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MEMORANDUM TO: James J. Jochum  
Assistant Secretary  
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Antidumping  
Investigation of Wax and Wax/Resin Thermal Transfer Ribbons  
from the Republic of Korea

### **Summary**

We have analyzed the case briefs and rebuttal briefs of interested parties in the antidumping investigation of wax and wax/resin thermal transfer ribbons from the Republic of Korea. As a result of our analysis, we have made changes, including corrections of certain inadvertent programming and clerical errors, in 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 issues in this administrative review for which we received comments and rebuttal comments by parties:

1. Affiliation Between ITW and SKC
2. Alleged Affiliation with Customer
3. Costs of Connums Sold in the United States
4. Allocation Indices
5. Low Costs of Type 2 Wax With Some Resin Jumbo Rolls
6. Film Cost
7. Ink-Making Costs
8. Coating Index
9. Korean Slitting Cost
10. Alleged Incorrectly-Reported U.S. Further-Manufacturing Costs
11. Use of Adverse Facts Available
12. Allocation of Goodwill Expenses
13. Royalty Expenses
14. Non-Operating Income
15. Averaging Groups for U.S. Sales

16. Treatment of Non-Dumped Sales
17. Clerical Errors

## **Background**

On December 22, 2003, the Department of Commerce (the Department) published its preliminary determination of sales at not less than fair value. See Notice of Preliminary Determination of Sales at Not Less Than Fair Value; Wax and Wax/Resin Thermal Transfer Ribbons from the Republic of Korea, 68 FR 71078 (December 22, 2003) (Preliminary Determination). The period of investigation (POI) is April 1, 2002 through March 31, 2003. There is one respondent in this case: Illinois Tool Works Specialty Films, Inc. (ITWSFK), the Korean subsidiary of the U.S. entity Illinois Tool Works, Inc. (ITW). The exclusive importer of subject merchandise made by ITWSFK is ITW Thermal Films (ITWTF), the thermal films division of ITW, located in Romeo, Michigan. (ITW, ITWSFK, and ITWTF are referred to collectively herein as ITW.) On February 18, 2004 we issued a “post-preliminary analysis” of ITW’s margin, which included a recomputation of ITW’s antidumping margin that included our cost of production analysis, as well as all findings found at verification. We invited parties to comment on our preliminary determination and post-preliminary analysis. We received comments from International Imaging Materials, Inc. (petitioner) and from ITW.

## **Discussion of the Issues**

### **I. Changes from the Post-Preliminary Determination**

In this final determination the Department has made five changes from the post-preliminary determination.

18. We reallocated further-manufacturing costs using length-specific indices. See comment 10 (below).
2. We revised ITWSFK’s and ITWTF’s general and administrative (G&A) expense to include a portion of the goodwill expenses incurred by ITW’s corporate office. We also allocated a portion of the G&A expenses of the corporate office to ITWSFK in calculating ITWSFK’s G&A expense. See comment 12 (below).
3. We corrected the Department’s recomputation of the warehousing expenses ITW incurs at its California warehouse, reported under the SAS variable name USWAREH2U. See comment 17 (below).
4. We corrected the Department’s recomputation of ITW’s repacking expenses, reported under the SAS variable name REPACKU. See comment 17 (below).

5. We corrected the merging of the further-manufacturing database with the U.S. sales listing. See comment 17 (below).

## **II. Company-Specific Issues**

### **Affiliation Issues**

#### **Comment 1: Affiliation Between ITW and Supplier**

Petitioner argues the Department should assign ITW a margin based on total adverse facts available because, petitioner alleges, ITW withheld information from the Department regarding its affiliation with SKC. In addition to purchasing its current TTR and speciality film mill from SKC, petitioner notes, ITW continues to rely on SKC as its primary supplier of polyethylene terephthalate (PET) film, the largest input in the production of TTR. Throughout this proceeding, petitioner states, ITW denied there was any affiliation between itself and SKC, and insisted that its purchases of PET film from SKC were at arm's-length prices. Petitioner, however, asserts that a 1999 sales contract between SKC and ITW (in which ITWSFK purchased the thermal film works of SKC) demonstrates that ITW's assertions about its subsequent and current relationship with ITW are false. (The Department requested and received a copy of this contract at the Korean sales verification.) The contract demonstrates, petitioner further alleges, that SKC is an affiliate of ITW within the Department's definition given in the August 1, 2003 section A questionnaire. The specific terms in the contract on which petitioner bases this argument are not susceptible to public summary.

Furthermore, petitioner argues that as a consequence of ITW's withholding of key information related to its relationship with SKC, the record is deficient as to the correct value of PET film. Petitioner argues that while ITW supplied some market and transfer price information, the Department (had ITW been forthcoming about its affiliation with SKC) would also have required ITW to report SKC's cost of production for PET film. The absence of this information precludes the Department, petitioner argues, from applying its "major input" rule, which requires that the Department value purchases of major inputs from affiliated suppliers at the higher of transfer price, market price, or cost of production. See 19 CFR 351.407(b).

Moreover, petitioner argues that ITW's failure to disclose the details of its affiliation with SKC amounts to a failure of cooperation, and thus merits application of total adverse facts available. Petitioner states the Department's requests for this information were not ambiguous. The August 1, 2003 questionnaire required ITW to "identify any supplier... which the Department may consider affiliated with your company." See August 1, 2003 questionnaire, question 2.h (emphasis added). The questionnaire then provided several explicit examples of affiliation that should have prompted ITW to disclose the details of its relationship with SKC. Petitioner suggests examples of control enumerated in the questionnaire include situations where "a person is legally or operationally in a position to exercise restraint or direction over another person,"

where there is “the potential to affect decisions concerning the production, pricing, or cost of the merchandise under investigation,” where there are “joint ventures,” where there is “a closer relationship with a supplier,” where there are “purchases made from a close supplier,” or where there are “transactions with joint venture” partners. See August 1, 2003 section A questionnaire, Appendix I (emphasis added by petitioner). Moreover, petitioner continues, the questionnaire explicitly required ITW to “identify all business transactions that may directly or indirectly affect the development, production, sale or distribution of the merchandise under investigation which your company has or had with any affiliate.” See August 1, 2003 section A questionnaire, question 2.I (petitioner’s emphasis).

In sum, petitioner argues that because ITW denied that SKC was affiliated, the record is deficient with regard to essential section D information on affiliated party major inputs. This information was essential to the calculation of a margin because, without it, the production cost of the major input, PET film, cannot be established or confirmed. Without that major input information on the record, petitioner argues, the Section D data ITW provided are fundamentally deficient, and the Department cannot calculate a dumping margin. Accordingly, petitioner concludes that the Department must resort to facts available.

ITW argues the record establishes that SKC is not affiliated with ITWSFK. First, it contends ITW did not withhold any information from the Department during this investigation regarding its affiliations. In its section A response, ITW states, ITW explained in its narrative that ITWSFK was established in 1999 pursuant to an acquisition from SKC, and also submitted ITWSFK’s financial statements for 2001 and 2002, both of which clearly explain the acquisition from SKC in 1999. Furthermore, ITW states, ITW fully responded to the questions the Department asked in its supplemental questionnaire regarding its relationship with SKC, and also demonstrated that its purchases of PET film from SKC were at arms-length prices. Moreover, ITW argues, Department verifiers thoroughly reviewed all aspects of the ITW-SKC relationship at both the sales and cost verifications in Korea, and found no evidence of affiliation. Thus, ITW argues, ITW did not withhold any information requested by the Department.

Furthermore, ITW argues the antidumping law and cases establish specific tests for affiliation, and those tests are not met here. To find affiliation, ITW states, the Department must find that one of the two parties is able to control the other party, which the Department can establish if one party is legally or operationally able to “exercise restraint or direction over the other.” See 19 CFR 351.102(b). The regulations provide the following factors for the Department to consider in determining whether the requisite control exists: corporate or family groupings, a franchise or joint venture agreement, debt financing, or a close-supplier relationship. *Id.* However, ITW states, the Department may not find control based on these factors unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise. *Id.* See also Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke in Part: For the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy, 68 FR 47020, 47023 (August 7, 2003) (Pasta from Italy). Furthermore, in order to satisfy the close-supplier

relationship factor, Commerce must find that one party becomes reliant upon the other. See Pasta from Italy at 47023; Statement of Administrative Action accompanying H.R. 5110, H.R. Doc. No. 316, Vol. 1, 103d Cong., 2d Sess. 911-955 (1994). Thus, ITW states, the Department has found the requisite control does not exist where there is no common control over inventories or exclusive distributor relationship. See Pasta from Italy at 47023.

Based on the requirements described above, ITW argues that ITW and SKC are not affiliated because the 1999 sales agreement does not provide any means for either of the parties to control any aspect of the business operations of the other, as required for the Department to find affiliation under the antidumping law. Furthermore, ITW argues the specific provisions in the agreement which petitioner cites to support its argument (not susceptible to public summary) do not establish affiliation under the antidumping law. It argues that the petitioner either mischaracterizes or takes out of context numerous of these provisions.

Moreover, ITW argues it has placed on the record information about its prices from another third-party manufacturer, and demonstrated thereby that even if ITW were in some way affiliated with SKC, the PET film prices between SKC and ITW are still arm's-length prices. ITW claims the Department verified this information at the cost verification. See February 5, 2004 ITWSFK cost verification report, p. 13.

