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February 3, 2003

MEMORANDUM TO: Faryar Shirzad
Assistant Secretary
For Import Administration

FROM: Joseph A. Spetrini
Deputy Assistant Secretary
for Import Administration, Group III

SUBJECT: Issues and Decision Memorandum for the Administrative Review of Certain Stainless Steel Sheet and Strip in Coils from Italy

SUMMARY

We have analyzed the case briefs and rebuttal briefs of interested parties in this administrative review of the antidumping duty order covering certain stainless steel sheet and strip in coils ("SSSS") from Italy. As a result of our analysis, we have made changes from the Preliminary Results. See Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Italy, 67 FR 51224 (August 7, 2002) ("Preliminary Results"). The changes can be found in the Analysis for the Final Results of the Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils from Italy - ThyssenKrupp Acciai Speciali Terni S.p.A ("TKAST") ("Final Analysis Memorandum"), dated February 3, 2003. As a result of our analysis, we have made changes to the margin calculations.

We recommend that you approve the positions we have developed in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comment and rebuttal briefs by interested parties.

BACKGROUND

On August 7, 2002, the Department published in the Federal Register the preliminary results of its administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Italy. See Preliminary Results. The merchandise covered by this order is stainless steel sheet and strip in coils as described in the "Scope of the Review" section of the Federal Register notice. The period of review ("POR") is July 1, 2000 through June 30, 2001.

The respondent is TKAST and TKAST's wholly owned subsidiary ThyssenKrupp AST USA, Inc. ("TKASTUSA"). We invited parties to comment on our preliminary results of review. We received written comments on September 6, 2002, from TKAST and petitioners. On September 16, 2002, we received rebuttal briefs from TKAST and petitioners. On January 10, 2003, we issued a letter to TKAST and petitioners requesting comments on U.S. commissions. On January, 15, 2003, we received comments only from petitioners. We have now completed the administrative review in accordance with section 751 of the Act.

LIST OF ISSUES FOR DISCUSSION

1. U.S. Insurance Revenue
2. H.M. Interest Revenue
3. U.S. Commissions
4. Home Market Imputed Credit
5. Cost of Production Adjustments
6. Treatment of Negative Margins
7. Skid and Freight Revenue Adjustments
8. Re-packing Expenses
9. Further Manufacturing

CHANGES TO THE COMPUTER PROGRAM

1. The Department disallowed TKAST's insurance revenue allocation claim for certain sales which were ultimately returned to TKAST. However, the Department made a sales-specific insurance revenue adjustment for certain sales because the information necessary for calculating this adjustment was submitted on the record of this administrative review. See Comment 1.
2. The Department is adding home market interest revenue to the home market gross unit price in accordance with section 773(a)(6)(C) of the Act. See Comment 2.
3. The Department made certain changes based on TKAST's reported U.S. commissions. See Commissions Memorandum from Stephen Bailey to Edward C. Yang dated February 3, 2003.
4. The Department is adjusting U.S. price to account for the incurred cost of skids and additional U.S. freight. See Comment 7.
5. The Department made certain changes to TKAST's interest expenses. See Comment 5.
6. The Department is adjusting CEP profit to account for an affiliate's further manufacturing in the U.S. See Comment 9.

DISCUSSION OF THE ISSUES

Comment 1: U.S. Insurance Revenue

Petitioners argue that certain sales, which were returned to TKAST and are not reported in its U.S. sales database, cannot be used by the Department to calculate an adjustment for U.S. insurance

revenue. Petitioners note that pages 2 and 19 of the Department's July 11, 2002 Stainless Steel Sheet and Strip in Coils from Italy: Report on the Sales Verification of ThyssenKrupp Acciai Speciali Terni S.p.A. ("TKAST") dated July 11, 2002 ("Sales Verification Report") identifies the shipments of SSSS that were used by the Department to calculate the U.S. insurance recovery claim. Petitioners contend that TKAST's April 22, 2002 Section A through C supplemental questionnaire response at Exhibit C-37 ("Section A through C supplemental response") shows that the coil numbers for these shipments match to coil numbers that TKAST described as being returned merchandise. Thus, petitioners assert that the returned shipments of SSSS cannot be used by the Department to calculate the U.S. insurance revenue because these shipments were not included in the U.S. sales database.

