



A-583-856

Administrative Review

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May 20, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the
2018-2019 Antidumping Duty Administrative Review: Certain
Corrosion-Resistant Steel Products from Taiwan

I. SUMMARY

The Department of Commerce (Commerce) analyzed the comments of interested parties in the 2018-2019 administrative review of the antidumping duty (AD) order on certain corrosion-resistant steel products (CORE) from Taiwan covering the period of review (POR) July 1, 2018, through June 30, 2019. This review covers two producers and/or exporters of subject merchandise: (1) Yieh Phui Enterprise Co., Ltd. (YP) and (2) Prosperity Tieh Enterprise Co., Ltd. (Prosperity). As a result of our analysis of the comments received, we have made one change to the margin calculation in the *Preliminary Results*¹ for YP. 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 in this administrative review for which we received comments from interested parties:

- Comment 1: Cost Adjustment for YP’s Affiliated Purchases of Cold-Rolled Steel
- Comment 2: Treatment of Guarantee Fee Income in YP’s General and Administrative (G&A) Expense Ratio
- Comment 3: Basis for U.S. Price and Calculation of Imputed Credit Expenses

¹ See *Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments*; 2018-2019, 85 FR 74669 (November 23, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).



II. BACKGROUND

On November 23, 2020, Commerce published the *Preliminary Results* of this administrative review.² We invited parties to comment on the *Preliminary Results*.³ On January 6, 2021, we received case briefs from AK Steel Corporation, California Steel Industries, and Steel Dynamics, Inc. (collectively, the petitioners) and YP.⁴ On January 13, 2021, we received rebuttal briefs from YP and the petitioners.⁵ We address the comments received in the “Discussion of the Issues” section, below.

Prosperity did not file comments on the *Preliminary Results* of the administrative review, nor did any of the case or rebuttal briefs otherwise received concern the preliminary results margin calculation with respect to Prosperity. Accordingly, we have made no changes from the *Preliminary Results* with respect to Prosperity.

On March 18, 2021, Commerce extended the deadline to issue the final results of this administrative review by 59 days, to May 21, 2021, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).⁶

We are conducting this review in accordance with section 751 of the Act.

III. SCOPE OF THE ORDER

The products covered by this order are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating.

The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness.

The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness.

The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling”

² *Id.*

³ *Id.*, 85 FR at 74671.

⁴ See YP’s Letter, “Case Brief,” dated January 6, 2021 (YP’s Case Brief) and Petitioners’ Letter, “Petitioners’ Case Brief,” dated January 6, 2021 (Petitioners’ Case Brief).

⁵ See YP’s Letter, “Rebuttal Brief,” dated January 13, 2021 (YP’s Rebuttal Brief) and Petitioners’ Letter, “Petitioners’ Rebuttal Brief,” dated January 13, 2021 (Petitioners’ Rebuttal Brief).

⁶ See Memorandum, “Certain Corrosion-Resistant Steel Products from Taiwan: Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review, 2018-2019,” dated March 18, 2021.

(e.g., products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (e.g., the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of these orders are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

2.50 percent of manganese, or
3.30 percent of silicon, or
1.50 percent of copper, or
1.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
2.00 percent of nickel, or
0.30 percent of tungsten (also called wolfram), or
0.80 percent of molybdenum, or
0.10 percent of niobium (also called columbium), or
0.30 percent of vanadium, or
0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the orders if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of these orders unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of these orders:

Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin free steel), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;

Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and

Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000. The products subject to the orders may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

IV. CHANGES SINCE THE *PRELIMINARY RESULTS*

Based on our analysis of the comments submitted by interested parties, we made certain changes to the margin calculations since the *Preliminary Results*.

