above 137.20 percent demonstrates that the petition rate continues to be an appropriate AFA rate.[193]

Department's Position:

After considering all arguments on this issue, we are continuing to apply 137.20 percent, the highest petition rate, as the AFA rate for Hen Hao in these final results. As discussed below, we have corroborated this rate to the extent practicable, in accordance with section 776(c) of the Act.

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply "facts otherwise available" if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act. In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information.

Section 776(b) of the Act provides that the Department may use as AFA information derived from: 1) the petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record. It is the Department's practice, when selecting an AFA rate from among the possible sources of information, to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to

[191] See Hubscher Ribbon Corp., Ltd. v. United States, 942 F. Supp. 2d 1375, 1380 (CIT 2013).

[192] The petitioner asserts that the Department should disregard the importers' analysis of King Young's margins because it is merely a "cherry picking" exercise.

[193] See petitioner's rebuttal brief at pages 10-18.

induce respondent to provide the Department with complete and accurate information in a timely manner."[194]

As noted in the Preliminary Results, Hen Hao did not respond to the Department's questionnaire in this administrative review, and it informed the Department that it did not intend to participate further.[195] Under these circumstances, the Department has sufficient basis to deem the company in question non-cooperative, and to assign it a dumping rate based on AFA. At issue here is not whether the use of AFA for Hen Hao is justified, but rather whether the rate selected as AFA is appropriate.

In this proceeding, the Department has the following available sources of AFA: 137.20 percent (the highest rate alleged in the petition), 4.37 percent (the only affirmative dumping margin calculated in the LTFV investigation), 30.64 percent (the weighted-average margin calculated for King Young, the sole cooperating respondent in the current segment of the proceeding), and various margins calculated using a subset of King Young's data.[196] Given these choices, we find that the highest rate in the petition, 137.20, is the most appropriate. Assigning Hen Hao the LTFV margin of 4.37 percent would not be adverse because it is the company's current cash deposit rate and at this rate Hen Hao's NWR has continued to be imported into the United States.[197] Assigning it the same rate of 30.64 percent as King Young in this review, a cooperative producer/exporter of NWR in Taiwan, would also not be appropriate; while this rate is higher than the LTFV margin, it is also not sufficiently adverse, given that it represents the actual rate of dumping computed for a participating respondent during the same POR and would not deter non-cooperation.[198]

Moreover, we disagree with the importers that using a subset of King Young's data as the basis for AFA is warranted here. The Department's general practice with respect to the assignment of adverse rates is to assign the higher of the highest rate in the petition or the highest margin rate calculated in any segment of a given proceeding, unless these rates cannot be corroborated or there are case-specific reasons that these rates are not acceptable.[199] In this review, we find that

---

[194] See, e.g., Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part, 71 FR 65082, 65084 (November 7, 2006).

[195] See Hen Hao Letter.

[196] The Department calculated a preliminary dumping margin of 3.83 for King Young. However, we made a number of changes to King Young's final margin, including the correction of a significant ministerial error. For a list of these changes, see the "Margin Calculations" section, above.

[197] See the November 19, 2013, Memorandum to the File from David Crespo, Analyst, entitled 2012-2013 Antidumping Duty Administrative Review: Narrow Woven Ribbons with Woven Selvedge from Taiwan: Release of Customs Entry Data from U.S. Customs and Border Protection."

[198] As noted above, the calculated margin for King Young is in the double digits. We conclude from this that NWR not only can be, but currently is being, dumped in the United States at significant rates. Thus, we disagree with the importers that Hen Hao could not have sold NWR in the United States at rates which exceed the "All Others" rate of 4.37 percent.

[199] See, e.g., Taiwan Ribbons AR2 Prelim and accompanying Preliminary Issues and Decision Memorandum at page 8 ("Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin"); and Mexico Flowers, 61 FR at 6814 (where the Department disregarded the highest calculated margin as AFA because the margin was based on a company's uncharacteristic

the petition rate, 137.20 percent, is a valid source of AFA, and it is one of the sources explicitly authorized under section 776(c) of the Act.[200] Further, not only is the petition rate higher than the highest calculated margin, but it also does not suffer from being a contemporaneous rate calculated for a cooperating respondent, the use of which would be at odds with the the statutory purpose of AFA to induce cooperative behavior. Therefore, we have continued to assign Hen Hao an AFA rate of 137.20 percent for the final results.[201] In accordance with our practice, we have examined whether any information on the record would discredit the selected rate as reasonable facts available and have found none.[202]

We also continue to find that this rate can be corroborated, within the meaning of section 776(c) of the Act. Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.[203] To corroborate means that the Department will satisfy itself that the secondary information to be used has probative value.[204] To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.[205]

---

business expense resulting in an unusually high margin).

