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December 7, 2006

**MEMORANDUM TO:** David M. Spooner  
Assistant Secretary  
for Import Administration

**FROM:** Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

**SUBJECT:** Issues and Decision Memorandum for the Final Results of the  
Sixth Antidumping Duty Administrative Review of Stainless Steel  
Sheet and Strip in Coils from Taiwan

## SUMMARY

We have analyzed the case and rebuttal briefs submitted by interested parties in the above-referenced administrative review. As a result of our analysis, we have made one change to the preliminary results of review. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

## BACKGROUND

The Department of Commerce (the Department) published its notice of the preliminary results of the antidumping duty administrative review of stainless steel sheet and strip in coils (SSSS) from Taiwan on August 9, 2006. See Stainless Steel Sheet and Strip in Coils From Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 71 FR 45521 (August 9, 2006) (Preliminary Results). The merchandise covered by this order is SSSS, as described in the “Scope of the Review” section of the accompanying Federal Register notice. The period of review (POR) is July 1, 2004 through June 30, 2005.

We invited interested parties to comment on our Preliminary Results. Petitioners<sup>1</sup> and Chia Far Industrial Factory Co., Ltd. (Chia Far) filed case briefs on September 8, 2006, and rebuttal briefs on September 15, 2006.

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<sup>1</sup> Petitioners are Allegheny Ludlum Corporation, United Auto Workers Local 3303 (formerly Butler Armco Independent Union), North American Stainless (except as to Ta Chen and its affiliates), United Steelworkers of America, AFL-CIO/CLC, and Zanesville Armco Independent Organization (collectively, “petitioners”).

## **LIST OF ISSUES DISCUSSED**

### **Issues with Respect to Chia Far**

Comment 1: Home Market Early Payment Discounts

Comment 2: U.S. Indirect Selling Expenses

Comment 3: Work-In-Process Inventory

Comment 4: Minor Input from Affiliate

Comment 5: Improperly Excluded U.S. Sales

## **DISCUSSION OF THE ISSUES**

### **Issues with Respect to Chia Far**

#### **Comment 1: Home Market Early Payment Discounts**

Petitioners argue that by reporting customer-specific, rather than sales-specific home market early payment discounts, Chia Far incorrectly allocated a discount on a sale of non-subject merchandise to subject merchandise sales. In support of their claim, petitioners point to the sales allowance certificate used to record the total discount reported for one customer which lists an invoice number for a sale of non-subject merchandise. See Chia Far's January 19, 2006 supplemental response at Exhibit B-25. Because Chia Far failed to follow the Department's instructions to report discounts on a sale-specific basis and the Department cannot identify the discounts that should have been reported by Chia Far, petitioners urge the Department to set the claimed home market early payment discounts to zero.

Chia Far maintains that it correctly reported its home market early payment discounts because it allocated the early payment discounts to the sales on which the discounts were granted. Specifically, Chia Far states that it granted early payment discounts equal to a portion of the charges owed by a particular customer on a group of sales invoices (the group of invoices could include invoices for both subject and non-subject merchandise). Chia Far notes that it calculated the reported per-unit discounts using the following formula: (total discount/total value of the invoices paid in return for the discount) multiplied by the gross unit price of the reported sale included in the group of invoices on which the discount was granted. According to Chia Far, because it acted reasonably and in compliance with the Department's questionnaire, the Department should not reject the reported early payment discounts.

With respect to the sales allowance certificate mentioned by petitioners, Chia Far notes that it lists on the allowance certificate only the number of the first invoice in the group of invoices on which it granted the early payment discount. Chia Far states that, in this case, the invoice number recorded on the allowance certificate was from an invoice for a sale of non-subject merchandise. Chia Far, however, contends that the discount listed on the allowance certificate relates to all unpaid invoices issued to the customer in the prior month (invoices for both subject

and non-subject merchandise sales). See Chia Far's January 19, 2006 supplemental response at Exhibit B-25. In addition, Chia Far points out that it provided documentation showing that the discount was granted at the same time that the customer paid all of the unpaid invoices issued to that customer in the prior month. See Chia Far's April 5, 2006 supplemental response at 7.

### **Department's Position:**

We disagree with petitioners. The allocation worksheets provided by Chia Far show that it did not report early payment discounts on a customer-specific basis (i.e., it did not allocate the total discount granted to a customer over all sales to that customer). Rather, Chia Far granted an early payment discount equal to a portion of the charges owed by a particular customer on a group of sales invoices, and then allocated the discount only to that group of sales. This method of granting early payment discounts is consistent with the method reported by Chia Far in a number of prior segments of this proceeding. See, e.g., Stainless Steel Sheet and Strip in Coils from Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 69 FR 5960 (February 9, 2004), and accompanying Issues and Decision Memorandum, at Comment 16. Given Chia Far's method of granting early payment discounts, it was appropriate for the respondent to allocate its early payment discounts over a group of sales to a particular customer, rather than reporting invoice-specific discounts.