- As discussed in Comment 3, below, we have adjusted the calculation of imputed credit expenses using a ratio calculated from the percentage of difference between the sum of gross sales value and the sum of reported payment amounts on the basis of facts

otherwise available to reasonably reflect the difference between the customer payment date and internal remittance date for the purposes of the credit calculation.⁷

VI. DISCUSSION OF THE ISSUES

Comment 1: Cost Adjustment for YP's Affiliated Purchases of Cold-Rolled Steel

YP's Case Brief

- In the *Preliminary Results*, Commerce made an upward adjustment to YP's cost of manufacturing (COM) for YP's purchases of cold-rolled steel coils from its affiliate; however, this adjustment is overstated due to a calculation error that should be corrected.⁸
- Specifically, Commerce first calculated a weighted-average market price of cold-rolled steel coils by using YP's purchases of cold-rolled steel coils from unaffiliated parties, and the affiliate's purchases of cold-rolled steel coils. However, for the latter aspect of the calculation (*i.e.*, the affiliate's coil purchases), Commerce erroneously relied on the affiliated supplier's cost of production (COP) rather than the supplier's acquisition cost in its calculations.⁹
- Using the affiliate's COP in the calculations of the weighted-average market price has unreasonably overstated the actual market price between unaffiliated parties by adding in the affiliate's overall company-wide operating costs incurred for its general operations (*i.e.*, indirect selling, general and administrative (G&A), and financial expenses) which are not directly related to its purchases of cold-rolled steel coils, and thus overstated the resulting adjustment ratio.¹⁰
- In the final results of this review, Commerce should recalculate the adjustment ratio using the affiliated supplier's acquisition cost (*i.e.*, purchase price) in calculating the weighted-average market price of cold-rolled steel coils.¹¹

Petitioners' Rebuttal Brief

- YP cites no precedent for its proposed methodology, and none exists. When applying the transactions-disregarded rule to purchases from affiliated resellers, Commerce's established methodology is to calculate an "adjusted market price" that captures the affiliated reseller's selling, general, and administrative expenses (SG&A) and financial expenses.¹² The

⁷ See Memorandum, "Certain Corrosion-Resistant Steel Products from Taiwan: Yieh Phui Enterprise Co., Ltd. – Analysis Memorandum for the Final Results of the Administrative Review, 2018-2019," dated concurrently with this memorandum (YP's Final Analysis Memo).

⁸ See YP's Case Brief at 1-2 (citing Memorandum, "Certain Corrosion-Resistant Steel Products from Taiwan: Yieh Phui Enterprise Co., Ltd. – Analysis Memorandum for the Preliminary Results of the Administrative Review, 2018-2019," dated November 17, 2020, at 3-4 and Attachment 5 (YP's Preliminary Analysis Memo)).

⁹ *Id.* (citing Yieh Phui's August 11, 2020 Supplemental Questionnaire Response (YP's SQR) at Exhibit 24).

¹⁰ *Id.* at 2-3.

¹¹ *Id.* at 3.

¹² See Petitioners' Rebuttal Brief at 2 (citing, *e.g.*, *Certain Corrosion-Resistant Steel Products From the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 35303 (June 2, 2016) (*CORE Korea LTFV*), and accompanying IDM at Comment 8; and *Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of Antidumping Duty Administrative Review, 2017-2018*, 85 FR 3618 (January 22, 2020) (*CWP Taiwan 2017-2018 AR*), and accompanying IDM at Comment 3).

adjustment made in the preliminary results is consistent with that practice, and no departure is warranted here.

Commerce's Position: In the *Preliminary Results*, Commerce made an upward adjustment to YP's cost of manufacturing (COM) for YP's purchases of cold-rolled steel coils from its affiliate.¹³ This adjustment, calculating a weighted-average market price from YP's purchases of cold-rolled steel coils from unaffiliated parties and the affiliate's acquisition cost plus G&A and financial expenses for cold-rolled steel coils, was consistent with the application of the same adjustment in the prior review of this order, and was unchallenged in that proceeding.¹⁴ YP asserts that the use of the affiliate's acquisition cost plus G&A and financial expenses for coil, rather than purchase price, was in error, as the former overstates the market value by adding in the affiliate's overall company-wide operating costs, and Commerce should adjust this calculation to reflect only the affiliate's purchase costs for coil (without adjustments for G&A and financial expenses) in the final results. However, we agree with the petitioners that when applying the transactions-disregarded rule to purchases from affiliated resellers, Commerce's standard methodology is to calculate an adjusted market price that captures the affiliate's acquisition costs, including G&A and financial expenses.¹⁵ Further, the inclusion of a portion of the affiliate's G&A and financial expenses does not overstate the coils' market value, but rather, more accurately reflects the market value of YP's purchase. YP's assertion is thus unfounded, as Commerce applied its normal methodology in applying the transactions-disregarded rule. Further YP does not cite to any precedent in support of its assertion nor does YP offer a compelling reason based on the record of the instant case to depart from Commerce's standard practice. Accordingly, in applying the transactions-disregarded rule to purchases from affiliated resellers, we continue to calculate a weighted-average market price for YP's purchases of cold-rolled steel coils from unaffiliated parties and the affiliate's acquisition costs plus G&A and financial expenses for cold-rolled steel coils for the final results.

