

MEMORANDUM TO: Faryar Shirzad  
Assistant Secretary  
for Import Administration

FROM: Bernard T. Carreau  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Administrative Review  
of Top-of-the-Stove Stainless Steel Cooking Ware from the  
Republic of Korea (Korea); Final Results

### **Summary**

We have analyzed the comments and rebuttal comments of interested parties in the 2000 administrative review of the antidumping duty order covering top-of-the-stove stainless steel cooking ware (cookware) from Korea. As a result of our analysis, we have made changes from our preliminary results. We recommend that you approve the positions we have developed in the Discussion of Issues section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments and rebuttal comments from parties.

### **Background**

On February 6, 2002, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on cookware from Korea. See, Top-of-the-Stove Stainless Steel Cooking Ware from the Republic of Korea: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review, 67 FR 5563 (February 6, 2002) (Preliminary Results). This review covers twenty-six manufacturers of subject merchandise: Daelim Trading Co., Ltd. (Daelim), Dong Won Metal Co., Ltd. (Dong Won), Cheflene Corporation, Sam Yeung Ind. Co., Ltd., Namyang Kitchenflower Co., Ltd., Kyung-Dong Industrial Co., Ltd., Ssang Yong Ind. Co., Ltd., O. Bok Stainless Steel Co., Ltd., Dong Hwa Stainless Steel Co., Ltd., Il Shin Co., Ltd., Hai Dong Stainless Steel Ind. Co., Ltd., Han Il Stainless Steel Ind. Co., Ltd., Bae Chin Metal Ind. Co., East One Co., Ltd., Charming Art Co., Ltd., Poong Kang Ind. Co., Ltd., Won Jin Ind. Co., Ltd., Wonkwang Inc., Sungjin International Inc., Sae Kwang Aluminum Co., Ltd., Hanil Stainless Steel Ind. Co., Ltd., Seshin Co., Ltd., Pionix Corporation, East West Trading Korea, Ltd., Clad Co., Ltd., and B.Y. Enterprise, Ltd. The period of review (POR) is January 1, 2000, through December 31, 2000.

We invited parties to comment on our Preliminary Results of review. On March 8, 2002, we received case briefs from the Stainless Steel Cookware Committee (the petitioner), Dong Won, and Daelim (the respondents). On March 15, 2002, we received rebuttal briefs from the petitioner and the same two respondents.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

### **List of Issues**

1. Constructed Value (CV) Calculation for Daelim
2. Difference in Merchandise (DIFMER) Percentages for Daelim
3. Dong Won's Model Matching Program
4. Ministerial Error in Calculation of Dong Won's Constructed Export Price (CEP) Profit
5. Duty Drawback Adjustment for Dong Won
6. Dong Won's Cost of Production (COP)

### **Discussion of Issues**

#### **Comment 1: CV Calculation for Daelim**

Daelim argues that in our preliminary margin analysis, we erroneously omitted home market indirect selling expenses from the list of expenses used to calculate the selling expense ratio for CV purposes. According to Daelim, this resulted in the calculation of an incorrect CV selling expense ratio. Thus, Daelim requests that the Department correct this error for the final results.

The petitioner did not address this issue.

**Department's Position:** We agree with Daelim and have corrected this error in the Department's margin calculation program by including indirect selling expenses in the calculation of Daelim's selling expense ratio. See, Daelim Final Results Calculation Memorandum, dated June 6, 2002.

#### **Comment 2: DIFMER Percentages for Daelim**

Daelim states that it reported its costs in its COP response using three decimal places. In the sales listing, however, it listed its variable and fixed costs to more than ten decimal places. According to Daelim, due to minute differences in rounding beyond the tenth decimal place, the costs reported on the sales listing can differ for identical products. Daelim argues that these tiny rounding differences in the reported variable cost of manufacture (VCOM) values manifested themselves as very small DIFMER percentages in comparisons between the identical products.