Although the sales allowance certificate on which one of the reported discounts was recorded references only one invoice for a sale of non-subject merchandise, the record indicates that this discount was granted on a group of sales invoices. Specifically, Chia Far submitted accounting records which link the reported discount to a group of sales invoices which include invoices for sales reported in the U.S. sales database. See Chia Far's May 26, 2006 supplemental questionnaire response at Exhibit B-40. Thus, the record does not support petitioners' claim that Chia Far improperly allocated to subject merchandise sales a discount granted solely on a sale of non-subject merchandise.

### **Comment 2: U.S. Indirect Selling Expenses**

Petitioners maintain that Chia Far's U.S. affiliate, Lucky Medsup Inc. (Lucky Medsup), under-reported its indirect selling expenses by omitting a payment to its owner from those expenses. According to petitioners, the payment in question should be treated as a corporate expense because 1) Lucky Medsup's sole shareholder reported the payment in question as income on his personal tax return and paid income taxes on the income, and 2) Lucky Medsup's 2004 federal corporate tax return indicates that the payment was a form of compensation to Lucky Medsup's shareholder, rather than a dividend. Accordingly, petitioners request that the Department increase Lucky Medsup's reported indirect selling expenses by the unreported compensation.

Chia Far claims that the payment in question was a distribution of profit to Lucky Medsup's sole shareholder, not normal compensation, and thus, should not be considered an indirect selling expense. According to Chia Far, petitioners are unwilling to separate Lucky Medsup's owner's

role as an employee of the company, from his role as the company's sole shareholder. Chia Far states that Lucky Medsup's owner was paid a salary by the company that was proportionate to the company's operating net income (excluding other income such as refunds of antidumping duty deposits).<sup>2</sup> Chia Far notes, however, that because Lucky Medsup is a Sub-Chapter S Corporation, its owner also had to include in his income the net income of the company. Chia Far argues that simply because Lucky Medsup's shareholder paid income tax on the net income of the company, and later received a distribution of the company's accumulated profits, does not make the distribution a selling expense, nor does it mean that the distribution of profit was additional salary or a bonus. Chia Far asserts that the Department has never treated the net income of an importer/reseller as a selling expense.

### **Department's Position:**

We disagree with petitioners' position that the payment in question should be treated as a corporate expense. The record demonstrates that the payment was a distribution of previously taxed income of Lucky Medsup, rather than a corporate expenditure.<sup>3</sup> Moreover, there is no basis for considering this distribution to be employee compensation simply because Lucky Medsup's shareholder/employee had previously paid income tax on the corporation's net income. The record shows that Lucky Medsup is taxed under Sub-chapter S of the Internal Revenue Code. Shareholders of corporations taxed under this sub-chapter must report and pay federal income tax on the corporation's income (generally S corporations do not pay federal income tax). Thus, the record indicates that Lucky Medsup's shareholder/employee paid income tax on the money that was ultimately distributed to him, not because it was additional compensation to him, but because it was corporate income on which he was required to pay personal income tax. Thus, we have not treated the payment in question as a corporate expense.

### **Comment 3: Work-In-Process Inventory**

Petitioners argue that the Department should revise Chia Far's reported costs to include all costs incurred during the POR, including the costs incurred by Chia Far for work-in-process (WIP). Petitioners claim that Chia Far was incorrect to exclude from reported costs the direct material and conversion costs incurred for WIP inventories that were not sold during the POR. Petitioners argue that there is no difference between the finished goods inventory and the WIP inventory. Therefore, assert petitioners, Chia Far should have reported all POR costs associated with both

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<sup>2</sup> Chia Far claims that most of the net income of the corporation was from a refund of antidumping duty deposits, and this refund cannot be factored into an officer's normal compensation because the refund is not a normal event in corporate operations.

<sup>3</sup> See Lucky Medsup's fiscal year 2004 financial statement in Exhibit A-17 of Chia Far's September 14, 2005 Section A questionnaire response; and Lucky Medsup's 2004 federal and state tax returns in Exhibit A-34 of Chia Far's January 19, 2006 supplemental questionnaire response.

finished goods and WIP. In fact, petitioners assert that it is the Department's practice to include all production costs whether incurred for WIP inventory or finished goods inventory. See Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products from Indonesia, 62 FR 1719, 1722 (January 13, 1997) (Dinnerware from Indonesia). Specifically, petitioner argues that in Dinnerware from Indonesia, the Department concluded that because the respondent "failed to include the change in WIP (which represents the cost of semi-finished goods that were completed during the period), the reported costs were understated." Therefore, the petitioners in the current case argue that the Department should revise Chia Far's reported cost of production to include the cost of WIP for these final results.