Petitioners contend that the insurance claim and recovery for certain other shipment(s) of SSSS, other than those described above as returned, used by the Department to calculate the U.S. insurance revenue, occurred outside of the POR. Petitioners note that TKAST's May 24, 2002 sections A through C supplemental questionnaire response at 14 ("Section A through C supplemental response") shows that the insurance revenue claim for other SSSS shipment(s) was filed after the POR, which ended June 30, 2001. Petitioners also point out that the sample insurance revenue claim submitted by TKAST in Exhibit C-45 of its Section A through C supplemental response relates to insurance revenue claims of the SSSS shipment(s) in question and shows that both the insurance claim and recovery date occur after the POR.

Petitioners argue that the Department should disallow TKAST's U.S. insurance revenue adjustment because, just like the situation for home market insurance revenue claim, TKAST could have reported U.S. insurance revenue on a sales specific basis and should not have allocated this adjustment over the entire home market database. See Preliminary Results at 51228. Petitioners note that in its Section A through C supplemental response at 14, TKAST identified the sales invoice number and the resale invoice number for each insurance revenue adjustment that relates to U.S. sales of SSSS. Petitioners contend that because the U.S. sales database submitted by TKAST identifies the invoice number for each sale, TKAST could have tied the sales invoice number to the resale invoice number which allowed it to report U.S. sales revenue adjustment on a sales specific basis. Petitioners also point out that sales observations related to TKAST's U.S. insurance revenue claims have been omitted from TKAST's U.S. sales database. Petitioners argue that, because the home market insurance claim was denied for similar reasons, and because there is no logical or regulatory basis for the Department's different approach to insurance revenue in the home and U.S. markets, the Department is precluded from calculating insurance revenue on a per-unit basis. See Section A through C supplemental response at 15.

Further, citing to 19 C.F.R. section 351.401(b)(1) of the Department's regulations, petitioners contend that because U.S. insurance revenue is a benefit for TKAST, TKAST has the burden of providing information which establishes the amount and nature of the particular adjustment. Petitioners maintain that the Department should require TKAST to demonstrate that the insurance claim relates specifically to the U.S. sales that were reported by TKAST during the POR. Finally, petitioners argue that consistent with section 351.401(b)(1) of the Department's regulations, the Department should disallow TKAST's U.S. insurance revenue adjustment because TKAST failed to establish that any of its claimed

U.S. insurance revenue was related to sales in its U.S. sales database during the POR.

Respondent agrees with petitioner that certain insurance claims relate to returned merchandise and that these claims should not be included in the numerator of insurance revenue in the United States. However, respondent argues that certain other insurance claim(s) associated with U.S. sales should not be allocated to all sales because they can be tied to a specific sale using sale invoice number. See Section A through C supplemental response at 14. Respondent contends that by tying the U.S. insurance claim by invoice number to the U.S. sales database, the Department can apply a sales specific insurance revenue adjustment.

Respondent asserts that petitioners' argument, that certain other insurance claim(s) fall outside of the POR, is irrelevant. Respondent argues that because it can tie the insurance claim(s) to a particular sale, the issue is whether the sale occurred during the POR, not whether the claimed revenues were received during the POR. Accordingly, respondent contends that because the sale(s) occurred during the POR and the insurance claim(s) can be tied to a specific sale(s), the insurance claim(s) should be adjusted for the specific sale(s) in question.

Department's Position: We agree with petitioners in part. The Department has determined with regard to the first type of returned sales, that these returned sales do not warrant an insurance revenue adjustment. Because the information for not granting the insurance revenue adjustment is proprietary, we have addressed the proprietary reasons for not granting this adjustment in our final analysis memorandum. See Final Analysis Memorandum. Additionally, both petitioners and respondent have pointed out that the first type of return sales were actually returned and therefore do not warrant an insurance revenue adjustment. Therefore, for the final results, we are disallowing the insurance claim for the first type of returned sales.