Daelim contends that due to these false DIFMER percentages, the Department's matching program ignored some home market matches in the contemporaneous month that should have been used as the basis for normal value. Daelim submits that this result, though inadvertent, was improper and in contravention of the applicable law and the Department's practice. See, 19 CFR 351.415(e)(2). Therefore, Daelim requests that the Department avoid calculating false DIFMER percentages by rounding VCOM values to the third decimal point, as they are in Daelim's cost files.

The petitioner did not address this issue.

**Department's Position:** We agree with Daelim and have adjusted the Department's margin calculation program by rounding Daelim's reported DIFMER values to three decimal places. See, Daelim Final Results Calculation Memorandum, dated June 6, 2002.

### **Comment 3: Dong Won's Model Matching Program**

Dong Won contends that the Department's model matching program improperly allowed DIFMER percentages to be used as a product matching criterion. Specifically, in each case that a U.S. sale was matched to two or more equally similar third country sales (in terms of physical characteristics), rather than weight-averaging the associated transactions as has been the established practice, the Department's matching program further selected from within these transactions as the "best match" the third country sale with the lowest DIFMER percentage. Dong Won submits that this approach finds no basis in the antidumping statute and is a fundamental shift from the Department's policy with respect to the use of DIFMER percentages in product comparisons.

Dong Won argues that, pursuant to section 771(16), the Department is required to compare U.S. sales to home market or third country sales of an identical product. If there are no identical products, the Department is required to compare U.S. sales to home market sales or third country sales of products "like" the merchandise sold in the U.S. that are "approximately equal in commercial value to that merchandise." The statute defines "identical" in terms of "physical characteristics." Moreover, the statute defines "like" in terms of the "component materials and purposes for which used." According to Dong Won, nowhere in this hierarchy is there an indication that U.S. sales should be compared to home market sales or third country sales of merchandise with the most similar costs of manufacture (i.e., smallest DIFMER percentage).

Dong Won states that to determine whether U.S. and home market products or third country products are "identical" to or "like" one another, the Department establishes certain product matching criteria for each product under consideration. In this case, the Department did not include manufacturing costs as one of these criteria. Therefore, Dong Won maintains that it is improper for the Department now to consider this as an independent factor in its product matching analysis.

Further, Dong Won asserts that the Department's practice with respect to the use of DIFMER percentages in product comparisons is outlined in a 1992 policy bulletin which states that in order to validate the use of a similar product match, the Department requires only that the difference in the VCOM between the U.S. and comparison market product be less than 20 percent of the total cost of manufacture of the U.S. product. See, Alan M. Dunn, Assistant Secretary for Import Administration, "Differences in Merchandise; 20% Rule" (July 29, 1992) (DIFMER Policy Bulletin). Dong Won argues that as long as DIFMERs are within the 20 percent threshold, the merchandise is considered "approximately equal in commercial value" to the subject merchandise within the meaning of section 771(16). Dong Won maintains that the Department's product matching methodology applied in the current review, by allowing selection of a third country sale from a pool of equally similar sales because it has the lowest DIFMER percentage, contravenes this established policy. According to Dong Won, the circumstances do not warrant, and the Department has not proposed any reason for a departure from its usual policy. Thus, Dong Won submits that the Department should not give any matching preference to products with the smallest DIFMER percentage.

In rebuttal, the petitioner states that the Department rejected this identical argument made by Dong Won in the last review period. See, Top-of-the-Stove Stainless Steel Cooking Ware From the Republic of Korea: Final Results and Rescission, in Part, of Antidumping Duty Administrative Review, 66 FR 45664 (August 29, 2001) (Final Results 1999) and accompanying Issues and Decision Memorandum at Comment 8. According to the petitioner, nothing has changed in this review period from the last review period that would require the Department to revisit its model matching methodology. For the same reasons the Department cited in the last review, the Department should again reject Dong Won's argument.