In sum, ITW concludes, this is not a case where the respondent failed to provide requested information or provided information that could not be verified relating either to the alleged affiliation or to associated costs. Thus, ITW argues, there is no basis to resort to adverse facts available.

#### Department Position:

We find that ITW and SKC are not affiliated entities within the meaning of the Tariff Act. Because much of petitioner's argument is based on proprietary information we cannot fully address this issue in this decision memorandum. Therefore, we have prepared a separate decision memorandum in which we have described the Department's basis for its determination. See memorandum to Joseph A. Spetrini dated March 25, 2004 on file in room B-099 of the Department of Commerce building.

ITW has made reasonable attempts to respond to the Department's questionnaires and requests for information, while maintaining that it was not affiliated with SKC. Reasonable attempts to comply with the Department's requests do not warrant the application of adverse facts available. See, e.g., China Steel Corp. v. United States, 264 F. Supp. 2d 1339, 1360 (Ct. Int'l Trade 2003; American Silicon Tech. v. United States, 110 F. Supp. 2d 992, 1001 (Ct. Int'l Trade 2000). Because we determine that ITW and SKC are not affiliated we have no grounds to apply adverse facts available. Moreover, to apply an adverse inference under Section 776(b) of the Tariff Act, the Department must first determine that the information necessary to make its determination is not available on the record. See Notice of Final Results of Antidumping Duty Administrative

Review and Determination not to Revoke in Part: Certain Pasta from Italy, 68 FR 6,882 (Feb. 11, 2003) (affirmed by the CIT in New World Pasta v. United States, Slip Op. 04-18, 25-33 (Ct. Int'l Trade 2004)). Section 776(a)(2) of the Tariff Act provides that, if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information by the deadlines for such information or in the form and manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides information which cannot be verified the Department shall use, subject to sections 782(d) and (e) facts otherwise available in reaching the applicable determination. The Department did issue supplemental questionnaires to ITW pursuant to Section 782(d) of the Tariff Act. ITW was responsive to the supplemental questionnaires. Section 782(e) of the Tariff Act requires the Department to consider ITW's supplemental responses so long as the information in the supplemental questionnaires was (1) submitted by the deadline established; (2) was verifiable; (3) could serve as a reliable basis for the applicable determination; (4) that respondent has demonstrated that it acted to the best of its ability in providing the information; and (5) that the information can be used without undue difficulty. ITW's supplemental questionnaires met the requirements of Section 782(e). Therefore application of facts available, and hence adverse facts available, is unwarranted.

#### Comment 2: Alleged Affiliation with Customer

Petitioner argues that ITW failed to report the downstream sales of one of its affiliated home market reseller customers (reseller), and that therefore the Department should assign ITW a margin based on total adverse facts available. With respect to the fact of affiliation, petitioner argues the record contains ample evidence that ITW is affiliated with the reseller. Petitioner states that in the petition it included prices by this reseller as ITW prices because it had been advised by its Korean consultants that it was affiliated with ITW. ITW, petitioner states, did not object. Moreover, petitioner states it again asserted its contention that ITW is affiliated with the reseller in its pre-preliminary comments of December 8, 2003, and that ITW implicitly conceded the fact of affiliation by not objecting. In this submission petitioner pointed out that the website address for the reseller contains the name "itwspecialtyfilm." Furthermore, petitioner states the fact of affiliation is confirmed by ITW's prices to this reseller as reported on ITW's home market sales listing. An analysis of the prices to the reseller shows, petitioner states, that the reseller receives highly preferential prices.

Petitioner argues that because of the affiliation between ITW and the reseller, ITW should have reported the reseller's downstream sales, as this is specifically requested in the section B antidumping questionnaire. See the section B questionnaire, question B-II. Petitioner contends ITW's failure to report the downstream sales makes it impossible for the Department to calculate an appropriate normal value. Therefore, petitioner argues, the Department should assign ITW an antidumping margin based on adverse facts available.

Petitioner also argues that, in the alternative, if the Department determines to calculate a margin rather than apply adverse facts available, the Department should apply partial facts available to

the sales to the reseller by recalculating each of the prices. The Department should perform this recalculation, petitioner argues, by applying a ratio to each of the reseller's sales prices. This ratio should be the highest percentage difference between the transfer price and the sales prices between ITWTF and its three affiliated U.S. resellers.

Furthermore, petitioner argues that in addition to recalculating each of the reseller's prices, if the Department determines to calculate a margin it should recognize two averaging groups in the home market based on the distinction between direct sales and sales through resellers (*i.e.*, it should calculate a weighted-average home market price for each of ITWSFK's channels of trade). (In a separate comment petitioner makes an argument for creating two averaging groups in the U.S. market also. See comment 15 below. ) Petitioner argues that with these two averaging groups appropriately recognized in each market, the Department will be able to match U.S. direct sales prices to home market direct sales prices, and U.S. reseller sales to home market reseller sales.

ITW argues that, contrary to petitioner's assertions, there is abundant evidence on the record indicating the reseller is not affiliated with ITW. First, ITW asserts petitioner is incorrect in stating that ITW "implicitly conceded" the fact of affiliation by allegedly not objecting to petitioner's assertions of the affiliation. ITW states that after petitioner made its December 8, 2003 ITW submitted a letter dated December 10, 2003. ITW states that in its December 10, 2003 submission ITW denied any affiliation with the reseller.

Second, ITW argues there are two places on the record where the reseller would have been identified were it affiliated with ITW. The first is appendix A-6 of ITW's section A response where ITW lists all members of the ITW Group. The second is the notes to ITWSFK's audited financial statement. One section of the notes is entitled "Related Party Transactions." The reseller's name does not appear there, ITW asserts, because the reseller is not affiliated with ITW. See appendix A-13c of ITW's section A response.

Third, ITW argues the Department conducted a thorough verification of ITW's corporate structure and affiliations at the Korean sales verification. ITW claims that at this verification the Department verified that ITW had only one affiliated company involved in the production, sale, and distribution of subject merchandise in Korea, and that that company was not the reseller. ITW cites the Department's verification report which states:

Regarding affiliates involved in the production, sale, and distribution of subject merchandise, ITWSKF bought a small quantity of packing materials (cardboard angles) from an affiliated party. This is detailed in Exhibit 13. *No other affiliates were involved in the production of subject merchandise in Korea.* See February 17, 2004 sales verification report, p. 2. (ITW's emphasis.)

Fourth, ITW states the record evidence to which petitioner cites does not prove its contention. Though petitioner claims that while preparing its petition it was informed by its consultants in

Korea that the reseller was considered part of the ITW Group, petitioner failed to provide any evidence or substantiation for this information in the petition. Moreover, that the reseller's website contains the phrase "itwspecialtyfilm" in its website address does not show that it is affiliated. It shows only that the reseller is a seller of ITW's specialty film products.

Department Position:

We find that there is insufficient record evidence to conclude that the reseller is affiliated with ITW. However, because of the proprietary nature of much of the information involved in the analysis of this issue, we have addressed this issue in a separate memorandum on affiliation. See memorandum to Joseph A. Spetrini dated March 25, 2004, on file in room B-099 of the Department of Commerce building.

**Cost Issues**

Petitioner makes several claims about the methodologies utilized by respondent to allocate production costs to individual CONNUMs, these include challenges to the allocation indices used, the costs of type 2 wax with some resin jumbo rolls, film cost, ink making costs, the coating index, home-market slitting costs, and U.S. further manufacturing costs. In general, petitioner alleges that ITW's cost allocation methodologies serve to shift costs from coating type 2, which serves as the basis for the home-market to U.S. sales comparison, to other merchandise.

Petitioner claims that ITW's reported cost of production methodologies are unsupported and unreasonable. The petitioner states that ITW's methods of allocating costs to individual products are seriously distorted. The petitioner argues that as a result of ITW's repeated cost shifting, the Department has no reasonable basis for calculating a dumping margin and should apply adverse facts available, or in the alternative facts available.

Respondent argues that the product-specific cost allocation methodologies are not distortive and that its CONNUM-specific cost of production is based on actual cost information maintained in its normal financial accounting system. See Cost Verification Report, at 14 (Feb. 5, 2004). According to respondents, ITW calculated the reported cost of production based on the actual costs maintained in the normal cost accounting system, and this information was thoroughly reviewed and reconciled to the audited financial statements.

Department Position:

Section 773(f)(1)(A) of the Tariff Act specifically requires that costs be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles (GAAP) of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise. In accordance with the statutory directive, the Department will accept costs of the exporter or producer if they are based on the records kept in accordance with GAAP of the exporting country



and reasonably reflect the costs associated with the production and sale of the merchandise i.e., the cost data can be reasonably allocated to subject merchandise. In determining if the costs were reasonably allocated to all products the Department will, consistent with section 773(f)(1)(A) of the Tariff Act, examine whether all allocation methods are used in the normal accounting records and whether they have been historically used by the company.