[200] We disagree with the importers that the petition rate is not a valid starting place in light of Foshan Shunde, a case where the CIT held that the Department may not "dispense with {the} corroboration requirement by employing the Rhone Poulenc presumption." 991 F. Supp. 2d at 1330. In this case, we have not employed the Rhone Poulenc presumption. Instead, as noted below, we have corroborated the petition rate within the meaning of section 776(c) of the Act and considered the totality of the record of this review.

[201] The importers claim that: 1) Hen Hao's lack of cooperation resulted from inadequate resources, rather than a calculated business decision; and 2) assigning a rate far lower than the petition rate will have the same deterrent effect as assigning the petition rate. However, with respect to the first claim, the Department does not consider mitigating factors when selecting an appropriate AFA rate. See Certain Pasta from Italy: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of Order, 74 FR 1173 (January 12, 2009), and accompanying Issues and Decision Memorandum at Comment 1. As for the second claim, for the reasons discussed above, a lower rate is not appropriate in this instance. Moreover, most of the alternative rates suggested by the importers would be lower than the rate calculated for King Young, a cooperating respondent. See Morex and Papillon's case brief at pages 11-12 and Exhibits 1 and 2.

[202] See, e.g., Taiwan Ribbons AR2 Prelim and accompanying Preliminary Issues and Decision Memorandum at page 8 and Mexico Flowers, 61 FR at 6814. Although the importers contend that certain information on the record of this review detracts from our finding that the petition rate is an appropriate source of AFA, they have cited no evidence to support their claim. While the importers have provided certain U.S. pricing data and have claimed that these data represent their purchases from Hen Hao during the POR, we find that the data do not call into question the petition margin or its relevance to Hen Hao. These self-selected data merely consist of unit prices and product characteristics without any corresponding normal value data, a necessary component of any margin calculation.

[203] See SAA at 870.

[204] Id.

[205] See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished,

During the POR, King Young made hundreds of U.S. sales of NWR, representing numerous models and thousands of spools, at rates equaling or exceeding the petition rate.[206] These sales were not isolated sales of unusual models, but rather they fall well within the range of the mainstream products sold by King Young during the POR.[207] Given that a substantial number of King Young's actual U.S. transactions were dumped at rates at an even higher level than the petition margin,[208] we find that the petition rate is neither aberrational nor divorced from commercial reality, but rather is corroborated by the evidence available on the record. Indeed, the CAFC has upheld the use of transaction-specific margins for cooperative companies to support an AFA margin when the AFA margin "does not lie outside the realm of actual selling practices."[209] Further, because the petition rate does "not lie outside the realm of actual selling prices," it represents commercial reality for a segment of the NWR industry.[210]

Moreover, the CAFC in KYD also found that the use of transaction-specific margins to corroborate the petition margin was sufficient, stating that the Department "need not select, as the AFA rate, a rate that represents the typical dumping margin for the industry in question."[211] Our comparison of transaction-specific margins in this review is analogous to the Department's comparison of transaction-specific margins in the administrative review underlying KYD.

In addition, we continue to find that the petition rate is relevant because it is an established rate which has been used as AFA in prior segments of this proceeding,[212] and which has survived judicial review.[213] This rate is reflective of Hen Hao's own commercial reality through: 1) Hubschercorp, a company to which Hen Hao previously supplied NWR,[214] and which the Department found to be dumping at the same rate[215]; and 2) King Young, a producer/ exporter of

---

From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (Mar. 13, 1997).

[206] See Final Corroboration Memo.

[207] Id.

[208] Id.

[209] See KYD, Inc. v. United States, 607 F.3d 760,766 (Fed. Cir. 2010) (KYD).

[210] By "segment of the ribbons industry," we simply mean that there exists in the commercial marketplace a number of actual customers who expect to (and do) purchase ribbons at this level of dumping. Thus, it is not unreasonable to infer that Hen Hao could sell subject merchandise to those companies at the same dumping levels.

[211] See KYD, 607 F.3d at 765-66.

[212] Due to the business proprietary nature of the information on which our corroboration analysis is based, we are unable to discuss the specifics of it here. See Final Corroboration Memo; see also Taiwan Ribbons AR1 and Taiwan Ribbons AR2.

[213] See Hubscher, 979 F. Supp. 2d at 1366-1371.

[214] See the petitioner's September 10, 2014, submission at Exhibits 1-3.