However, for the second type of returned sales, the Department agrees with TKAST that it provided sales-specific information on the record necessary for determining the insurance revenue adjustment for these returned sales (i.e., second type). Thus, the Department will make a sales-specific insurance revenue adjustment for this type of return sale. In its Section A through C response, TKAST provided the invoice number and supporting documentation for the sales of subject merchandise with an insurance revenue claim by TKAST. See Section A through C supplemental response at 14. The Department confirmed in the Sales Verification Report at page 19 that TKAST could tie insurance revenue to specific sales. Thus, for the final results, the Department will make a sales specific adjustment to account for the return sale(s) that could be tied to a specific invoices. See Final Analysis Memorandum.

Finally, the Department disagrees with petitioners' argument that insurance revenue adjustments should be disallowed when payment of the insurance occurs outside of the POR. The Department's practice is to use sales which fall within the POR by sale date to calculate a antidumping margin. Section 351.213(e) of the Department's regulations states that an "administrative review normally will cover, as appropriate, entries, exports, or sales of the subject merchandise during the 12 months immediately preceding the most recent anniversary month." First, in examining the sales within the 12 month period,

the Department examines the specific expenses associated with each particular sale. Second, because petitioners never allege and record evidence does not suggest that the sales associated with these insurance revenue adjustments fall outside of the POR, the Department has no reason to question the expenses associated with these sales. Third, in the present review, TKAST reported in its original November 5, 2001, Section C questionnaire response ("Section A through C original response") at C-15, invoice date as the date of sale for CEP sales from inventory, and the earlier of invoice date or shipment date as the date of sale for EP sales. All invoice dates and shipment dates associated with the sale(s) in question fall within the POR and, therefore, are used, among other reported sales, as the basis for determining U.S. price. Thus, because the Department examines all expenses associated with sales within the POR, we will continue to use TKAST insurance revenue as an adjustment to U.S. price for those sales.

Furthermore, the Department disagrees with petitioners' argument that TKAST's revised Section C database does not contain sales for which an insurance claim adjustment is being requested by respondent. Respondent provided a revised database on July 3, 2002, in which the sales in question are included.

Comment 2: Home Market Interest Revenue

Petitioners argue that the Department should add interest revenue realized on home market sales of SSSS to TKAST's home market gross unit price. Petitioners contend that TKAST reported in its April 15, 2002 section B supplemental questionnaire response ("Section B supplemental response") interest revenue on a customer-specific basis for certain home market sales involving certain customers. Petitioners also argue that pages 14 through 15 of the Sales Verification Report confirmed TKAST's reporting of interest revenue on a customer specific basis at verification. Thus, petitioners argue that the Department should add interest revenue realized on home market sales of SSSS to TKAST's home market gross unit price.

Department's Position: We agree with petitioners. The Department's practice is to add interest revenue to sales price in accordance with section 773(a)(6)(C) of the Act. At verification, we confirmed that interest revenue was calculated on a customer specific basis. See Sales Verification Report at 15. Accordingly, for the final results, the Department will add interest revenue to the home market gross unit price. See Final Analysis Memorandum.

Comment 3: U.S. Commissions

In their case brief, petitioners raised the treatment of certain commissions by TKAST. In its rebuttal brief, respondent disagreed with petitioners. Due to the proprietary nature of the issues involved, we have incorporated this discussion in a memorandum to the file. See Analysis of Comments Received Concerning Commissions for the Final Results of the Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils from Italy - ThyssenKrupp Acciai Speciali Terni S.p.A. ("TKAST"), ("TKAST Commissions Memorandum") dated February 3, 2003. In the TKAST Commissions Memorandum, we agree and disagree with both respondent and petitioners. For a

complete discussion of this issue see TKAST Commissions Memorandum, and the public version attached to this memorandum as Attachment I.

Comment 4: Home Market Imputed Credit

Petitioners argue that the Department should disallow TKAST's claimed home market imputed credit expenses because TKAST used a methodology which overstated the actual payment period for its home market sales. Petitioners contend that TKAST overstated the period between the date of shipment and the date of payment by failing to account for sales of its account receivables to banks or factoring institution prior to the due date for account receivables. Petitioners argue that because TKAST receives payment immediately for the sale of accounts receivables to a bank or a factoring institution, the actual payment period is overstated resulting in inflated imputed home market credit. Petitioners maintain that TKAST should only be allowed to claim imputed credit expense for the actual difference between shipment date and payment date for sales with accounts receivable which were sold to factoring institutions or banks.