We disagree with petitioner's contention that ITWSFK's reported production-specific costs are unsupported. The Department finds that ITWSFK reported its CONNUM-specific cost of production based on the cost information maintained in its normal cost accounting system in accordance with the Department's instructions. ITWSFK's normal cost accounting system calculates the cost of production for four coating types: wax, wax with some resin, wax/resin and resin. ITWSFK's cost accounting system does not account for the cost differences in width, length and core. To calculate product-specific costs, ITWSFK began with the costs from its normal cost accounting system for each of its four coating types and allocated them to individual products based on information obtained from its production records. We noted on page 14 of the Cost Verification Report that:

To calculate the product specific cost reported to the Department, ITWSFK started with the product cost during the POI for each of the four coating types recorded in their cost accounting system and grouped the cost by category (i.e., direct materials, variable overhead and fixed overhead) (see page 56 of Cost Verification Exhibit ("CVE") 9). We reconciled the cost on this worksheet to the product cost during the POI. These grouped costs were then used to calculate the direct material costs (see CVE 9, page 4), the calculation of ink making cost (see CVE 9, page 4), the calculation of film cost (see CVE 9, page 6), the calculation of unit coating cost (see CVE 9, page 7), the calculation of unit slitting cost (see CVE 9, page 12) and the calculation of unit rewinding cost (see CVE 9, page 18).

In ITWSFK's normal cost accounting system all costs are captured in direct, common and indirect cost centers. During verification we noted the common costs are allocated to indirect and direct cost centers. We obtained worksheets showing how the common costs were allocated and reviewed the allocation methodology used (see page 13 of the February 5, 2004 cost verification report). The indirect costs were then allocated to the direct cost centers. We obtained and reviewed the worksheets showing how the indirect costs were allocated to the direct cost centers. We also obtained worksheets showing the total cost at each direct cost center after all indirect costs had been allocated. The costs in the direct cost centers were then allocated to all products including the four TTR coating types. We obtained process and product cost reports for the four TTR coating types. We traced the monthly cost for the four TTR coating types to the company's product inventory report. In short, we reviewed the calculation of the coating costs for each of the four TTR coating types recorded in ITWSFK's normal cost accounting system. These costs were the starting point of the respondents product-specific cost calculations.

However, the financial accounting system did not record all costs at the level of detail requested by the Department. The Department has determined in several past cases that respondents can allocate costs to a more detailed product-specific level than their normal cost accounting methodology in order to report costs on a control-number specific basis, as required by the Department, provided that the methodology used is reasonable. See Certain Preserved Mushrooms from Indonesia, 63 FR 72268 (Dec. 31, 1998); Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea, 63 FR 13170 (Mar. 18, 1998); Stainless Steel Wire Rod from Korea, 63 FR 40404 (July 29, 1998); New Minivans from Japan, 57 FR 21937, 21952 (May 26, 1992); Canned Pineapple Fruit from Thailand, 60 FR 29553, 29559 (June 5, 1995).

To the extent that ITWSFK's cost allocating methodologies are based on their normal cost accounting system and reasonably reflect the cost, the Department finds that they are not distortive. The main issue then is whether the more detailed allocations were based on the normal books and records of the respondent, reasonable, and non-distortive. The Department will address the specifics of each challenged allocation methodology and the request for application of adverse facts available in turn below.

#### Comment 3: Cost of Connums Sold in the United States

The petitioner claims ITW's film and coating costs were distorted and that the dumping margin in this case is critically dependent on the cost of a single CONNUM to which nearly all U.S. sales match. In particular, coating type 2 (wax with some resin), accounted for the majority of U.S. sales. The petitioner argues that cost manipulations can affect this one CONNUM and radically distort the dumping analysis.

The respondent states that ITW focuses its sales on its main product, W90/B220 series TTR. This coating formulation effectively covers most of the collective needs of TTR end-users. This product is of coating type 2 in the Department's CONNUM. Because of this focus and the resulting higher volumes of type 2 TTR produced and sold, the respondent claims the costs it experiences are low in comparison to the other products it manufactures.

#### Department Position:

While the petitioner is correct that nearly all U.S. sales match to a single CONNUM, there is no evidence that ITWSFK's film and coating costs were inappropriately allocated or distorted. ITWSFK relied on the cost reported in its normal cost accounting system for each coating type and allocated costs within each coating type to the specific products which make up the coating type, based on records kept in its normal production system. Accordingly, no adjustment is deemed appropriate for the final determination.

#### Comment 4: Allocation Indices

According to petitioner, ITWSFK's methods of allocating costs to individual CONNUMs are seriously flawed. Specifically, neither the allocation indices nor the weights were correlated in any way to actual differences in costs for the various products. Petitioner contends the allocation methods are prone to manipulation, particularly in cases where the index has not been reviewed by an independent outside auditor. By simply adjusting the index, ITW can shift total actual costs away from some products and toward others, while at the same time continuing to demonstrate that all actual costs were captured.

The respondent argues that the Department thoroughly reviewed and verified each index. Respondent maintains that at page 15 of the cost verification report the Department discusses in detail how it reviewed and verified the material and coating indices used to report product-specific costs. According to the respondent, the Department verified that ITWSFK started with the costs as recorded in its normal cost accounting system which calculated the COP by each of its four coating types. The differentiation of cost using the indices was performed within each coating type. Thus, respondent asserts there was no way to shift the cost of one coating type to another. The respondent argues that its cost accounting system was audited by independent auditors as part of the financial statement audit and the cost allocation methodologies and the reported cost were thoroughly verified by the Department.

#### Department Position:

We disagree with petitioner that the indices and weights used by the respondent resulted in distorted per-unit costs. The instructions in the section D questionnaire states:

If a physical characteristic identified by the Department is not tracked by the company's normal cost accounting system, calculate the appropriate cost differences for that physical characteristic, using a reasonable method based on available company records (e.g., production records, engineering statistics). The starting point for such calculation must be the product specific costs as recorded in your normal cost accounting system. If there is a physical characteristic not tracked by the company for which the company believes that there is an insignificant cost difference between products, identify the particular physical characteristic, quantify, and explain your reasons for not reporting a cost difference.

See August 8, 2003 questionnaire, p. D-11.

In this case the company used the costs accumulated by coating type from its normal cost accounting system as a starting point in calculating the product-specific costs. ITWSFK's cost accounting system calculates different costs for each of the four coating types it produces: wax, wax with resin, wax/resin and resin. Because ITWSFK's normal cost accounting system does not account for cost differences associated with width, length and core, ITWSKF then used

indices and weights to further allocate the costs within each coating type to the specific products that make up the coating types. We find the indices and weights used by the respondent were not used to shift costs between coating types, but instead were used to allocate costs to products within each coating type.

We reviewed and verified each of the indices used by ITWSFK to allocate the costs within each coating type to the products within that type. For example, on page 14 of the February 5, 2004 cost verification report, while reviewing direct material costs, we stated:

The direct material index is calculated for each product type within each coating type based on the standard input quantity of each material used and the average unit cost of the materials during the POI.” In addition, we stated that “We obtained a worksheet showing how the standard input quantity was calculated (see CVE 10, page 11). For each chemical used, ITWSFK divided the standard output quantity of the chemical blend by the yield rate to calculate the standard input quantity of the chemical blend needed. ITWSFK then multiplied the standard input quantity by the composition rate of chemical material to calculate the standard quantity used. We tied the standard output quantities, yield rates and composition rates to the company’s production system (see pages 7 through 10 of CVE 10).

At verification we tied the indices used by ITWSFK to its production records and did not note anything unusual that would necessitate an adjustment. Accordingly, no adjustment is deemed appropriate.

#### Comment 5: Low Costs of Type 2 Wax With Some Resin Jumbo Rolls

The petitioner argues that the cost for type 2 jumbo rolls is particularly low. Petitioner claims that knowledgeable IIMAK engineers and officials reviewed the non-confidential reported cost differences between jumbo rolls of different coating types. According to the petitioner’s affidavit, there should be limited cost differences between jumbo rolls with coating types 1 (wax), 2 (wax with some resin), and 3 (wax/resin). See Petitioner’s Case Brief, Attch. 6. Petitioner claims the material costs should only vary slightly and the coating process is virtually identical when considering the coating type. The only difference is the addition of resin which is not that costly. However, ITWSFK’s reported costs did not match this expectation. Petitioner maintains that by using inflated indices and weights for merchandise which will not match to U.S. sales, ITWSFK shifted costs from the one product that overwhelmingly determined the dumping margin.

According to the respondent, the affidavit provided by petitioner, which states there should be only limited cost differences between coating types, is deficient and unreliable because the affidavit was from a person who is not a cost accountant. The respondent argues that without cost accounting experience, access to respondent’s proprietary cost information, and detailed knowledge of the respondent’s operations, this person was in no position to draw conclusions

regarding the respondent's experience producing TTR. The respondent maintains the W90/B220 coating formulation accounted for the largest percentage of respondent's total TTR jumbo production, and the yield loss rate for this product was naturally low because it was the focus of production. The respondent also argues that as the production volume increases, unexpected scrap loss declines.

According to the respondent, as part of its verification, the Department compared the reported product costs to that recorded in ITWSFK's inventory ledger as maintained in its normal accounting system and noted that the reported cost of production closely approximates the inventory value. ITWSFK further states these inventory values are recorded in the financial accounting system which flows into the audited financial statements. The respondent concludes there is ample evidence on the record that ITWSFK's reported cost of production is based on its normal accounting system and does not introduce any artificial distortion, and that therefore the petitioner's claim is completely unfounded.