[215] We note that as we were able to further link the petition rate to Hubschercorp's commercial reality in the first administrative review based on quantities and spool sizes, the Court affirmed the application of this rate for Hubschercorp. See Hubscher, 979 F. Supp. 2d at 1366-1371. Therefore, because Hen Hao produced certain of the ribbons sold by Hubschercorp, we find that this rate represents the commercial reality of sales of Hen Hao NWR to the United States. See the petitioner's September 10, 2014, submission at Exhibit 3.

NWR – also located in Taiwan and also selling NWR to the United States -- which is currently dumping NWR at rates similar to the petition rate. With respect to King Young, the importers themselves recognize that Hen Hao's commercial reality is linked to King Young's, given that they suggest various alternative AFA rates which are derived from King Young's data.[216] Indeed, in every segment of this proceeding, we have found that NWR produced in Taiwan and exported to the United States is being dumped in rates exceeding 100 percent. As noted above, there exists a segment of the NWR industry in which a number of actual customers expect to (and do) purchase ribbons at this level of dumping.[217]

We disagree with the importers that both Hen Hao's historical supply of NWR to Hubschercorp and the CIT's validation of the petition rate as AFA for Hubschercorp[218] are irrelevant to this corroboration exercise. In order to corroborate the AFA rate, the Department examines the totality of the record rather than relying on a single factor. In addition to all of the factors noted above, we found that a substantial number of King Young's actual U.S. transactions were dumped at rates at an even higher level than the petition margin, further substantiating the petition rate as relevant in this segment of the proceeding.[219] Because Hen Hao did not respond to the Department's questionnaire, there is no information on the record of this current review to question the reliability of the 137.20 percent petition rate, and thus we determine this information continues to be reliable.[220] Additionally, information on the record of this proceeding demonstrates that, during the first administrative review in this proceeding, Hen Hao was a supplier of NWR sold in the United States by the Canadian reseller Hubschercorp.[221] Again, because Hen Hao did not cooperate in this administrative review, we only have Hen Hao's previous behavior on which to rely. Because there is no evidence on the record that Hen Hao does not continue to sell dumped NWR to the United States, we continue to find this factor relevant to the corroboration of the petition rate.

In summary, because the petition rate represents commercial reality for a segment of the NWR industry (a member of which is Hen Hao), and further because Hen Hao produced NWR and sold it to Hubschercorp, a company to which the Department previously assigned the 137.20 percent AFA rate, the AFA rate is linked to Hen Hao's commercial reality.[222]

---

[216] See Morex and Papillon brief at page 12.

[217] See Taiwan Ribbons AR1 and Taiwan Ribbons AR2.

[218] See Hubscher, 979 F. Supp. 2d at 1366-1371.

[219] See Final Corroboration Memo.

[220] Although the importers point to their purchase data and urge the Department to use it to base Hen Hao's final dumping margin on an average of the transaction-specific margins calculated for similar King Young merchandise, we disagree that this would be appropriate. The data provided by Morex and Papillon do not represent the universe of Hen Hao's U.S. sales of NWR during the POR, thus raising the possibility that the data is "cherry picked."

[221] See the petitioner's September 10, 2014, submission at Exhibits 1-3.

[222] See Hubscher, 979 F. Supp. 2d at 1366-1371; see also KYD, 607 F.3d at 766-67. For the reasons noted above, we disagree with Morex and Papillon's contention that the fact that Hubschercorp is a Canadian reseller while Hen Hao produced and exported NWR directly to its U.S. customers distinguishes application of the 137.20 percent AFA rate in the first administrative review with the circumstances in this review. See Morex and Papillon's September 12, 2014, submission at page 5.

We disagree with the importers' contention that the AFA rate used in prior proceeding segments does not substantiate its use in the current administrative review because: 1) Hen Hao did not participate in those segments, 2) there was no other information in those segments on which to base the AFA rate, and 3) the first administrative review was only one segment removed from the investigation. The importers cite to Lifestyle Enterprise I to support their argument that using a prior AFA rate is inappropriate when it is three to four years removed from the instant review.[223] In Lifestyle Enterprise I, the Court's holding was based on the fact that the AFA rate was an extreme outlier when viewed in light of the prior reviews, and because record evidence suggested that the respondent's commercial reality differed significantly from the respondent in the review from which the AFA rate was taken.[224] Such is not the case here. The use of the petition rate reflects the rate used in the first and second administrative reviews. As for commercial reality, the AFA rate in this review is taken from the petition, not a prior review, and therefore the commercial reality of Hen Hao cannot be compared to that of a prior respondent. In addition, as noted above, the facts on the record of this administrative review demonstrate that the petition rate continues to be reliable and there is no information on the record to demonstrate that the petition rate is not relevant to Hen Hao's commercial reality. Moreover, in light of Hen Hao's failure to cooperate in this review or provide any contrary evidence as to its export transactions for this period of review, there is substantial evidence supporting the AFA margin.[225]