Additionally, petitioners argue that the Department should disallow the imputed credit expense because TKAST withheld information the Department needs to calculate the proper amount of the imputed credit expenses for TKAST's home market sales. Petitioners contend that TKAST failed to report its factoring operation to the Department and made no change to correct its obvious overstatement of the actual credit period for home market sales even after the Department was made aware of its factoring operation. Petitioners argue that TKAST had no excuse to withhold information about its factoring operation because this practice is reported in its financial statements and because it involved substantial amounts of sales.

Petitioners maintain that by omitting factoring from its calculation of imputed credit, TKAST overstated home market imputed credit and therefore conferred a benefit on itself. Petitioners further argue that by omitting factoring from its calculation of home market credit expense and conferring a benefit on itself, and by failing to explain and account for its factoring practices in response to the Department's questionnaires, TKAST failed to comply with section 351.401(b)(1) of the Department's regulations which states that the interest party in possession of the relevant information has the burden of establishing the amount and nature of a particular adjustment. Petitioners also contend that TKAST failed to cooperate to the best of its ability by failing to report its factoring practices.

Respondent argues that it bases its payment date on the payment terms specified in its invoice system because its accounts receivable data are handled through its accounting system (i.e., the SAP system). See Sales Verification Report at 5. Respondent contends that its computerized accounting system is different from its invoicing system, and therefore, dates of payment cannot be linked to the invoices recorded in the invoice system. Respondent also argues that its reporting methodology is consistent with past reviews and the same methodology has been verified three times without issue.

Respondent further contends that there is no evidence on the record that TKAST factored any sales of SSSS during the POR. Respondent argues that it cannot distinguish the amounts factored between

subject and non-subject merchandise in its accounts receivables. Moreover, respondent maintains that it has used the terms of payment from its sales invoices to calculate payment date because this is the only payment date that can be reliably tied to specific invoices.

Respondent argues that the Department verified its methodology for reporting payment date and imputed credit expenses and noted no discrepancies. See Sales Verification Report at 10-11. Finally, respondent contends that it cooperated to the best of its ability by responding to all of the Department's questionnaires and by undergoing a thorough home market sales verification in which no discrepancies were found in its home market credit expense reporting methodology.

Department's Position: We agree with petitioners that TKAST should only be allowed to claim imputed credit expense for the actual difference between shipment date and payment date for sales with accounts receivables which were sold to factoring institutions or banks. However, we disagree with petitioners that factoring invoices changes the date of payment for a sale.

In explaining its factoring process in its Section A through C supplemental response at 5, TKAST explained that it assigns invoices to banks on a monthly basis. TKAST further explained that it receives money from the bank for the invoices less an amount for interest and commissions, which TKAST records as factoring in its general ledger. For bank transfers ordered by the customer, TKAST explained that it credits the customer's account and debits TKAST's bank account. For payments made through cash orders, TKAST explained that it credits the customer's cash order account in portfolio and debits TKAST's bank account as cash order being paid. TKAST further explained that all payments are recorded in the general ledger based on the date of receipt of payment. Thus, from this description it is clear that the process of factoring invoices does not alter either the payment terms or the actual payment date of the sale.

In addition, we confirmed TKAST's payment methodology during the verification of the present administrative review. We noted that TKAST has two payment methodologies (i.e., direct and RIBA) for its customers. See Sales Verification Report at 11. Under the direct payment methodology, TKAST's customer will instruct its bank to transfer payment, via letter which includes a value date (i.e., the date on which transfer of payment is to occur), and sends a copy of the bank letter to TKAST who enters the data in its SAP system. The bank electronically notifies TKAST of payment on the date of transfer, and sends a note of accreditation. TKAST's treasury office then credits account receivables for the client. Under the RIBA methodology, about a month before payment is due, TKAST's treasury office selects which of TKAST's banks each customer is to pay through, and electronically transfers the lists for payment to the banks. TKAST's banks automatically credit TKAST's account before the due date (but with a value date of the expected transfer date), sending both an electronic statement and a hard copy via mail to TKAST. The banks also send the customer a notification of payment due. With the customer's approval, the customer's bank transfers payment to TKAST's bank on the date payment is due. See Sales Verification Report at 11. Under both methodologies, we noted that TKAST is paid by its customers on the date that payment is due. Additionally, at verification, we traced several home market pre-select and surprise sales home market credit expense and noted no discrepancies in TKAST's reporting methodology. See Sales Verification Report at 11 and Exhibits 10-18.