**Department's Position:** We disagree with Dong Won. As noted by the petitioner, we addressed this issue in the last segment of this proceeding. At that time we explained that in accordance with current Department practice, if our model match program finds two home market models equally similar to a U.S. model, based on physical characteristics, that are within the 90/60 day window, the Department considers the home market model with the smallest COSTDIFF (DIFMER percentage) to be the model most similar to that of the U.S. sale. See, Final Results 1999, 66 FR 45664 and accompanying Issues and Decision Memorandum at Comment 8. See, also, Stainless Steel Wire Rod from Spain: Final Results of Antidumping Duty Administrative Review, 66 FR 10988 (February 21, 2001) and accompanying Decision Memo at comment 1; Certain Welded Carbon Steel Pipes and Tubes from India: Final Results of Antidumping Duty Administrative Review, 63 FR 32825, 32830 (June 16, 1998).

Further, we disagree with Dong Won's contention that because there is no indication in section 771(16) that U.S. sales should be compared to home market sales of merchandise with the smallest DIFMER percentage, the Department's model matching methodology in this case is improper. Section 771(16) directs the Department to select home market comparison merchandise which is, preferably, physically identical to merchandise sold in the United States. If identical comparison merchandise is unavailable, we may then select merchandise which is

similar in component material and in the purposes for which used, after adjusting for any differences in the physical characteristics of the comparison merchandise (the so-called DIFMER adjustment). See, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Final Results of Antidumping Duty Administrative Reviews and Revocation in Part, 65 FR 11767 (March 6, 2000), and accompanying Issues and Decision Memorandum at Comment 1. The statute is silent, however, as to the precise manner in which similar merchandise is to be identified. Because the antidumping statute does not detail the methodology that must be used in determining what constitutes “similar” merchandise, the Department has broad discretion, implicitly delegated to it by Congress, to apply an appropriate model match methodology to determine which home market models are properly comparable with U.S. models under the statute. See, e.g., Koyo Seiko Co., Ltd., et al. v. United States, 66 F.3d 1204, 1209 (Fed. Cir. 1995). The Courts will uphold the Department’s model match methodology as long as it is reasonable. See, Koyo Seiko Co. v. United States, 932 F. Supp. 1488, 1491 (CIT 1996); NSK, Ltd., v. United States, 919 F. Supp. 442, 445 (CIT 1996).

In addition, we disagree with Dong Won’s argument that the Department’s model matching methodology in this case is in conflict with the Department’s 1992 Policy Bulletin regarding DIFMER. The DIFMER Policy Bulletin states that “{s}ales of products in domestic or third country markets with variable manufacturing cost differences exceeding 20% of the total average cost of manufacture, on a model specific basis, of the product exported to the United States will normally not be utilized in determining foreign market value. Any use of products with the cost of merchandise exceeding 20% shall be noted and fully explained.” See, DIFMER Policy Bulletin at 3. Thus, contrary to Dong Won’s assertion, the Department does not have a practice of requiring only that the DIFMER fall within the 20 percent threshold. Rather, the DIFMER Policy Bulletin merely states that if the differential exceeds 20 percent, the use of that product must be explained. In the instant case, the Department’s model matching methodology is in full accordance with the guidelines of the DIFMER Policy Bulletin.

Based on the above discussion, we have made no changes to our model matching methodology for these final results of this review.

#### **Comment 4: Ministerial Error in Calculation of Dong Won’s CEP Profit**

The petitioner claims that when performing its CEP profit calculation for Dong Won in the Preliminary Results, the Department used the third country gross unit price field to calculate total home market revenue. However, according to the petitioner, Dong Won reported third country gross unit prices in U.S. dollars. The petitioner argues that because the Department’s program does not convert these prices into Korean won before calculating home market revenue, the resulting home market revenue is inadvertently understated.

Dong Won did not address this issue.

**Department's Position:** We agree with the petitioner and have corrected this error in the Department's margin calculation program by converting the third country gross unit price into Korean won before calculating home market revenue. See, Dong Won Final Results Calculation Memorandum, dated June 6, 2002.

**Comment 5: Duty Drawback Adjustment for Dong Won**

In the Preliminary Results, the Department granted Dong Won's request for an adjustment to its U.S. and third country prices for duty drawback received on imported raw materials used to produce stainless steel cookware that it exports to the United States and Canada. The petitioner claims that because Dong Won failed to establish that it is entitled to duty drawback adjustments the Department should deny Dong Won's request for such adjustments in the final results of review.