Chia Far argues that the Department should not include the cost of WIP in Chia Far's reported costs. According to Chia Far, it calculates coil-specific costs, and all costs incurred are allocated to the coils processed. Chia Far claims that all coils sold are considered finished coils, while coils which are not sold are WIP because any coil not sold may be sent back for further processing, depending on the customer's requirements, and may also be converted into non-subject merchandise. Because Chia Far considers WIP to be unfinished goods, it reported only the cost of finished coils produced during the POR. Chia Far argues that the ending WIP costs are not additional costs incurred to produce the finished coils that Chia Far reported, but instead represent the costs of the coils remaining in WIP inventory at the end of the POR.

#### **Department's Position:**

We disagree with petitioners that Chia Far's reported costs should be adjusted to include the cost of the final WIP inventory. Chia Far calculates coil-specific costs as products are produced. Because products in WIP are frequently further processed based on customer specifications, products are only transferred to finished goods when they are sold. Therefore, the products which are not completed until they are sold are appropriately categorized as WIP inventory.

Section 773(f)(1)(A) of the Tariff Act of 1930, as amended, (the Act) requires that the Department rely on the records of the exporter or producer of the merchandise if such records are kept in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise. In this instance, Chia Far records in its normal books and records amounts for both finished goods and WIP. In calculating the reported cost of production during the POR, Chia Far added the cost of beginning WIP to the material and conversion costs incurred during the POR and then subtracted the cost of ending WIP to calculate the costs of the finished merchandise produced during the POR. This methodology appropriately accounts for the cost of production including the WIP.

Regarding petitioners reference to Dinnerware from Indonesia, we agree it is the Department's practice to account for the change in WIP inventory when calculating a respondent's total POR cost of production. As illustrated above, Chia Far's total cost of manufacture included the change in WIP. Therefore, no additional adjustment is needed.

#### **Comment 4: Minor Input from Affiliate**

Petitioners argue that the price paid by Chia Far to purchase protective film from its affiliated supplier (the transfer price) does not reflect an arm's-length market price. Thus, petitioners contend that the transfer price should be adjusted to reflect a market price in accordance with section 773(f)(2) of the Act.

Chia Far argues that the Department should not adjust the transfer prices that Chia Far paid to purchase protective film from its affiliate Moonstar Poli-Film. According to Chia Far, it is unreasonable to calculate a single average cost per roll of film because the rolls are purchased in many different dimensions and thicknesses. Chia Far claims that a comparison of rolls purchased from unaffiliated suppliers to identical rolls purchased from its affiliate show that in most instances the transfer price paid to its affiliate is greater than the market price. Alternatively, Chia Far argues that the average price per square meter of protective film purchased from Moonstar Poli-Film is greater than the average price per square meter purchased from unaffiliated suppliers. Thus, Chia Far argues that the Department should find that the prices charged by Moonstar Poli-Film reflect arm's-length prices.

#### **Department's Position:**

We disagree with petitioners' contention that the transfer price paid to Moonstar Poli-Film for protective film should be adjusted. Petitioners' argument is based on a comparison of the average price Chia Far paid to Moonstar Poli-Film for a roll of film to the average price Chia Far paid to unaffiliated suppliers for a roll of film. This comparison, however, does not take into account the varying lengths of the rolls purchased by Chia Far. After taking the varying lengths of the rolls into account, we found that the average transfer price for film from Moonstar Poli-Film is higher than the average price for film from unaffiliated suppliers. See Memorandum from Laurens van Houten to Neal Halper regarding cost of production and constructed value calculation adjustments, dated concurrently with this memorandum. Thus, for these final results, we have not adjusted the transfer price of poly film purchased from Moonstar Poli-Film.

#### **Comment 5: Improperly Excluded U.S. Sales**

Chia Far contends that the Department erroneously omitted certain U.S. sales from its preliminary dumping margin calculations. Specifically, Chia Far claims the Department erred by excluding certain sales from the U.S. sales file based on a date of sale other than the date specified as the date of sale by the Department in the preliminary results of review. Chia Far requests that the Department include the wrongly omitted U.S. sales in its calculations for the final results of review.

Petitioners disagree. Petitioners argue that in lines 4762 and 4763 of the margin program log the Department correctly defined the date of sale as the sale date specified by the Department in the preliminary results of review.

**Department's Position:**

We agree with Chia Far. In the margin program, the Department inadvertently redefined the U.S. date of sale after determining whether any reported U.S. sales were outside the POR, rather than before making this determination. We have corrected this error for these final results.

**RECOMMENDATION**

Based upon our analysis of the comments received, we recommend adopting the above positions. We will publish the final results of review and the final weighted-average dumping margin for the reviewed firms in the Federal Register.

AGREE \_\_\_\_\_ DISAGREE \_\_\_\_\_

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David M. Spooner  
Assistant Secretary  
for Import Administration

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Date