¹³ See YP's Case Brief at 1-2 (citing Memorandum, "Certain Corrosion-Resistant Steel Products from Taiwan: Yieh Phui Enterprise Co., Ltd. – Analysis Memorandum for the Preliminary Results of the Administrative Review, 2018-2019," dated November 17, 2020 at 3-4 and Attachment 5 (YP Preliminary Analysis Memo)).

¹⁴ See *Certain Corrosion-Resistant Steel Products From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 48120 (September 12, 2019) and accompanying PDM at 19 (*CORE Taiwan AR2 Prelim*) and "Certain Corrosion-Resistant Steel Products from Taiwan: Yieh Phui Enterprise Co., Ltd. and Synn Industrial Co., Ltd. – Analysis Memorandum for the Preliminary Results of the Administrative Review, 2017-2018," dated September 6, 2019 at 4 unchanged in *Certain Corrosion-Resistant Steel Products From Taiwan: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 16613 (March 24, 2020) (*CORE Taiwan AR2 Final*).

¹⁵ See, e.g., *CORE Korea LTFV IDM* at Comment 8 ("{W}e have followed the Department's standard practice and conducted a comparative analysis of the transfer price and Hyundai's affiliate's acquisition cost plus the affiliate's SG&A costs"); and *CWP Taiwan 2017-2018 AR IDM* at Comment 3 ("Consistent with the Preliminary Results, the weight-average per-unit market prices include Shin Yang's purchases from unaffiliated suppliers and the affiliated suppliers' acquisition cost of HRC, and for these final results, we also included SG&A expenses and financial expenses, if applicable.").

Comment 2: Treatment of Guarantee Fee Income in YP's G&A Expense Ratio

YP's Case Brief

- In the *Preliminary Results*, Commerce adjusted the G&A expense ratio calculation to exclude guarantee fee income as an offset to the G&A expenses; however, Commerce did not provide explanations as to why this income item was excluded as an offset to the G&A expense ratio calculation.¹⁶ In the final results, Commerce should include the guarantee fee income received by YP as an offset to the G&A expenses in calculating the G&A expense ratio because this guarantee fee income is related to YP's general operations as a whole.
- It has been Commerce's well-established practice 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.¹⁷ In addition, Commerce's well-established practice is to include in the G&A expense ratio calculation the expenses incurred for administrative services performed on the respondent's behalf by related parties.¹⁸
- The guarantee fee income at issue here represents the fees charged and received by YP for serving as a loan guarantor for three subsidiary borrowing companies.¹⁹ These fees are charged by YP to cover the administrative costs and also to reduce potential risk for loss in the event of default of the underlying loans.
- The loan guarantee service rendered by YP for its subsidiaries should be considered as a type of administrative service that a company would normally perform as part of its daily operations to meet the financial needs for itself and for its subsidiaries. As any such expenses incurred for services rendered by YP's subsidiaries on YP's behalf are required by Commerce to be included in the G&A expense ratio calculation. Any income derived from the same type of services provided by YP for its subsidiaries should likewise be included in the G&A expense ratio calculation. Indeed, YP used its administrative resources to facilitate the borrowing process in order to provide loan services to its subsidiaries, and the costs incurred for this administrative support (such as staff salaries and other miscellaneous expenses) have been duly reflected in the reported G&A expense ratio. Thus, the income received by YP from providing its subsidiaries with loan guarantee services should also be included as an offset to the G&A expenses.²⁰

¹⁶ See YP's Case Brief at 4 (citing YP's Preliminary Analysis Memorandum at 4 and Attachment 6).