The petitioner states that section 772(c)(1)(B) of the statute provides that the Department shall increase the price used to establish export price and CEP "by the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States." In interpreting this provision, the Department has long used a two-pronged test to determine if a respondent is entitled to a duty drawback adjustment. Specifically, a respondent must demonstrate that (1) the import duty and rebate are directly linked to, and dependent upon one another; and (2) there were sufficient imports of the imported raw materials to account for the duty drawback on the exports of the manufactured product. See, e.g., Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review, 65 FR 31302 (May 17, 2000) (Stainless Steel Wire Rod Final) and accompanying Issues and Decision Memorandum at comment 3. According to the petitioner, Dong Won has not satisfied either of the two prongs of this test in this review.

With respect to the first prong, the petitioner claims that the information Dong Won provides fails to demonstrate that the actual import duties Dong Won paid on raw materials and the duty drawback rebate received are "directly linked to, and dependent upon, one another." According to the petitioner, the U.S. Court of International Trade (CIT) has held that to satisfy the first prong of the Department's duty drawback test, the party claiming the adjustment must establish that "import duties are actually paid and rebated, and there is sufficient link between the cost to the manufacturer (import duties paid) and the claimed adjustment (rebate granted)." Far East Machinery Co., Ltd., v. United States, 699 F. Supp 309, 313 (CIT 1988) (quoting Huffy Corp. v. United States, 632 F. Supp. 50, 53 (CIT 1986)) (Far East Machinery).

The petitioner contends that in this case, Dong Won did not provide either import permits or duty drawback applications supporting the total amount of duties it actually paid on imports of raw materials or the total amount of duties actually rebated upon export of the subject merchandise. In addition, the petitioner asserts that Dong Won failed to provide this information despite the Department's request that Dong Won "provide all the documentation necessary to

account for the full amount of duty drawback claimed on sales made during the period of review.” See, Department’s December 19, 2001, supplemental questionnaire, question 4. Instead, Dong Won only provides a few samples of the relevant documents. In addition, the petitioner maintains that the unsupported tables Dong Won did submit for the record did not support a link between import duties paid and rebates granted.

The petitioner states that, at the most, the information Dong Won did submit in support of its claim established a link between the “F.O.B.” value of its exports and the amount of the rebate received. According to the petitioner, in at least one previous case, the Department expressed that the stated goal of the test is not to establish a link between the value of the goods exported and the amount of the rebate received; rather the goal of the test is to establish that the amount of the actual import duties paid correspond to the amount of rebates received. See, Stainless Steel Wire Rod Final at 65 FR 31302.

Further, the petitioner argues that the court has repeatedly held that the burden of establishing both prongs of the Department’s duty drawback test rests with the party seeking the duty drawback adjustment. See, e.g., Allied Tube and Conduit Corp. v. United States, 132 F. Supp. 2d 1087, 1093 (CIT 2001) (Allied Tube and Conduit). Consequently, the petitioner claims that because Dong Won failed to satisfy its burden of establishing a link between the import duties paid and the rebates received, the Department should deny Dong Won’s claims for a duty drawback adjustment.

According to the petitioner, even if the Department determines that Dong Won satisfied the first prong of the Department’s duty drawback test, the Department must still deny Dong Won’s claim for adjustments because Dong Won has failed to establish that it made sufficient imports of raw materials to account for the duty drawback received on the manufactured cookware it exported during the POR.

The petitioner argues that the unsupported information Dong Won did provide in support of its duty drawback claim indicates that Dong Won received more won in rebated duties upon export of its cookware than duties paid on the imported raw material used to manufacture its cookware. Thus, the petitioner maintains that Dong Won’s own information clearly indicates that it did not make sufficient imports of the raw materials to account for the drawback received. The petitioner points out that Dong Won did attempt to explain this discrepancy in its January 11, 2002, supplemental questionnaire response (at 5) by stating that:

While the amount of direct duty payments in 2000 is less than the amount of drawback claimed, Dong Won notes that the remaining duty payments were made on an indirect basis (i.e., are accounted for through the purchase of raw materials from domestic suppliers on a duty-paid basis). Such indirect duty payments as part of the raw material purchase price more than cover the difference between direct duty payments and duty drawback claims.