Therefore, none of the information on the record of this review suggests that factoring invoices changes the date of payment for the sale.

With respect to petitioner's allegation that TKAST failed to cooperate to the best of its ability by failing to report its factoring practices, we disagree. TKAST fully responded to the Department's questionnaire and supplemental questionnaires. Further, the Department has conducted a thorough home market sales verification of TKAST's information and found that its reporting methodology for home market credit was reasonable. Therefore, we will make no changes to our calculations for the final results of review.

Comment 5: Cost of Production Adjustments

Petitioners contend that the Department should make corrections to TKAST's reported general and administrative expense ("G&A") calculations and interest expense because both the stainless steel plate in coils ("SSPC") administrative review and the present administrative review use the same 2001 audited financial statements to generate cost of production ("COP"). See Second Review of Stainless Steel Plate in Coils from Italy - Sales and Cost Verification Report for Thyssen Krupp Acciai Speciali Terni S.p.A. ("SSPC Verification Report") dated May 13, 2002.

TKAST argues that the Department must make a final determination based on evidence on the record of the present review and not on evidence in the companion SSPC review. Respondent contends that the statute of the Court of International Trade ("CIT") compels the Department to make decisions based on information which is supported by substantial evidence on the record. See 19 U.S.C. section 1516a(b)(1). Respondent further contends that information from another proceeding does not fall within the definition of record of this proceeding. Because the business proprietary data from the SSPC review is not on the record of this review, respondent argues that the Department may not base its final determination on this information.

Department's Position: We agree with petitioners in part. An examination of the record of this review reveals that TKAST used the same methodology, figures and financial statements to report its G&A ratio as it did in the SSPC review. However, the supporting information provided on the record of the current review does not provide sufficient detail to make the adjustments corresponding to those made in the SSPC review. 19 U.S.C. 1561a(b)(1)(B)(i) of the Act specifies that Department determinations must be supported by substantial evidence on the record. In addition, section 351.104(a)(1) of the Department's regulations specifies that the administrative record will contain all factual information, written argument, or other material developed by, presented to, or obtained by the Secretary during the course of a proceeding that pertains to the proceeding. Furthermore, section 351.104(a)(1) of the Department's regulations specifies that the Department will base its decision on the established record of the particular proceeding in making its determination. Therefore, since we do not have sufficient information on the record of this current review to reach the same conclusion as the SSPC administrative review, we cannot recalculate G&A for this administrative review.

We examined the cost database submitted in the course of this review and discovered that TKAST

determined its per-unit interest expense by multiplying the interest expense ratio, which was based on the total cost of manufacturing, by the per-unit variable cost of manufacture ("VCOM"), rather the per-unit cost of manufacturing ("TOTCOM") as required by the Department cost questionnaire. Therefore, for the final results of review, we will recalculate TKAST's per-unit interest expense by multiplying the interest ratio reported in the section D supplemental response to the reported TOTCOM in the cost database for the final results of review. See Final Analysis Memorandum.

Therefore, for the final results of review, we will correct TKAST's calculation of per-unit interest expense by multiplying the interest ratio reported in the section D supplemental response by the reported TOTCOM reported on the cost database for the final results of review. See Final Analysis Memorandum.

Comment 6: Treatment of Sales Greater Than Normal Value

TKAST contends that the Department's current practice of assigning no dumping margins to sales at greater than normal value is inconsistent with the WTO Anti-Dumping Agreement. Respondent argues that in EC-Bed Linen the WTO Appellate Body found that the European Communities ("EC") practice of zeroing was inconsistent with Article 2 of the WTO Anti-Dumping Agreement. See European Communities - Antidumping Duties On Imports of Cotton-Type Bed Linen From India, WT/DS141/AB/R (March 12, 2001) para. 46 et seq ("Bed Linens"). Respondent maintains that in Bed-Linens the WTO found that the EC's practice of zeroing out margins was found to violate Article 2.4.2 of the WTO Anti-Dumping Agreement that requires a "fair comparison"with a "weighted average of prices of all comparable export transactions." See Bed Linens at 48. Respondent maintains that the WTO also found the practice of zeroing out was inconsistent with Articles 2.4 and 2.4.3 of the Anti-Dumping Agreement because zeroing out fails to take into account all prices of certain export transactions.