¹⁷ *Id.* (citing *Prestressed Concrete Steel Rail Tie Wire from Mexico: Final Results of Antidumping Duty Administrative Review; 2013-2015*, 81 FR 40850 (June 23, 2016) (*PC Tie Wire from Mexico*), and accompanying IDM at Comment 2).

¹⁸ *Id.* (citing October 23, 2019 Initial Questionnaire at D-15 ("Provide a worksheet that demonstrates how you computed your company's G&A expense ratio. Include in your reported G&A expenses an amount for administrative services performed on your company's behalf by its parent company or other affiliated party. Compute G&A expenses on an annual basis as a ratio of total company-wide G&A expenses divided by cost of goods sold (COGS). In calculating your company's G&A ratio, use the full-year G&A expense and COGS reported in your company's audited fiscal year financial statements for the fiscal year that most closely corresponds to the POR. Demonstrate how the G&A expenses and the COGS used in the ratio reconcile to your company's audited fiscal year financial statements." (emphasis added))).

¹⁹ *Id.* at 5 (citing Yieh Phui's 2018 audited financial statements provided in Exhibit A-20 of Yieh Phui's November 20, 2019 Section A Questionnaire Response (AQR) at page 121.) In 2018, Yieh Phui served as a loan guarantor for three of its subsidiaries, including Yieh Phui (China) Technomaterial Co., Ltd., Shin Yang Steel Co., Ltd. and Yieh Phui (Hong Kong) Holdings Limited.

²⁰ *Id.* at 5.

Petitioners' Rebuttal Brief

- In the *Preliminary Results*, Commerce disallowed an offset to YP's G&A ratio for guarantee fee income. This is consistent with Commerce's established practice in this proceeding.²¹
- YP argues that this item should be allowed to offset G&A on the basis that it is classified as an expense or revenue that relates to the general operations of the company as a whole, but in reality, it relates to the company's financing activities. Financial expenses must be based on the consolidated financial statements, in which the above-referenced transactions between YP and its subsidiaries are eliminated (*i.e.*, any guarantee income recognized by YP is cancelled out by the loan guarantee expenses paid by its subsidiaries).²²
- YP acknowledges that this item serves to meet the financial needs for itself and for its subsidiaries, and thus, there is no basis to treat it as part of G&A. Even if this were a G&A item, which it is not, YP failed to demonstrate the arm's-length nature of the fees charged for this service to its subsidiaries and, consequently, it should be disallowed as an offset.²³

Commerce's Position: In the *Preliminary Results*, Commerce excluded guarantee fee income as an offset to expenses in the calculation of YP's G&A ratio.²⁴ We disagree with YP's assertion that these guarantee fees are revenue resulting from its general operations or administrative expenses, and therefore, that Commerce should include YP's guarantee fee income as an offset to its G&A expenses.

YP correctly notes that Commerce's practice allows certain revenue items as an offset to expenses in the calculation of a company's G&A ratio to the extent that the expenses and revenues relate to the general operations of the company as a whole.²⁵ However, we agree with the petitioners that guarantee fee income does not constitute a general expense or revenue related to the general operations of YP but, rather, is related to financial activities of the company and, thus, it is appropriately considered in an interest expense ratio, not G&A.²⁶ Specifically, the record reflects that the income in question constitutes fees charged and received by YP for serving as a loan guarantor for three subsidiary borrowing companies, and no party contests the general description of this item as revenue received for servicing loans to three subsidiary

²¹ See Petitioners' Rebuttal Brief at 3 (citing *CORE Taiwan AR2 Prelim*, unchanged in *CORE Taiwan AR2 Final* (*i.e.*, the preliminary results of the prior review, where Commerce disallowed the identical adjustment)).

²² *Id.* (citing the Initial Questionnaire at D-15).

²³ *Id.*

²⁴ See YP's Preliminary Analysis Memorandum at 4 and Attachment 6.

²⁵ See, e.g., *PC Tie Wire from Mexico 2013-2015 AR* IDM at Comment 2 ("The Department has, over time, developed a consistent and predictable practice for calculating and allocating G&A expenses ...based on the company-wide G&A costs incurred by the producing company allocated over the producing company's company-wide cost of goods sold, and not on a consolidated, divisional, or product-specific basis. ...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.").