However, the petitioner claims that Dong Won provides no documentation supporting this contention.

In the alternative, the petitioner asserts that if, contrary to its arguments, in the final results, the Department determines that Dong Won satisfied both prongs of the Department's duty drawback test and is therefore entitled to adjustments, the Department should limit the adjustments granted Dong Won to the amount of duties Dong Won actually paid on imported raw materials during the POR.

According to the petitioner, the court has held that the Department "is not limited to accepting the full value of the 'rebate' as an adjustment under 19 U.S.C. 1677 a(d)(1)(B), even if there is some linkage {between the import duties paid and the rebates granted} and even if the requisite import duties were paid on suitable goods." See, Far East Machinery, 699 F. Supp. at 314. Instead, the court found that the Department "may make its own determination as to how much of the rebate reflects actual cost elements of the product under investigation, that is, how much actually represents drawback." Id. In a more recent case, the petitioner contends, the court went even further in stating that the Department has a "responsibility . . . to limit rebate adjustments to the actual amount of charges rebated." See, Allied Tube and Conduit, 132 F. Supp. 2d at 1096.

The petitioner argues that in Circular Welded Non-Alloy Steel Pipe From the Republic of Korea, 62 FR 55574 (October 27, 1997), the Department found that, while Korean respondents that participated in the same fixed rate duty drawback system utilized by Dong Won in this review were entitled to duty drawback adjustments, the record established that the amount of rebates granted under the system exceeded the duties actually paid by respondents. Thus, the Department capped the adjustments to the amount of import duties paid. The petitioner maintains that in this review, if the Department grants any duty drawback adjustments at all, the Department must limit the amount of the adjustment granted Dong Won to the actual amount of the import duties Dong Won paid.

In rebuttal Dong Won states that the duty drawback adjustment at issue applies equally to Dong Won's U.S. market sales and its Canadian market sales. Accordingly, if the Department for any reason determines to deny or limit the adjustment in one market, it must also deny the adjustment in the other.

Dong Won points out that the rebate program at issue is the so-called "fixed rate" duty drawback system. According to Dong Won, the fixed rate duty drawback system is a simplified application system that has been made available to small- and medium-sized entities to reduce the paperwork burden that is imposed under the "individual application" system utilized by much larger companies.

Dong Won maintains that the Department has previously examined the Korean fixed rate duty drawback system and has found that it satisfies the first prong of the Department's test. See,



e.g., Color Televisions Receivers From Korea: Final Results of Antidumping Duty Administrative Review, 51 FR 41365 (November 14, 1986). According to Dong Won, in this administrative review, the Department accepted a fixed rate duty drawback claim (where the rate was set based on actual usage) because the Department found this method to be a reasonable estimate of the duties paid upon importation. Similarly, Dong Won contends that, with respect to the second prong of the test, the Department has found that the system, though abbreviated and less detailed in its documentary requirements than the individual rate system, still meets the Department's traditional requirements for an adjustment. See, Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Korea, 67 FR 3149 (January 23, 2002) (Stainless Steel Bar From Korea). Dong Won asserts that there is no reasonable basis for the Department to distinguish this case by denying drawback adjustments for Dong Won.

Further, Dong Won argues that the petitioner's allegations concerning the purported inadequacy of the supporting documentation provided by Dong Won must also be rejected. According to Dong Won, the information it provided was responsive to the Department's request for information, comprehensive in scope, and more than sufficient to explain and document the nature and basis for the claimed adjustments. All import duty payments were listed as were all drawback applications. Dong Won states that while it does not disagree that it bears the initial burden to support any claimed adjustments, the Department does not and should not require respondents to place on the record every single document relating to a particular adjustment. In this case, Dong Won claims that it fully explained the basis for adjustment, answered all of the Department's questions, and provided all requested supporting documentation. Nothing further can or should be required.