Respondent points out that section 771(35)(A) of the Act defines "dumping margin" as "the amount by which the normal value exceeds the export price or constructed export price of the subject merchandise." Respondent argues that this definition can be interpreted to mean that amounts do not have to be positive, as Black's Law Dictionary defines amount as "the whole effect, substance, quantity, import result or significance." See Black's Law Dictionary (6^{th} ed. 1990). Respondent argues, therefore, that the statute does not require the practice of assigning no dumping margin to sales greater than normal value.

Respondent notes that under the Uruguay Round Agreements Act ("URAA") the Department does not consider itself bound to adverse panel rulings involving other member states. However, Respondent maintains that the Department has the option of bringing its practice in conformity with the WTO Appellate Body rather than waiting for an adverse ruling against the United States.
Petitioners argue that the Department's methodology is factually and legally distinct from that used in Bed Linens and the WTO's decision is therefore not applicable to the present case. Petitioners also maintain that the Department's current methodology is consistent with its statutory obligations. Petitioners contend that 19 U.S.C. 1677(35)(A) directs the Department "to aggregate all individual

dumping margins, each of which is determined by the amount by which normal value exceeds export price or constructed export price, and to divide this amount by the value of all sales." See Carbon and Certain Alloy Steel Wire Rod From Germany; Issues and Decision Memorandum for the Final Determination, at Comment 10 (August 23, 2002). Petitioners argue that the singular term 'dumping margin' found in section 1677(35)(A) of the Act applies on a comparison-specific level, and does not itself apply on an aggregate basis. Id at 29. Petitioners contend therefore that because the Department's treatment of sales greater than normal value in the preliminary results is consistent with the statute and the WTO, the Department should reject TKAST's request to alter the Department's standard calculation methodology in this case.

Department's Position: We disagree with TKAST. As we have discussed in prior cases, our methodology is consistent with our statutory obligations. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands, 66 FR 50408 (October 3, 2001), and accompanying Issues and Decision Memorandum, at Comment 1. First, sales that did not fall below normal value are included in the weighted-average margin calculation as sales with no dumping margin. The total value of such sales is included in the denominator of the weighted-average margin along with the value of dumped sales. We do not, however, allow sales that did not fall below normal value to cancel out dumping margins found on other sales.

Second, the Act requires that the Department employ this methodology. Section 771(35)(A) of the Act defines "dumping margin" as "the amount by which the normal value exceeds the export price or constructed export price of the subject merchandise." Section 771(35)(B) of the Act defines "weighted-average dumping margin" as "the percentage determined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate export prices and constructed export prices of such exporter or producer." These sections, taken together, direct the Department to aggregate all individual dumping margins, each of which is determined by the amount by which normal value exceeds export price or constructed export price, and to divide this amount by the value of all sales. The directive to determine the "aggregate dumping margins" in section 771(35)(B) makes clear that the singular "dumping margin" in section 771(35)(A) applies on a comparison-specific level, and does not itself apply on an aggregate basis. At no stage in this process is the amount by which EP or CEP exceeds normal value on sales that did not fall below normal value permitted to cancel out the dumping margins found on other sales. This does not mean, however, that sales that did not fall below normal value are ignored in calculating the weighted-average rate. It is important to note that the weighted-average margin will reflect any "non-dumped" merchandise examined during the investigation, the value of such sales is included in the denominator of the dumping rate, while no dumping amount for "non-dumped" merchandise is included in the numerator. Thus, a greater amount of "non-dumped" merchandise results in a lower weighted-average margin.

Finally, the Bed Linens Panel and Appellate Body decisions concerned a dispute between the European Union and India. Because this dispute did not involve the United States, the Department is not obligated under the WTO to act. See Certain Preserved Mushrooms from India: Final Results of Antidumping Administrative Review, 66 FR 42507 (August 13, 2001).