²⁶ See Initial Questionnaire at D-15 ("If your company is a member of a consolidated group of companies, calculate your financial expense based on the consolidated audited fiscal year financial statements of the highest consolidation level available. In calculating your company's net interest ratio, use the full-year net interest expense and COGS reported in the consolidated audited fiscal year financial statements for the period that most closely corresponds to the POR.")

companies.²⁷ Thus, the collection of guarantee fees is an internal, financing-related activity taking place between YP and its subsidiaries, and not G&A expenses related to the general operations of the company as a whole.²⁸ As noted by the petitioners, financial expenses must be based on the consolidated financial statements, in which any guarantee income recognized by YP would be cancelled out by the loan guarantee expenses paid by its subsidiaries.²⁹

Exclusion of guarantee fee income from YP's G&A revenue and expenses is consistent with the results of the prior administrative review of this order, in which Commerce determined that these fees should not be included as revenue offsetting G&A expenses in the calculation of YP's G&A expense ratio.³⁰ Further, the disallowance of this type of financing revenue as an offset to G&A is consistent with Commerce precedent. Specifically, in *CORE from Korea AR 16*, Commerce found with respect to a similar revenue offset requested for inclusion in the calculation of the respondent's G&A expense ratio:

We have also excluded the income which Union received from its overseas affiliate for guaranteeing a loan. The Department includes income and expenses in a company's G&A-expense rate calculation when the item is related to a company's general operations. In this case, Union received income for providing a service which enabled its overseas affiliate to obtain a loan and, thus, affected the consolidated entity's financing expenses directly. It would be inappropriate to reduce Union's G&A expenses by inter-company income which is not only unrelated to Union's general operations, but is also directly related to Union's activities related to furthering the consolidated entity's overall financing strategy.³¹

Therefore, consistent with Commerce's precedent and Commerce's practice in the prior review of this proceeding, we have continued to exclude YP's guarantee fee income from the G&A expense ratio calculation for the final results.

Comment 3: Basis for U.S. Price and Calculation of Imputed Credit Expenses

Petitioners' Case Brief

- YP reported invoice value as the basis of gross unit price in its sales reporting and provided the payment amounts and payment receipt dates for its U.S. sales in payment fields and payment date fields, noting it "did not have any portion of payment which remained unpaid

²⁷ See YP's AQR at A-20 (YP's 2018 Financial Statement) at page 121 (Note 30). See also YP's SADQR at Exhibit 25 (providing detail on the individual items included in Miscellaneous Income).

²⁸ See, e.g., *PC Tie Wire from Mexico 2013-2015 AR* IDM at Comment 2.

²⁹ YP appropriately based its interest expense calculation on its consolidated statement, whereas YP's G&A ratios were calculated from its 2018 unconsolidated financial statement. See DQR at Exhibit D-14 (G&A Ratio) and Exhibit D-15 (Interest Expense Ratio).

³⁰ See *CORE Taiwan AR2 Prelim* and *CORE Taiwan AR2 Final*.

³¹ See *Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Final Results of the Sixteenth Administrative Review*, 76 FR 15291 (March 21, 2011) (*CORE from Korea AR 16*) and accompanying IDM at Comment 17 (citing *Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52055 (September 12, 2007), and accompanying IDM at Comment 7, and *Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review*, 74 FR 33995 (July 14, 2009), and accompanying IDM at Comment 3).

for its U.S. sales of subject merchandise during the POR.”³² YP further reported that imputed credit expenses were calculated from its reporting actual payments for U.S. sales in the payment fields.³³

- A comparison of the invoiced amounts for each constructed export sale (CEP) sale, as reported, to the amount remitted for each corresponding sale (as reported payment fields) reflects significant differences (which are not present with similar comparisons of export price (EP) sales or home market sales invoiced to the amount of payment remitted).³⁴
- The statute defines CEP as the price at which the subject merchandise is first sold (or agreed to be sold) in the United States. As YP specifically reported that it did not have any portion of payment which remained unpaid for its U.S. sales of subject merchandise during the POR, YP’s own data thus indicates that it has reported the actual price at which it sold the subject merchandise in its payment fields. For its final results, Commerce should ensure that it uses an accurate U.S. price to determine the extent of YP’s dumping by using the reported payment amount instead of invoice amount.³⁵
- Commerce’s practice is to adjust a respondent’s U.S. sales prices to reflect the cost of capital to account for differences in credit terms by “input{ing} a U.S. credit expense and a foreign market credit expense on each sale.”³⁶ The imputed credit expense represents the producer’s opportunity cost of extending credit to its customers and should be appropriately recalculated to reflect the updated basis for sale price.