In addition, Dong Won contends that the Department should not cap the drawback adjustment. According to Dong Won it has explained in response to this issue that the difference between duty payments and drawback rebates in 2000 is more than fully accounted for by indirect payments of import duties when Dong Won purchased raw materials from domestic suppliers who pass on their duty costs in the raw material purchase price. Dong Won also mentions that some difference between duty payments and drawback rebates can be expected due to timing differences as imports of the raw materials and export of the finished goods do not occur simultaneously.

Dong Won states that although the petitioners claim that Dong Won did not adequately "document" its indirect payment of import duties so as to account for this difference, the petitioners fail to identify, however, what documentation should have been provided. Nor, according to Dong Won, do the petitioners point to any request from the Department, either in the original questionnaire or in the supplemental questionnaire, to provide such documentation. Thus, Dong Won argues there is nothing deficient in Dong Won's responses on this issue.

In summary, Dong Won maintains that it has provided sufficient explanation and documentation to account for the drawback rebates it received during calendar year 2000. Dong Won states that it has reported the amounts actually rebated in connection with the reported sales

and there is no reason to cap or otherwise adjust these reported amounts.

**Department's Position:** We have denied Dong Won's claimed duty drawback for these final results of review. As noted by the petitioner, we apply a two-pronged test to determine whether a respondent has fulfilled the statutory requirements for a duty drawback adjustment. Section 772(c)(1)(B) of the Act provides for an upward adjustment to United States price for duty drawback on import duties which have been rebated (or which have not been collected) by reason of the exportation of the subject merchandise to the United States. In accordance with this provision, we will grant a duty drawback adjustment if we determine that (1) import duties and rebates are directly linked to, and are dependent upon, one another; and (2) the company claiming the adjustment can demonstrate that it has had sufficient imports to account for the duty drawback received on exports of the manufactured product. See, e.g., Stainless Steel Bar From Korea, 67 FR 3419 and accompanying Issues and Decision Memorandum at Comment 2. The Court of International Trade (CIT) has upheld the reasonableness of this test. See, e.g., Federal-Mogul Corp. v. United States, 862 F. Supp. 384, 409 (CIT 1994).

The first prong of the test requires the Department "to analyze whether the foreign country in question makes entitlement to duty drawback dependent upon the payment of import duties." See, Far East Machinery, 699 F. Supp. at 311. This ensures that a duty drawback adjustment will be made only where the drawback received by the manufacturer is contingent on import duties paid or accrued. The second prong requires the foreign producer to show that it imported a sufficient amount of raw material (upon which it paid import duties) to account for the exports upon which it claimed its rebates. Id.

We note that with respect to other Korean antidumping cases, we have accepted the duty drawback claims of respondents using the same duty drawback method (the fixed-rate system) as Dong Wong. See, e.g., Stainless Steel Bar From Korea, 67 FR 3419 and accompanying Issues and Decision Memorandum at Comment 2. However, based on evidence on the record of the instant case, we have determined that Dong Won has not provided sufficient documentation to satisfy either prong of the Department's duty drawback test. With regard to prong one, an analysis of the information on the record does not demonstrate that the import duties paid and the amount of duty rebated are directly linked. Record evidence indicates that in order to qualify for drawback under the fixed-rate duty drawback system, Dong Won has to provide Korean Customs with a "duly authorized and prepared export permit." According to Dong Won the duty refunded is a fixed percentage of the export amount. The percentage rate is calculated on the basis of duty drawback statistics. In other words, it is not based on the actual amount of duties paid on raw materials imported by Dong Won. See, Dong Won's November 30, 2001, Supplemental Questionnaire Response, at 5-6. Thus, the information submitted by Dong Won demonstrates only that the amount of duty rebated is tied to the FOB price of the exported merchandise. See, Dong Won's Sections B and C Responses, dated June 18, 2001, at Exhibit 14. There is no evidence on the record that the amount of duty rebated and received by Dong Won is directly linked to or dependent upon import duties paid by Dong Won. As to the second prong of the test, Dong Won submitted information demonstrating that it paid duties on imports of raw