Comment 7: Skid and Freight Revenue Adjustments

Respondent argues that the Department incorrectly treated skid revenue and freight revenue (SKIDU and FRTREVU respectively) as direct expenses and movement expenses instead of treating them as revenue. Respondent contends that it reported that it sometimes charges for skids or pallets used by the customer and that when this happens it will invoice the customer for the skid or pallet. See Section C supplemental response at C-7. Respondent also argues that it reported in its Section A through C original response at C-22 that charges incurred by TKAST for additional moving expenses are invoiced to the customer and, therefore, the additional charges found under FRTREVU must be added to the gross unit price.

Department's Position: We agree with respondent. The revenue TKAST realized from the sale of skids and the money it received from further transporting the subject merchandise in the United States should not be treated as direct selling expenses. Regarding the claimed adjustment for skid revenue, respondents reported in the Section A through C supplemental response at page 7 that "to the extent TKAST USA has incurred a cost for skids, TKAST USA will in turn, invoice its customer for the skid." Further, TKAST reported in its U.S. database a skid revenue on a sales specific basis because not all shipments involved the sale of the skid. Therefore, for the final results, the Department has included skid revenue in the calculation of U.S. gross price because TKAST USA has incurred a cost for the skids which were re-sold. See Final Analysis Memorandum.

With regard to freight revenue, respondent reported in its Section C original response at page 22 that "When a customer takes delivery beyond a reference point, they are charged for the additional freight from the reference point to the actual point of delivery." Additionally, TKAST reported in its U.S. database a freight revenue on a sales specific basis because not all shipments involved additional transportation beyond what was agreed to in the sale. Therefore, for the final results, the Department has included freight revenue in the calculation of U.S. gross price because TKAST USA has incurred a cost for the additional transportation. See Final Analysis Memorandum.

Comment 8: Re-packing Expenses

Respondent contends that the Department incorrectly classified certain re-packing costs (KREPACKU) incurred in the United States as direct expenses. Respondent argues that these U.S. re-packing costs, originally reported by TKAST in overhead and labor and later broken out at the request of the Department, should be classified by the Department as packing costs.

Petitioners argue that the Department's treatment of TKAST's U.S. re-packing expenses as U.S. direct selling expenses is consistent with Butt-Weld Pipe Fittings, in which the Department determined that re-packing expenses bear a direct relationship to the sale of merchandise pursuant to section 772(d)(1)(B) of the Act and should be added to direct expenses. See Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results of Antidumping Administrative Review, 65 FR 81827 (December 27, 2000), and accompanying Issues and Decision Memorandum, at Comment 2 ("Butt-Weld Pipe Fittings"). Petitioners also contend that the Department's practice of adding re-packing

costs to U.S. direct selling expenses was upheld by the U.S. Court of International Trade in Butt-Weld Pipe Fittings.

Department's Position: We disagree with respondents. The Department's practice is to treat re-packing expenses as direct expenses. See Butt-Weld Pipe Fittings, Comment 2. Accordingly, for the final results, we will continue to treat re-packing expenses as direct selling expenses.

Comment 9: Further Manufacturing

Respondent maintains that the Department incorrectly failed to include Ken-Mac's further manufacturing expenses (i.e., KFURMANU) in its calculation of "total expenses" for the calculation of constructed export price ("CEP") profit. Respondent argues that the Act defines the term "total United States expenses" to include "the cost of any further manufacturing or assembly (including additional material and labor) . . . ." See Section 771A(f)(2)(B) and (C) and Section 771A(d)(2). Accordingly, respondent contends that the Department should include KFURMANU with TKAST's total expenses.

Department's Position: We agree with respondent that Ken-Mac's further manufacturing expenses should be included in the Department's calculation of CEP profit. As stated in Butt Weld Pipe Fittings, "such expenses (direct selling expenses) are then included in the calculation of CEP selling expenses for purposes of applying the CEP profit ratio." See Butt-Weld Pipe Fittings, Comment 2. Accordingly, for the final results, we will include Ken-Mac's further manufacturing in the calculation for CEP profit. See Final Analysis Memorandum.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions, the position taken in the TKAST Commissions Memorandum, and the position taken in the Final Analysis Memorandum with respect to U.S. insurance revenue and adjusting the margin and model match programs accordingly. If these recommendations are accepted, we will publish the final results of review and the final weighted-average dumping margin for the reviewed firm in the Federal Register.

AGREE_____ DISAGREE_____

_____

Faryar Shirzad
Assistant Secretary
for Import Administration

_____

Date