With respect to the case law cited by the importers, the cases are distinguishable. The importers cite the Dongguan Sunrise Furniture cases to support their claim that the percentage of King Young's sales used to corroborate the petition margin was too low.[226] However, the circumstances in the Dongguan Sunrise Furniture rulings are factually distinct from the circumstances here. In those cases, the question before the court was whether a partial AFA rate assigned to a mostly-cooperating respondent fairly reflected that company's commercial reality.[227] Although the CIT remanded the underlying decision to the Department, it did so out of a specific concern that the Department failed to account for "the wide variety of individual products and dumping margins reflected in {the respondent's} reported sales. . . ."[228] In contrast, here, Hen Hao did not report any POR sales data at all. In addition, in the Dongguan Sunrise Furniture cases, the Department also calculated company-specific margins for the respondent,

---

[223] See Lifestyle Enterprise I, 844 F. Supp. 2d 1283.

[224] Id. at 1290.

[225] See KYD, 607 F.3d at 765.

[226] See Dongguan Sunrise Furniture Co., Ltd. v. United States, 865 F. Supp. 2d 1216 (CIT 2012); Dongguan Sunrise Furniture 2013, 931 F. Supp. 3d 1346; Dongguan Sunrise Furniture 2014, 997 F. Supp. 2d 1330; Dongguan Sunrise Furniture 2015, Slip Op. 15-03.

[227] Specifically, the respondent in the Dongguan Sunrise Furniture cases did respond to the questionnaires, but failed to report sales of more than twenty in-scope product models of furniture. See Dongguan Sunrise Furniture 2012, 865 F. Supp. 2d at 1225 (CIT 2012).

[228] See Dongguan Sunrise Furniture 2015, Slip Op. 15-03 at 9. We note that the "large variety of individual products" consisted of armoires, chests, nightstands, and dressers. Id. at 3. This stands in contrast to the facts in the present review where the individual products are all variations of a single product, NWR.

and thus we had information specific to the commercial reality of that company with respect to its dumping activity.[229] The Department has no such information here for Hen Hao.

Furthermore, we find the importers' reliance on Lifestyle Enterprise II misplaced.[230] It is true that the Court held that the AFA rate used in that case was based on an impermissibly small percentage of the sales and that the transactions selected by Commerce were outside of the mainstream.[231] Moreover, in reaching its holding, the Court stated that the case was "{u}nlike cases in which the rate and amount of deterrent were facially within the bounds of commercial reality."[232] In contrast, as discussed above, King Young's margins used in our corroboration of the petition rate represent a significant number of King Young's transactions and the products are within the range of the mainstream products sold by King Young during the POR.

The importers also cite to Gallant Ocean in support of their arguments. However, this case is also distinguishable. In Gallant Ocean, the CAFC struck down the Department's use of the highest dumping margin stated in the petition as AFA, based on a finding that the rate could not be corroborated when viewed in the context of the facts of that record.[233] Here, on the other hand, we have established a link between the AFA rate and commercial reality for Hen Hao, as discussed above.

The importers imply that the Department should interpret Gallant Ocean narrowly by focusing on the size of the margin in isolation. However, such an interpretation would result in a severe limitation of the Department's discretion in applying the dumping law, and would be inconsistent with other CAFC decisions establishing that, if the AFA rate reflects the commercial reality for a given respondent, the magnitude of the AFA rate does not invalidate an otherwise corroborated rate.[234]

For the foregoing reasons, we are continuing to base Hen Hao's dumping margin on the corroborated rate of 137.20 percent for purposes of the final results.

---

[229] See, e.g., Dongguan Sunrise Furniture 2012, 865 F. Supp. 2d at 1225.

[230] See Lifestyle Enterprise II, 865 F. Supp. 2d 1284.

[231] Id. at 1290.

[232] Id. at 1292.

[233] See Gallant Ocean, 602 F.3d 1319.

[234] See Ta Chen Stainless Steel Pipe, Inc. v. United States, 298 F.3d 1330 (Fed. Cir. 2002); PAM, S.p.A. v. United States, 582 F.3d 1336 (Fed. Cir. 2009); and KYD, 607 F.3d 760.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions in these final results. If this recommendation is accepted, we will publish the final results of the review and the final weighted-average dumping margins for Hen Hao and King Young in the Federal Register.

✓
Agree

Disagree

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

April 6, 2015
(Date)