materials. However, Dong Won did not demonstrate that the raw materials imported, and on which it paid duties, were used in the production of subject merchandise destined for export to the United States. Further, in its November 30, 2001, Supplemental Response, Dong Won stated that it was prepared to furnish documentation demonstrating its payment of import duties. Although in response to our December 19, 2001, supplemental questionnaire, Dong Won was able to provide some documentation on the amount of import duties paid, it admitted that the amount of import duty payments was less than the amount of duty drawback claimed and noted that the remaining duty payments were made on an indirect basis (“i.e., are accounted for through the purchase of raw materials from domestic suppliers on a duty-paid basis”). See, Second Supplemental Questionnaire Response of Dong Won Metal Co., Ltd., dated January 11, 2002. However, Dong Won provided no documentation, despite the Department’s request in its December 19, 2001 supplemental questionnaire, to support its claim of duty payments made on an indirect basis.

Therefore, for these final results, we have denied Dong Won’s claim for a duty drawback adjustment in both the U.S. and third country market.

#### **Comment 6: Dong Won’s COP**

In its November 30, 2001, supplemental section D response, Dong Won provided worksheets explaining the manner in which it calculated material costs. One of the worksheets, “Statement of Cost of Goods Manufactured,” contains a line item under the subheading, “Material Cost,” entitled “transfer to other account.” See Dong Won’s November 30, 2001, supplemental questionnaire response at Attachment D-11. The petitioner notes that in its December 19, 2002, supplemental questionnaire, the Department asked Dong Won to explain this line item.

In its January 11, 2002, supplemental questionnaire response, Dong Won explained that the costs at issue are transferred into two accounts. The first was raw material sales to unaffiliated customers. The second was a transfer from the main material to the sub-material account. The petitioner maintains that while the costs transferred to the first account can be traced directly to Dong Won’s income statement, the costs in the second account cannot be traced to any supporting documentation. Thus, the petitioner argues that there is no documentary evidence on the record establishing that the costs in the second account have been captured in Dong Won’s reported costs.

The petitioner argues that, given this lack of documentary evidence establishing that the amount in question is included in Dong Won’s material costs, the Department should adjust Dong Won’s COP to account for this excluded cost. According to the petitioner such an adjustment may be easily accomplished by multiplying Dong Won’s reported direct material costs by a factor which represents the excluded amount in question.

In rebuttal, Dong Won argues that it provided an accurate description of the costs

“transferred to other accounts” in its January 11, 2002, supplemental questionnaire response. Dong Won contends that the costs in question are properly reflected in the reported sub-material costs. According to Dong Won, any additions proposed by the petitioner would result in double counting. Further, Dong Won contends that the petitioner can point to no evidence that any expenses have actually been excluded. Thus, no adjustments are justified or warranted.

**Department’s Position:** Contrary to the petitioner’s assertions, after careful review of the accounting reported by Dong Won, we find that sub-material costs are reflected in Dong Won’s income statement and the cost figures used in preparing its response. As Dong Won’s costs were not verified during this POR and the company’s cost reporting is consistent with the explanation it provided regarding its accounting for sub-materials, we find no basis for an adjustment to Dong Won’s COP in this review segment. Due to the proprietary nature of the data related to this issue, for a more detailed discussion of the issue, see the memorandum to the file regarding Dong won’s COP, dated June 6, 2002.

### **Recommendation**

Based on our analysis of the comments received, we recommend adopting all of the above positions and adjusting all related margin calculations accordingly. If these recommendations are accepted, we will publish the final results of review and the final weighted-average dumping margins for all reviewed firms in the Federal Register.

AGREE\_\_\_\_\_

DISAGREE\_\_\_\_\_

\_\_\_\_\_  
Faryar Shirzad  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
(Date)