#### Department Position:

We disagree with petitioner that the cost for jumbo rolls with a coating type 2 is suspect. Petitioner's argument is based on the incorrect assumption that the only difference between the TTR products at issue is resin. ITWSFK produces TTR with four basic coating types: wax, wax with some resin, wax/resin, and resin. Resin is not the most significant input driving the cost of subject TTR, as the petitioner contends. A review of the direct material costs (shown in CVE 10) shows that ink is a significant cost driver in producing TTR. While resin-coated products may need more resin than wax-coated products, it does not follow that coated products use the same amount of ink. In fact, for many products reviewed by the Department at verification, the cost of ink decreases as the amount of resin increases, (see CVE 10).

In addition, each of the coating types produced go through different production processes. While reviewing the flowchart of the production process with company officials (see CVE 4), we noted that "wax and wax with some resin products use the production path on the top half of the flowchart while wax/resin and resin products use the production path shown on the lower half of the flowchart," and that "[o]nly the wax/resin and resin products go through the rewinding cost center (CSL2) in which the TTR jumbo rolls are cut in half." See page 5 of the February 5, 2004 cost verification report. ITWSFK's monthly production detail reports (see CVE 4), which show the processes each TTR coating type goes through, further supports the fact that different coating types go through different production processes. The production detail reports show which coating types go through the solvent coating, matt coating, hot melt coating, ink coating, and rewind production processes. Accordingly, the petitioner's claim that the production process is virtually identical for all coating types is not the case for ITWSFK.

In ITWSFK's normal cost accounting system all costs are captured in direct, common, and indirect cost centers. The common costs are allocated to indirect and direct cost centers, and the indirect cost center costs are allocated to the direct cost centers. The costs in the direct cost

centers are then allocated to all products including the four TTR coating types. These costs were the starting point of the respondents product-specific cost calculations. The costs calculated for each of the four coating types in ITWSFK's cost accounting system form the basis for the inventory values reported in ITWSFK inventory ledger and ultimately its audited balance sheet. We reviewed ITWSFK's inventory ledger for the year ended November 30, 2003 (see CVE 7), which shows the cost of the four coating types as recorded in ITWSFK's financial accounting system. The cost differences between the different coating types of TTR recorded in the inventory ledger follow the same pattern of cost differences contained in the reported cost. Accordingly, petitioner's argument that the only difference between products with different coatings was the addition of some resin fails to consider all raw material and processing differences relative to the multitude of different products contained within each coating type. As such, we have not adjusted respondents reported costs for the final determination.

#### Comment 6: Film Cost

Petitioner argues there should be no significant differences in film costs associated with producing TTR of different coating types. Petitioner states type 2 and type 3 products use exactly the same base film and should not reflect the difference in film costs as claimed by ITWSFK. According to petitioner, apart from yield, there can be no film cost differences where exactly the same film was used for both product types. Further, petitioner argues that ITWSFK's proposed yield adjustments are unreasonable. The petitioner argues that ITWSFK conveniently claimed much higher yield rates for wax with some resin (type 2) products (i.e., the CONNUM that matches to U.S. sales) than for jumbo rolls made with the other two coating types (i.e., the CONNUMs with little impact on the dumping margin).

The respondent argues the relatively high production volumes for certain products drive the high yield rate, as demonstrated in ITWSFK CVE 11. According to the respondent, the actual yield rate was completely verified by the Department.

#### Department Position:

While we agree with the petitioner that the base film used to produce the TTR products is the same, we disagree with petitioner's claim that the film cost reported for each coating type should be the same. The film cost is affected by the yield loss incurred in producing each of the coating types. The differences in yield result from using different production processes to produce the different products in each coating type. For example, all of the wax with some resin coated products were processed on the TTR coating machines while the wax/resin products were processed on the stamping foil (SF) coating machines. See CVE 4, page 2 for the production flow chart and pages 31 and 32 which show the operation time by product type for the TTR coating types.

At verification we obtained and reviewed ITWSFK's monthly production detail reports which showed the production process each coating type goes through (solvent coating, matt coating, hot

melt coating, ink coating, and rewinding). There are also differences in production processes among the products within each coating type. We reviewed the calculation of the film cost at verification and tied the production yields used to ITWSFK's monthly production detail reports in cost verification exhibit 11. In addition, as documented on pages 15 and 16 of the February 5, 2004 cost verification report, we verified the reported product-specific yield rate differences. Accordingly, no film cost adjustment is deemed appropriate. Therefore, we find that ITWSFK's yield adjustments are not unreasonable and sufficiently explain the differences in film costs between coating type 2 and coating type 3 products.

#### Comment 7: Ink Making Costs

Petitioner argues ITW's claimed differences in ink-making and coating costs cannot be explained. According to petitioner, while ITW reported ink making costs in field IVOH (ink-making variable costs) for coating types 1 and 3, it reported these costs in the coating cost filed for coating type 2. Thus, according to the petitioner, coating type 2 products should have much higher coating costs than coating types 1 or 3. However, ITWSFK's reported costs did not follow this expectation. Petitioner alleges, therefore, that ITW is distorting the COP of coating type 2 products.

Respondent points to page 20 of the cost verification report and contends the Department verified the ink-making and coating costs incurred by respondent.

#### Department Position:

We disagree with the petitioner that the differences in ink-making and coating costs cannot be explained. Ink costs are recorded as direct materials in ITWSFK's records. Contrary to petitioner's assertions, ink costs for coating type 2 products are not reported in the coating field, but rather in the cost center for the coating machine. A review of the direct material costs (shown in CVE 10) shows that ink is the most expensive input applied to PET film and that the wax coating type has more ink costs than the other coating types. ITWSFK incurs some additional ink making costs which are recorded in the IVOH field in the cost database. The additional ink making cost (mixing costs) was incurred for the SF coating machine and was recorded in the SF cost center. All of the wax with some resin coated products were processed on the TTR coating machines while the wax/resin products were processed on the SF coating machines. See CVE 4, page 2 for the production flow chart and pages 31 and 32 which show the operation time by product type for the TTR coating types. The ink making (mixing) costs were therefore allocated to those products using the SF cost center. Because we have not found any discrepancies in the reported ink making and coating costs, we have not revised those costs for the final determination.

## Comment 8: Coating Index

The petitioner argues the coating index employed by ITWSFK distorts the cost of products. The petitioner states ITWSFK used a multi-tiered approach to calculate its coating index. According to petitioner, the differences in coating cost reported by ITWSFK for different types of jumbo rolls were a function of four factors: number of layers, yields, roll speeds, and weight. ITWSFK's method (multiplying the index by the number of layers) doubled the coating weight index for two layer products. The implication was that a double layer product had to be run through a coating machine twice or through two different coating machines. According to petitioner, this is incorrect because modern coating machines used to produce multi-layer products have multiple heads, each of which can apply a layer of coating. Accordingly, the processing time and machinery used for a two-layer product were virtually the same as that of a one-layer product. Thus, petitioner argues that a two-layer product should have virtually the same coating fabrication cost as a one-layer product (ink costs aside). The petitioner alleges that including the number of layers in the allocation index was incorrect and that ITWSFK made this allocation to shift costs from coating type 2 merchandise, which is matched to most U.S. sales, to other merchandise.

The petitioner also contends ITWSFK reported significantly lower yields for the two products that have little impact on the dumping margin calculations (coating types 1 and 3). The petitioner claims ITWSFK's yield factors were not credible based on the opinion of the petitioner's product expert. See Petitioner's Brief, Attch. 6. In addition, petitioner states ITWSFK reported different roll speeds by process when roll speed is not a function of process but rather a function of the coating machine design. According to petitioner, many modern coating machines (with some minor modifications) can coat different coating types, and ITWSFK presented no evidence that it used different machines for different types of coating. Further, there is nothing on the record to back up its difference in coating times. Lastly, petitioner argues there is no description of the weights anywhere on the record. Because of the swings in individual indices, and the fact that the weights have a large impact on the weighted index, petitioner argues that use of improper weighting led to substantial distortions in coating costs.

Respondent argues that petitioner's claim lacks substantiation and is inconsistent with the record. According to the respondent, the Department stated on page 20 of the February 5, 2004 cost verification report states that the coating index was fully verified.

### Department Position:

We disagree with the petitioner that ITWSFK's coating index, which is a function of the number of layers, yields, roll speed and weight, distorts the reported cost. ITWSFK reported its CONNUM-specific cost of production consistent with the cost information maintained in its normal cost accounting system. The coating index developed by the respondent was based on its



production records and was used to allocate total coating cost of each coating type to the products within each coating type. The indices were not used to allocate costs between coating types.

We disagree with the petitioner that the use of number of layers in the allocation index calculation greatly increases the coating index for wax/resin and resin products (the latter of which is non-subject). As stated above, the index developed by the respondent does not shift costs among coating types, but instead is used to allocate costs to the product types included within each coating type. The schedule in CVE 9 shows that different products within each coating type can be coated using different processes. Individual products within each resin type (wax with some resin and wax/resin) can be produced on either of two process lines with different coating machines. One process line can apply the necessary coating in one pass, while the other processing line applies the coating in two passes. Because the products can be produced two possible ways, ITWSFK used an equal weighting for each of the two processing lines. See CVE 9. As such, the number of layers does appear to affect the cost associated with coating one versus two-layered products, and respondent's method of accounting for such cost difference appears reasonable.

We disagree with petitioner's allegation that the yields used to calculate the index are not credible. The differences in yield result from using different production processes to produce the different products in each coating type. For example, all of the wax-with-some-resin coated products were processed on the TTR coating machines while the wax/resin products were processed on the SF coating machines. See cost verification exhibit 4, page 2 for the production flow chart and pages 31 and 32 which show the operation time by product type for the TTR coating types. There are also differences in the production processes used to produce different products within each coating type. As noted on pages 15 and 16 of the cost verification report, we tied the product-specific production yields used to ITWSFK's monthly production detail reports.

We also disagree with petitioner's contention that the use of different roll speeds is suspect because it inappropriately shifts costs from one coating type to another. ITW's coating cost reporting methodology relied on its normal accounting system in allocating such costs between the four main different coating groups of product it produces. ITW then allocated those coating costs already attributed to the specific coating groups to each detailed product within the coating group using the indices at issue. Thus, the indices are not allocating coating costs across coating groups. Second, the roll speeds (which petitioner takes issue with) within each coating type are virtually the same which means the resulting cost differences associated with different rolling speeds is small. Lastly, we have no reason to doubt the accuracy of the roll speeds used as we traced the roll speeds used to the company's product guidelines. See page 18 of the February 5, 2004 cost verification report.

Finally, we disagree with the petitioner that the weights used to calculate the indices are fabrications which lead to distorted coating costs. The weights were used when a specific product within a coating type is coated in two processes or could have been processed at either of two

processes. For example, if a product could be coated at two processes which have different roll speeds, ITWSFK averaged the two. As such, to not include any weights to recognize that there are multiple processes a product may go through, would be unreasonable.

#### Comment 9: Korean Slitting Cost

Petitioner contends ITWSFK's methodology for reporting product-specific slitting costs is flawed and cannot be relied upon for the final determination. Petitioner supports this claim by comparing ITWSFK's slitting costs to its reported coating costs and the slitting costs of the further manufacturer (ITWTF). According to petitioner, the index used to allocate slitting costs relied solely on processing time differences. Processing time differences, however, ignore the inverse relationship between processing time and depreciation. Faster processing requires newer, more expensive equipment, and hence, higher depreciation expenses. The petitioner argues that ITWSFK's use of processing time to allocate all overhead costs, including depreciation, allocates depreciation expenses in precisely the wrong direction. Petitioner continues that since ITWSFK did not capture depreciation by machine (but instead, allocated the total depreciation by processing time), it has shifted all of the depreciation costs for the high speed machine (which were used on high volume products) to the lower volume products. The petitioner concludes that because ITWSFK's slitting cost allocation methodology is fatally flawed, ITWSFK's reported costs cannot be used in the below cost test. Thus, the Department must impose a margin based on adverse facts available.

The respondent argues that each slitting machine was a separate cost center and that ITWSFK's normal cost accounting system captured the production cost at each cost center. According to the respondent, the home market per-unit slitting cost was more than the further manufacturing slitting costs because ITWSFK (the Korean producer) performed a relatively limited volume of slitting in the home market, whereas ITWTF's (the U.S. further manufacturer) primary business was slitting. According to the respondent, ITWTF had fourteen slitting lines in operation during the POI while ITWSFK had just two. Thus, the respondent argues that ITWTF is able to achieve greater efficiencies in its slitting operations relative to ITWSFK's home market slitting operation. The respondent argues that the Department reviewed ITWSFK's slitting process and fully verified the reported slitting cost. Therefore, the respondent maintains that its reported slitting cost did not contain any distortion.

#### Department Position:

We disagree with the petitioner that there are major distortions in the calculation of slitting costs. The petitioner bases its claim on a comparison of ITWSFK's slitting costs and ITWSFK's coating costs and concludes that the difference defies common sense. ITWSFK recorded its slitting costs separately from other costs in its normal cost accounting system. Because of the low throughput at the slitting process, ITWSFK's slitting costs may appear high relative to its coating costs. However, as the total pool of costs allocated to slitting was based on the costs recorded in ITWSFK's normal cost accounting system and as there is no evidence of costs being

shifted to slitting and away from the cost of jumbo rolls, we disagree that this comparison is grounds for rejecting the submitted slitting costs.

The petitioner also compared ITWSFK's slitting costs to those of ITWTF's slitting operations, and claims we must reject the reported costs because they differ. However, it is not unusual for two separate companies with two different production niches to have different costs for any overlapping operations. ITWSFK is primarily in the business of producing jumbo rolls, not slitting, whereas ITWTF's main business is the slitting of TTR. This is evident from the fact that ITWSFK has only two slitting machines while ITWTF has fourteen slitting machines. As such, the slitting costs accumulated by ITWSFK in its normal cost accounting system were allocated to a smaller production quantity relative to that of ITWTF. ITWSFK performs a relatively limited volume of slitting in Korea. As the total pool of costs allocated to slitting was based on the costs recorded in ITWSFK's normal cost accounting system and as there is no specific evidence of costs being shifted to slitting and away from the cost of jumbo rolls, we disagree that this comparison is grounds for rejecting the submitted slitting costs.

We disagree with petitioner's assertion that the respondent's use of processing times ignores the inverse relationship between processing time and depreciation. While in theory this could be a factor if the two machines were drastically different in age, technology, speed, cost, etc., and the product specific speeds were derived solely from production on one machine versus the other, we note there is no information on the record to lead us to believe this is the case.

The slitting factors, which were based on the knowledge and production experience of the company and its technical production staff, were verified by the Department at verification, and were reasonably applied to the total actual pool of slitting costs incurred during the POI. As such, we find no reason not to rely on the reported slitting costs for the final determination.

#### Comment 10: Alleged Incorrectly-Reported U.S. Further-Manufacturing Costs

Petitioner argues that ITW used two entirely different methods to report its slitting costs. According to the petitioner, in the home market, ITWSFK calculated finished product-specific slitting costs, which vary significantly by width and length. However, in its U.S. further manufacturing submission, ITWTF reported a single combined average slitting cost for each type of jumbo roll. Petitioner states the Department's section E instructions clearly stated that the "further manufacturing costs that you report should be calculated on a weighted-average basis using as the weighting factor the model-specific production quantity for the product sold in the United States." The petitioner argues that ITWTF reported weighted average further-manufacturing costs for the product as imported into the United States, which was a major error. Petitioner asserts ITWTF had more time to respond to the section E questionnaires, yet chose to report only average jumbo slitting costs for the U.S. side of the equation. According to the petitioner, because broader averages on the U.S. side generally mask dumping, ITW had a great incentive to withhold its product-specific slitting information. Petitioner argues that because ITWTF refused to follow the Department's instructions with regard to its further-manufacturing

costs, ITW forfeited the right to have its further-manufacturing data used in a calculated margin. Thus, petitioner suggests the Department use total adverse facts available for the further manufacturing cost.

According to the respondent, ITWTF has been fully compliant with the Department's questionnaire and subsequent data requested regarding section E. Further, ITWTF reported accurate and verified cost data utilizing the most detailed data available from its accounting and production systems. Respondent asserts that if petitioner truly felt that ITWTF's submitted data were deficient for the reasons it now claims, it should have raised these concerns in the form of comments on ITW's original data submission. Respondent argues ITWTF followed a consistent reporting methodology for section E throughout the course of this investigation. Further, the respondent notes the Department utilized its reported further processing cost data in its preliminary determination and post-preliminary determination and should continue to do so for the final determination.

#### Department Position:

Under Section 776(a)(1) of the Tariff Act the Department shall resort to facts otherwise available if necessary information is not available on the record. ITWTF was unable to provide the requested information because it does not maintain and record product-specific slitting times in the normal course of business, nor does ITWTF have a cost accounting system which distinguishes slitting costs by dimension of product produced. ITWTF's reported costs were based on the level of detail maintained in its financial accounting records. At verification we reviewed the production reports and accounting system maintained by ITWTF in the normal course of business. We noted nothing contrary to ITWTF's claims that product specific costs or production times were not available. ITWTF acted to the best of its ability, but was unable to provide the Department with the information.

The absence of product specific production times or product specific cost records, however, does not necessarily mean that cost differences associated with slitting different dimensions of product do not exist. In fact, ITWSFK created and submitted indices that differentiate slitting costs for different dimensions of product. Therefore, we agree with petitioner that the Department must resort to facts otherwise available for ITWTF's slitting costs. We also agree with the respondent, however, that application of adverse facts available is not warranted. Because information submitted by ITWSFK shows that slitting costs differ significantly by length of product, for the final determination, as facts available, we reallocated the reported further manufacturing costs using the length-specific indices submitted by ITWSKF.

#### Comment 11: Use of Adverse Facts Available

According to petitioner, as noted above, ITWSFK's applied cost allocation methodologies do not withstand serious scrutiny. Therefore, petitioner argues that the Department should reject ITW's response outright and use total adverse facts available. Moreover, petitioner claims that even if

the Department does not apply adverse facts available, it still cannot use the reported costs, and therefore should use partial facts available. As partial facts available, petitioner argues, the Department should apply the highest reported costs to all products.

The petitioner argues that as a result of ITWSFK's repeated cost shifting, the Department has no reliable CONNUM-specific costs to use for its dumping margin calculations. Even though total costs may have been tied to cost accounting records at verification, the evidence presented above demonstrates that ITWSFK's methodologies consistently shift costs from critical to non-critical products. The petitioner argues that in other cases where the Department has been unable to verify CONNUM-specific costs, it has used the highest reported cost as facts available. The petitioner argues this choice is particularly appropriate in the present case, as ITWSFK has systematically shifted costs away from the one CONNUM (wax with some resin jumbo roll) that really matters in term of the dumping calculation.

As an alternative facts available, the petitioner argues the Department should recalculate the costs first by offsetting the shifting from slit to non-slit products and recalculate the weighted-average cost of manufacturing by coating type. Second, to neutralize the cost shifting among coating types, the Department should calculate a single average cost across all three coating types reported. This single average COM should be used for all products.

The respondent did not address this directly. However, it did comment on each of the arguments made by petitioner regarding its calculation of the reported cost of production. See the comments above.

#### Department Position:

We disagree with the petitioner. We have addressed each of the petitioner concerns above and do not find that the reported cost of production methodologies were unsupported or unreasonable. The Department determines that each of the cost allocation methodologies discussed above were based on the normal financial accounting system of the respondent and that the more detailed CONNUM-specific allocations were reasonable and non-distortive. Under Section 776(b) of the Tariff Act, the Department applies adverse facts available only if two criteria are met. First, the Department must have resorted to facts available pursuant to section 776(a) of the Tariff Act. Second, the Department must find that the respondent did not cooperate to the best of its ability to comply with a request for information. See Nippon Steel Corp. v. United States, 337 F.3d 1373 (Fed. Cir. 2003). With the exception of U.S. further-manufacturing costs the Department did not find any instances where required information was not available on the record. We did not find any instance where ITW manipulated its costs in order to shift costs away from its wax-with-some-resin coated jumbo rolls. We did not find any instances where ITW failed to respond to the Department's requests for information to the best of its ability. Therefore, for the final determination, we are not applying adverse facts available or facts available, and have continued to rely on the cost of manufacturing data reported by ITW.

## Comment 12: Allocation of Goodwill Expenses

The respondent argues the Department should revise its post-preliminary determination calculation of indirect selling expenses and general and administrative (G&A) expenses to split the amortization of goodwill between selling and administration functions and not just administration. According to the respondent, the goodwill expense was generated by its acquisition of the TTR and specialty film businesses which included the purchase of both production and sales facilities, as well as intangible assets associated with the specialty films business. Respondent states that at the sales and cost verifications, the Department reviewed the asset purchase agreement which describes the purchase of intangible assets associated with sales and marketing activities in addition to physical facilities and production operations. ITWSFK explains it has presented the amortized expense as part of selling and administrative expenses on its income statement in accordance with Korean generally accepted accounting principles (GAAP). The respondent argues that by including the entire amount of goodwill amortization in the cost of production, the Department has failed to recognize that ITWSFK is engaged in selling as well as manufacturing specialty films. Respondent quotes an accounting textbook, Intermediate Accounting (4<sup>th</sup> edition 1998) by Thomas Dyckman et al., which defines goodwill as: “the expected value of future above normal financial performance. This expectation arises because favorable characteristics make it likely that the firm will produce higher than average earnings.” According to company officials, the favorable factors include a good sales organization, a market position and effective advertising. Therefore, the respondent argues the Department should recognize that it appropriately allocated the reported goodwill expenses between G&A and indirect selling expenses.

Petitioner argues the Department cannot split goodwill amortization between amounts attributable to selling and production. Petitioner continues that the Department has a longstanding practice of including goodwill amortization in G&A.<sup>1</sup> Petitioner states that even in cases where the goodwill appears to be closely related to marketing or selling, the Department has followed its standard practice of considering it to be a general expense.<sup>2</sup> Petitioner claims the Department has specifically denied a request to deduct goodwill costs from prices.<sup>3</sup> Therefore, petitioner concludes the Department should not depart from its consistent treatment of goodwill amortization as a G&A expense.

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<sup>1/</sup> See, Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, 64 FR 38756, 38760 (July 19, 1999) Comment 44 (Hot Rolled from Brazil); Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Brazil, 67 FR 62134, 62136 (October 3, 2002) and accompanying Issues and Decision memorandum at Comment 23 (Cold Rolled from Brazil).

<sup>2/</sup> See, Stainless Steel Bar from Japan: Final Results of Antidumping Administrative Review, 65 FR 13717, 13718 (March 14, 2000) and accompanying Issues and Decision memorandum at Comment 10 (SS Bar from Japan).

<sup>3/</sup> See, Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey, 61 FR 30309, 30325 (June 14, 1996) Comment 14 (Pasta from Turkey).

Additionally, the petitioner urges the Department to treat the goodwill expense of the consolidated U.S. parent company the same as it treats the goodwill expense of the Korean respondent. Petitioner explains that because of a change in the U.S. GAAP reporting requirements, goodwill is treated differently in Korea and the United States. Moreover, the petitioner advocates that because the U.S. consolidated entity's amortization expense decreased dramatically from 2001 to 2002, the Department should use the 2001 amount to calculate a surrogate amount to include in the 2002 G&A.

#### Department Position:

We disagree with the respondent that it is appropriate to parse goodwill expenses to selling and production separately. The definition of goodwill from GAAP 2002 - Interpretation and Application of Generally Accepted Accounting Principles 2002, Patrick R. Delaney, et al., John Wiley & Sons, Inc., New York 2001 (the GAAP guide), at page 403 is "the excess of the cost of the acquired enterprise over the sum of the amounts assigned to identifiable assets acquired less liabilities assumed." Continuing, the GAAP guide states, "[a]fter completing the purchase price allocation (a process described in APB 16 and unaltered by the new standards), any residual of cost over fair value of the net identifiable assets and liabilities is assigned to the unidentifiable asset, goodwill." (Emphasis added.) See page 477 of the GAAP guide. The goodwill ITWSFK recorded as a result of the asset purchase represents the excess of the purchase price over the fair market value of the net identifiable assets and liabilities it acquired. In accordance with both Korean and U.S. GAAP, this excess was not attributable to any particular asset or liability. Unlike receivables, inventories, equipment, etc., all of which can be sold or exchanged individually in the market place, goodwill can only be identified with the business as a whole. There is no certainty as to which assets give rise to the goodwill, only that the company as a whole gives the enterprise a valuation greater than the sum of the fair value of the individual identifiable assets. Because goodwill is an unidentifiable asset, it is inappropriate and impossible to split it between marketing and production. Attributing the full goodwill cost to the company's overall general operations, as a G&A cost, is consistent with this point. The intangible benefit of goodwill cannot be directly associated with a particular activity, asset, or division, but only to the general operations of the company as a whole.

The Department's usual practice of including goodwill expense in G&A<sup>4</sup> allows the goodwill expense to be absorbed by all income producing activities of the company. As we stated in the Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber

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<sup>4/</sup> See Hot Rolled from Brazil and Cold Rolled from Brazil. We note that petitioner's reliance on SS Bar from Japan is misplaced because in that case while there was a reference to the term goodwill, it was goodwill in the community that was generated by the respondent making a charitable donation and not goodwill generated from a business combination as is the case here. Also, we note that petitioner's citation to Pasta from Turkey was off point because the issue in that case related to the respondent, Maktas, requesting a sales price adjustment because its name was valuable (i.e., goodwill) since it was widely known across Turkey.

Products from Canada, 67 FR 15539 (April 2, 2002) and accompanying Issues and Decision memorandum at Comment 16 (Lumber from Canada),

As the amortization of goodwill in this case reflects the current year's portion of the decrease in value of the acquired assets, we find it reasonable to include this cost in Abitibi's reported costs. ... Thus, as this treatment is in accordance with the contemporaneous GAAP of the respondent and reasonably reflects production costs, we find no reason to exclude Abitibi's goodwill amortization from the cost of production. .... Second, the Department's general practice is to consider goodwill as related to the general operations of the company as a whole and not specifically identified with a particular division or product line. Moreover, by allocating G&A based on the cost of sales, we are only allocating a portion of the expense to the lumber activities.

The facts in this case are consistent with those in Lumber from Canada. For the final determination we have continued to include the entire goodwill expense of ITWSFK in the G&A calculation and we have not allocated any part of the goodwill expense to indirect selling expense.

We disagree with the petitioner's suggestion that the Department should include the 2001 goodwill expense of the consolidated entity in the further manufacturing costs as a surrogate for the 2002 expense. It is the Department's longstanding practice to calculate G&A (which includes goodwill expense - see above) at the producing entity level plus an amount for the parent company G&A. See August 8, 2003 questionnaire, step III.D.1 (p. D-13). We note that to include the goodwill expense at the consolidated level as petitioner requests would double count ITWSFK's goodwill expense. Upon review of ITWTF's G&A calculation, however, we note that while ITWTF included an amount for parent company G&A, it did not include the goodwill expense in the parent G&A. Therefore, we revised the portion of parent company G&A to include the goodwill expense incurred at the U.S. further manufacturer level.

#### Comment 13: Royalty Expenses

According to the respondent, royalty expenses are associated with a license agreement between ITWSFK and its parent company ITW Inc., and are recorded as a selling and administrative expense in ITWSFK's audited financial statements. The license agreement states ITW Inc. will provide certain management support, technology, marketing support and trademarks for a percentage of its net sales to unaffiliated customers. The respondent argues that if the Department decides to include the royalty expenses in the cost calculation, it should treat them as a direct selling expense for sales by ITWSFK to unaffiliated customers and not for ITWSFK's U.S. sales, all of which are made to its affiliate, ITWTF. Alternatively, if the Department determines not to treat the royalty expenses as a direct selling expense, the respondent argues the Department should allocate the expenses to both selling and G&A.



The petitioner counters that the royalty expenses should be included in ITWSFK's G&A expense total. According to the petitioner, the nature of the expenses is determined not by how they are calculated but by the benefits obtained as a result of the expenses. The petitioner argues the benefits obtained by ITWSFK relate to all aspect of the company's operations.

#### Department Position:

We disagree with the respondent. The royalty expenses paid by ITWSFK are associated with a license agreement between ITWSFK and its parent company ITW Inc. Although the royalty expenses are calculated as a percentage of ITWSFK's net sales to unaffiliated customers, the nature of the expense is dependent on the benefits obtained, not on how the royalties are calculated. Although the royalties are calculated based on sales revenue, these payments are not a cost of selling. Instead, the royalty is a payment for production technology. The license agreement provides that ITW Inc. will provide certain management support, technology, marketing support and trademarks. The services provided by ITW Inc. do not support specific sales, but rather the management services provided by ITW Inc. support the operations of ITWSFK as a whole. It has been the Department's longstanding practice to treat royalty payments for production technology as a cost of manufacturing, even in circumstances where the royalty payments were based on sales revenue. See Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia, 57 FR 38465 (August 25, 1992) and Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to- Length Carbon Steel Plate From Canada, 58 FR 37099, 37118 (July 9, 1993). Thus, for the final determination we have included the royalty expenses as a G&A expense in ITWSFK's G&A expense ratio calculation.

#### Comment 14: Non-Operating Income

The respondent argues the Department should properly recognize that ITWSFK's G&A expenses should be offset by its non-operating income. According to the respondent, while the Department added total non-operating expenses to the G&A total, the Department erroneously failed to subtract the non-operating income.

The petitioner did not comment on this issue.

#### Department Position:

We have reviewed our calculation of the G&A expense ratio made for the post-preliminary determination and found that ITW is factually incorrect in asserting that we included non-operating expenses in the G&A total. We did not include them in the calculation of the G&A expense total because they relate to the company's net foreign exchange loss which the Department already included in the calculation of the financial expense ratio. Furthermore, we included all non-operating income which ITWSFK claimed as an offset to G&A expense except

for the income related to the gain on foreign exchange transactions. Therefore, we have not revised the G&A expense ratio because no adjustments are warranted.

### **Other Issues**

#### **Comment 15: Averaging Groups for U.S. Sales**

Petitioner argues that in the final determination the SAS program calculating the margin should create two separate averaging groups in the U.S. market based on channel of distribution. ITWTF reported two channels of distribution: (1) sales by large distributors (i.e., sales by ITWTF to its unaffiliated customers) and (2) sales by affiliated resellers (i.e., sales by the three affiliated ITW resellers to their unaffiliated customers.)

Petitioner argues that for various reasons it is essential to create these two averaging groups. First, there is, petitioner asserts, a huge difference in pricing between sales at the ITWTF level and sales at the reseller level. The data petitioner cite in support of this statement are not susceptible to public summary.

Second, petitioner continues, the two channels of distribution service two distinctly different classes of customers. ITWTF's direct sales to unaffiliated customers are almost exclusively to distributors. By contrast, the vast majority of resellers sales are to end users. Petitioner states the distinction between the two channels is evident in reviewing their selling activities. The resellers sell in much smaller volumes and deal in more specialized orders than does ITWTF. Furthermore, the resellers engage in labor-intensive freight-forwarding operations, assist customers with insurance and handling, and maintain their own special warehouses.

Third, according to petitioner, the Department's method of calculating CEP profit does not appropriately neutralize the major discrepancy in pricing between the two channels of distribution because it calculates CEP profit across all U.S. sales regardless of channel of distribution. This results in a lower overall CEP profit ratio than the profit ratio on the sales to the resellers. According to petitioner, the Department's method of calculating profit results in the substantially higher profits on reseller sales remaining after the CEP profit deduction is made.

Petitioner notes too that section 351.414(d)(2) of the Department's regulations state that in determining averaging groups the Department may take into account factors that it deems relevant in addition to control number. Furthermore, petitioner argues, the SAA cites customer class as one of the factors the Department should consider in defining averaging groups. In this case, petitioner states, customer class is aligned very closely to channel of trade. Accordingly, petitioner argues, because of the huge impact on price, the Department should include channel of trade in its definition of averaging groups.

ITW argues that in the final determination the Department should continue to treat all U.S. sales of subject merchandise as a single averaging group. It observes that petitioner has cited no

Departmental precedent for its proposed price-averaging groups. Furthermore, the Department has expressly ruled that it does not “limit price-averaging groups based solely on channels of distribution.” See Notice of Final Results of Antidumping Administrative Review: Industrial Phosphoric Acid from Belgium, 63 FR 55087, 55089 (October 14, 1998). There the Department stated that “channels are not an appropriate basis for creating product average groups...” citing Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey, 61 FR 30309 (June 14, 1996).

Moreover, ITW argues the Department’s regulations address the issue of price-averaging groups in two places. The first is 19 CFR 351.414(d)(2) which reads:

*Identification of the averaging group.* An averaging group will consist of subject merchandise that is identical or virtually identical in all physical characteristics and that is sold to the United States at the same level of trade. In identifying sales to be included in an averaging group, the Secretary also will take into account, where appropriate, the region of the United States in which the merchandise is sold, and such other factors as the Secretary deems relevant. See 19 CFR 351.414(d)(2).

ITW states two things stand out from this regulation. First, with respect to the identification of the averaging group, contrary to petitioner’s proposal, the regulations do not contemplate the use of channels of distribution as the basis for price averaging groups. Second, the language does specifically refer to “subject merchandise that is sold to the United States at the same level of trade.” ITW asserts that all of its U.S. sales of subject merchandise are CEP sales made at the exact same level of trade, as established by the sale from ITWSFK to ITWTF. This is true, ITW states, regardless of whether the first sale to an unaffiliated party in the United States was made by ITWTF or by one of the ITW resellers. Thus, ITW concludes, the requirements of the regulations are clearly met by calculation of a single group of average CEP prices by CONNUM.

The second regulation that addresses the issue of price-averaging groups, ITW states, is 19 CFR 351.414(g). It states:

In an investigation, the Secretary will request information relevant to the identification of averaging groups under paragraph (d)(2) of this section and to the analysis of possible targeted dumping under paragraph (f) of this section... See 19 CFR 351.414(g).

This regulation is relevant, ITW states, because petitioner’s proposal amounts to a charge of targeted dumping. ITW states the Department must request information relevant to the identification of averaging groups and targeted dumping. Accordingly, ITW states, an allegation of targeted dumping must be filed in a timely manner to allow the Department to collect sufficient information upon which to make a meaningful determination. ITW states that here the petitioner’s allegation of targeted dumping was made too late in the investigation to warrant attention.

Furthermore, ITW argues that to support its request for separate price averaging groups, petitioner has contorted the record to differentiate the U.S. sales made by the U.S. resellers from those made by ITWTF. It gives the following examples.

- ! According to petitioner, ITWTF and the ITW resellers service two distinctly different classes of customers. ITW argues that petitioner's argument ignores the fact that ITWTF and the ITW resellers made sales to the same customer categories.
- ! According to petitioner, the ITW resellers sell in much smaller volumes and at higher prices than does ITWTF. ITW contends this argument ignores the fact that there is significant overlap in the range of quantities and prices reported by ITWTF and the ITW resellers. See attachment two of ITW's March 2, 2004 rebuttal brief.
- ! According to petitioner, the ITW resellers deal in more specialized orders. ITW argues there is no record evidence for this claim.
- ! According to petitioner, ITW resellers engage in labor-intensive freight forwarding operations. ITW states that ITWTF and the ITW resellers provide the same level of freight services.
- ! According to petitioner, ITW resellers assist customers with insurance and handling. ITW states both ITWTF and the ITW resellers provide handling services to their customers, and that no evidence exists on the record that would show that the ITW resellers provide more intensive handling services than ITWTF.
- ! According to petitioner, ITW resellers maintain special warehouses. According to ITW, both ITWTF and the ITW resellers maintain warehouses for subject TTR, and no evidence exists that would show that ITW resellers provide more specialized warehousing services than ITWTF.

With respect to petitioner's argument that it is a "discrepancy" for higher-priced sales to have higher profits after the CEP profit deduction is made, ITW argues that any type of average will be based on a range of values. Therefore, it is only normal that some observations will be above the average and some below the average. ITW argues that this results from averaging, and is not a "discrepancy."

In sum, ITW argues the record fully shows that sales of subject merchandise by ITW resellers and ITWTF, while arguably made through different channels of distribution, involve identical merchandise at the same level of trade. Therefore, ITW concludes, in the final determination the Department should affirm its policy of treating all U.S. sales of subject merchandise as a single averaging group.

Department Position:

We agree with ITW that it would be inappropriate to calculate margins based on channels of distribution in this investigation. First, petitioner bases its argument on a variety of claims which are not supported by the record. For example, we have found no evidence on the record that the ITW resellers deal in more specialized orders than does ITWTF. Exhibit 9 of petitioner's case brief, to which petitioner cites for support, contains no information to support petitioner's assertion. Furthermore, the record does not support the alleged distinction between the freight forwarding operations supplied by ITWTF and the freight forwarding operations supplied by the ITW resellers, nor the level of insurance and handling services provided by ITWTF as opposed to the ITW resellers. Finally, the record shows that ITWTF and the ITW resellers all maintain warehouses. There is no record evidence that reseller's warehouses are any different than the ITWTF warehouse, or that any of their costs were not reported and accounted for in the dumping calculations.

Second, ITW is correct that it is not the Department's practice to include channels of distribution in the averaging groups. The Department has stated that,

Further, it is not our practice to limit price-averaging groups based solely on channels of distribution. See Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey, 61 FR 30309 (June 14, 1996) ("Channels are not an appropriate basis for creating product average groups\*\*\*. The SAA does not contemplate the use of channels of distribution as a basis for creating an averaging group").

See Industrial Phosphoric Acid from Belgium; Final Results of Antidumping Duty Administrative Review, 63 FR 55087 (October 14, 1998).

Third, the Department's regulations do not support including channel of distribution in the averaging group. The regulations provide that goods sold to the United States will be part of the same averaging group when made at the same level of trade. See 19 C.F.R. 351.414(d)(2). The Department is also instructed to take into account the region of the United States in which the merchandise is sold. Id. Here, all of ITW's sales to the United States are at the same level of trade because the sale to the first U.S. customer is ITWTF. See ITW's September 5, 2003 section A response, p. A-18 and ITW's October 23, 2003 submission, p. 2. Furthermore, petitioner has pointed to no evidence that through its channels of distribution ITW has established different pricing patterns in different regions of the country.

Finally, we do not find persuasive petitioner's argument that the Department's method of calculating CEP profit fails to neutralize the difference in pricing between the two channels of distribution. Our method of calculating profit is to calculate a simple average. There is nothing inherently unfair in this method. As ITW has argued, whenever a simple average is employed some sales will be above the average and some will be below. Furthermore, the Department does

not determine its calculation methodologies for particular adjustments (e.g. CEP profit) based on whether they will “neutralize” a respondent’s reported U.S. prices.

Therefore, pursuant to the regulations and the Department’s practice, we have continued to calculate margins using the weight-averaging categories employed in the preliminary determination and post-preliminary analysis.

#### Comment 16: Treatment of Non-Dumped Sales

ITW argues the Department erred in the calculation of ITW’s overall margin by assigning a margin of zero to all sales which had a negative dumping margin. This methodology, ITW asserts, resulted in an inflated overall average dumping margin. ITW claims this practice has been the subject of a number of World Trade Organization (WTO) disputes and panel rulings in which the WTO has found the practice to be inconsistent with the WTO Antidumping Agreement. See European Communities - Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India, WT/DS141/AB/R (March 1, 2001) (Bed Linen from India). ITW argues that even though the Court of Appeals for the Federal Circuit (Federal Circuit) recently ruled that the U.S. antidumping statute does not expressly prohibit the zeroing methodology (see Timken Co. v. United States, 354 F.2d. 1334 (Fed. Cir. 2004)), the United States will continue to face challenges to the practice because the WTO has ruled against it as a violation of the WTO Antidumping Agreement. ITW states that because the application of this policy is discretionary, without statutory mandate or direction, the Department should drop it in order to apply U.S. dumping laws in a way that does not conflict with U.S. international obligations.

Petitioner argues the Department should continue to apply its practice of “zeroing” negative margins. It argues the Department’s policy has been challenged on numerous occasions, and the courts have unanimously approved its use. In fact, petitioner argues, the Court of International Trade (CIT) recently declared that the practice is permissible and beyond challenge in an original antidumping investigation where the Department used exactly the same zeroing methodology that it used in this case. See Corus Engineering Steels, Ltd. v. United States, Slip Op. 03-110 at 18 (Ct. Int’l Trade, August 27, 2003) (Corus Engineering). Furthermore, petitioner argues that ITW has made no attempt to distinguish its arguments here from the identical arguments that were definitively rejected by the CIT in Corus Engineering. Thus, according to petitioner, ITW has presented no reason for the Department to modify its dumping methodology.

#### Department Position:

We agree with petitioner and have not changed our dumping calculations of the weighted average dumping margin as suggested by the respondent for these final results. The Court of International Trade has upheld the Department's treatment of non-dumped sales in Corus Engineering; Bowe Passat Reinigungs-und Waschereittechnik GmbH v. United States, 926 F. Supp. 1138, 1150 (CIT 1996); and Timken Co. v. United States 240 F. Supp. 2d 1228 (CIT 2002). Furthermore, the Federal Circuit has affirmed the Department's methodology as a

reasonable interpretation of the statute. Timken Co. v. United States, 354 F. 2d 1334 (Fed. Cir. 2004).

With regard to ITW's argument that the WTO Appellate Body ruling in the EC- Bed Linen case renders the U.S. interpretation of its statute as inconsistent with its international obligations, the Federal Circuit has addressed and rejected this contention in Timken. The Appellate Body's decision in EC - Bed Linen is not binding on the United States. ITW's contention that the United States should change its methodology in response to a WTO dispute to which the United States was not even a party is not consistent with U.S. law. (See e.g., 19 U.S.C. 3533(g) stating that an agency may not change a regulation or practice pursuant to a WTO decision unless and until certain criteria are met.)

#### Comment 17: Clerical Errors

##### Opening-Day Corrections

ITW argues the Department erred by failing to implement correctly two of the opening-day corrections it submitted to Department verifiers on the first day of the ITWTF U.S. sales verification. First, ITW argues that the Department applied a correction to the warehousing variable (USWAREH2U) to all U.S. sales, rather than only the sales that were warehoused at the California warehouse location.

Second, ITW argues the Department applied a correction to the repacking variable (REPACKU) to all sales, rather than to only U.S. sales of slit rolls, which are the only sales that undergo repacking.

ITW also argues that the Department erred in its calculation of product-specific weighted-average U.S. values by performing the weight-averaging partly on the basis of sale type (SALEU). This resulted in an improper calculation, ITW states, because under its SALEU variable it reported (at the Department's request) "FMG" for its further manufactured U.S. sales, and "CEP" for its CEP sales that did not undergo further manufacturing. Thus, ITW argues, the Department's program created two separate sets of average U.S. values. ITW argues that since all of its U.S. sales, including its further-manufactured sales, are CEP sales, the Department should change its SALEU variable from "FMG" to "CEP" before performing the calculation of the weighed-average U.S. values.

Petitioner argues, with respect to ITW's third argument, that the Department should not make the change ITW requests because ITW did not submit the information necessary to enable the Department to make the change correctly. Specifically, petitioner states that on the sales listings for the three affiliated U.S. resellers ITW entered "CEP" for all sales under the variable SALEU, rather than coding "FMG" for the further manufactured sales and "CEP" for the sales that did not undergo further manufacturing. Petitioner states that this method of coding was against the Department's instructions, which required ITW to distinguish between the FMG sales and the

CEP sales under the variable SALEU. Therefore, petitioner argues, since the Department has no way of determining which of the resellers' sales underwent further manufacturing and which did not, the Department should not make the change ITW requests.

#### Department Position:

With respect to the first two allegations made by ITW, we agree that the Department did incorrectly implement the recalculations given to Department verifiers at the start of the U.S. verification. We have corrected these errors in this final determination.

With respect to ITW's third allegation, we disagree with both parties. Petitioner is incorrect that the Department would be unable to distinguish the resellers' CEP sales that underwent further manufacturing from the CEP sales that did not. This determination can be made from the RSLITU variable, in addition to the SALEU variable.

Nevertheless, we do not agree with ITW that we should make the change it requests. CEP sales that undergo further manufacturing (FMG) incur a different set of costs from CEP sales that did not, and thus form a unique class of CEP sales. By calculating a weight-averaged set of variables for the FMG sales separately from the CEP sales that did not undergo further manufacturing, we are able to calculate on a more specific basis the price and costs applicable to that unique class, and therefore calculate a more accurate overall dumping margin. We note too that the Department's regulations give the Department, in determining averaging groups, the authority to take into account, in addition to the region of the country in which the merchandise is sold, "such other factors as the Secretary considers relevant." See 19 CFR 351.414(d)(2).

#### Merging U.S. Data Bases

Petitioner argues the Department made two clerical errors with respect to the merging of the further manufacturing data base and the U.S. sales listing. First, it argues the Department failed to weight-average the control numbers (CONNUM) on the further-manufacturing data base before the merge. This resulted in the error message, "Merge statement has more than one data set with repeats of BY values." Second, it argues the Department's recalculation of the total further manufacturing variable (FURMANU) on the further manufacturing data base fails to override the further manufacturing value already on the U.S. data set. Petitioner also provided some suggested programming language to correct the errors.

ITW agrees that the programming language the Department used to merge the U.S. sales listing with the further manufacturing data base contained errors, but argues that the petitioner's suggested programming language also contains errors.



Department Position:

We agree with both parties that the Department's programming language for merging the U.S. and the further manufacturing data bases contains errors, and we agree with ITW that the programming language suggested by petitioner also contains errors. In this final determination we have adopted the programming language suggested by ITW to correct the error.

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 \_\_\_\_

\_\_\_\_\_  
James J. Jochum  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
(date)