YP’s Rebuttal Brief

- Use of amount paid rather than the invoiced sale price is contrary to the statute and precedent. The plain language of the statute clearly specifies that the starting price for determining the EP and CEP sales price is the price first “sold” (or agreed to be sold) to unaffiliated customers. The Court of Appeals for the Federal Circuit has upheld the principle that the price first “sold” under sections 772(a)-(b) of the Act represents the actual price charged (*i.e.*, invoiced) to the unaffiliated U.S. customers rather than the price actually paid by the unaffiliated U.S. customers.³⁷
- Moreover, the statutory mandate of using the price sold instead of the price paid as the starting price for determining the U.S. price is further supported by the statutory requirements of price adjustments under sections 772(c)-(d) of the Act, that any late payment or non-payment by the unaffiliated U.S. customers is otherwise accounted for in the adjustments such as the credit expenses (in case of late payment) or financial expenses (for bad debt losses in case of nonpayment) that are used to adjust the starting price. Thus, using

³² See Petitioners’ Case Brief at 1 (citing YP’s December 13, 2019 Section C Questionnaire Response (CQR) at 67 and 70).

³³ *Id.* (citing YP’s CQR at 84).

³⁴ *Id.*, at 2-3 and analysis provided in Exhibits 1 and 2.

³⁵ *Id.*

³⁶ *Id.* at 3-4, citing *Mitsubishi Heavy Indus. v. United States*, 54 F. Supp. 2d 1183 (CIT 1999) (after remand, 97 F. Supp. 2d 1203 (CIT 2000), *aff’d*, 275 F.3d 1056 (Fed. Cir. 2001)) and Commerce’s Policy Bulletin 98.2 “Imputed Credit Expenses and Interest Rates,” dated February 23, 1998.

³⁷ See YP’s Rebuttal Brief at 3 (citing sections 772(a)-(b) of the Act; and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1384-85 (Fed. Cir. 2003), noting that the Federal Circuit held that the unambiguous statutory mandate does not allow Commerce to use sales prices paid in Japanese yen instead of the price invoiced in U.S. dollars as the starting price for determining the U.S. price).

the price paid by the unaffiliated customers instead of the price sold is not only inconsistent with the statutory mandate, but it would also create double-counting, because any late or non-payment by the unaffiliated customers would be otherwise accounted for by the statutory price adjustments. This double-counting would unreasonably understate the U.S. price and lead to an inaccurate dumping margin.³⁸

- YP has complied with both the statute and the explicit instructions of Commerce's questionnaire in reporting gross unit prices based on invoice price.³⁹ For CEP sales specifically, YP has correctly and accurately reported the per-unit sales price on the invoice issued by its U.S. affiliate, Yieh Phui America, Inc. (YPA), to the unaffiliated U.S. customers. There are simply no grounds for Commerce to deviate from its standard practice of using the invoice price charged by YP (or by its U.S. affiliate, YPA) to the unaffiliated U.S. customers that are correctly reported in the GRSUPRU field as the starting price to determine YP's U.S. prices.⁴⁰
- Regardless, the petitioners' request is based on a misreading of the record: The payment amounts otherwise reported (which were reported on a voluntary basis as support for the payment date variables used in the calculation of credit) and corresponding payment dates were based on the date and amount of remission of payment from YP's U.S. CEP sales affiliate, YPA, to YP. The payment amount does not reflect the amount remitted from the unaffiliated customer to YPA for the invoiced sale amount otherwise reported, as the petitioners' argument incorrectly presumes. For CEP sales, the aggregate sum of gross sales value is greater than the aggregate sum of the payment fields, because the price YPA charged to its unaffiliated U.S. customers is higher than the price it paid to YP. However, it does not reflect a higher price paid by the unaffiliated customer to YPA than was invoiced, as the petitioners incorrectly presume.⁴¹
- To the extent that Commerce determines that YP should have reported the payment date from the unaffiliated customer to YPA as the basis of payment date used in the calculation of imputed credit, rather than the date of remission from YPA to YP, as reported, Commerce can make this adjustment based on information reported (specifically making an upward adjustment to the reported credit expense with a ratio calculated from the percentage of difference between the sum of gross sales value and the sum of reported payment amounts).⁴² This method would ensure that the adjusted credit expense fully reflects the price charged by YPA to its unaffiliated U.S. customers that are reported in gross unit price for CEP sales. However, this adjustment to credit expense, should Commerce deem it appropriate, is the only adjustment that would be permissible: the record does not support that payment remitted by the unaffiliated customer for CEP sales significantly differs from invoice value, as the petitioners contend; rather, this is based on a misreading of the record.

³⁸ *Id.*

³⁹ *Id.* at 4 (citing Initial Questionnaire at C-10 ("Report the unit price as it appears on the invoice for sales shipped and invoiced in whole or in part. To report portions of sales not yet shipped, provide the agreed unit sale price for the quantity that will be shipped to complete the order. This value should be the gross unit price. Discounts and rebates should be reported separately in fields numbered 20.n and 21.n, respectively.") (emphasis added)).

⁴⁰ *Id.* at 4-5 (citing YP's AQR at Exhibit A-12 and A-13 in comparison to YP's Section C Sales Database).

⁴¹ *Id.* at 5 (citing YP's AQR at Exhibit A-12 in comparison to YP's CQR at Exhibit C-5).

⁴² *Id.* at 6-8 (citing *Welded Line Pipe From the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 80 FR 61366 (October 13, 2015), and accompanying IDM at Comment 19).

Commerce's Position: The basis for the petitioners' argument is a presumption that the values reported in the payment field for CEP sales reflected the transaction between YP's U.S. CEP sales affiliate, YPA, and the first unaffiliated customer (*i.e.*, the basis for U.S. sales price). However, the record confirms that the payment amounts reported in YP's U.S. sales database reflect the remission of payment from YP's U.S. CEP sales affiliate, YPA, to YP, and not the amount of payment received by YPA from the unaffiliated customer upon completion of the sale, and which otherwise reconcile to the invoiced amounts reported as a basis for gross unit price.⁴³ Accordingly, we agree that the petitioners' argument is based on a misreading of the record, and their concerns are otherwise unfounded. Accordingly, we do not agree that the purchase price reflects the appropriate basis for sale price, and continue to find that the gross unit price reported, based on the amount invoiced to the unaffiliated U.S. customer, represents the appropriate price and have made no changes from the *Preliminary Results* with respect to sale price.

In briefing this issue with respect to the record, YP made clear that the payment dates reported for CEP sales correspond to the dates of remittance of the internal payments from YPA to YP reflected in the payment fields for CEP sales, not the dates of payment received from the unaffiliated customer to YPA which otherwise serves as the appropriate basis for the CEP sale itself, as discussed above. As these dates of payment were used for the purpose of calculating the imputed credit expense to capture the producer's opportunity cost of extending credit to its customers, the date of payment should be reported on the basis of the same underlying transaction used for sale price. Accordingly, we determine that YP's reporting of the date of payment based on the date of internal remittance from YPA to YP for CEP sales to be in error. Though the actual date of payment(s) from the unaffiliated customer to YPA for these sales is not available on the record, we agree with the basis for payment date in the calculation of credit and we agree with YP that the record allows for a facts available adjustment to reasonably reflect the difference between the customer payment date and internal remittance date for the purposes of the credit calculation. Accordingly, we have recalculated credit expenses for the final results by making an upward adjustment to the reported credit expense using a ratio calculated from the percentage of difference between the sum of gross sales value and the sum of reported payment amounts, using the language provided by YP.⁴⁴

⁴³ See YP's AQR at Exhibit A-12 in comparison to YP's CQR at Exhibit C-5, which reconciles the amount invoiced to the unaffiliated customer to the amount paid for the same sale.

⁴⁴ See YP's Rebuttal Brief at 7-8. See also YP's Final Analysis Memorandum.

V. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this administrative review and the final dumping margins in the *Federal Register*.

☒

☐

Agree

Disagree

5/20/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance