

70 FR 73435, December 12, 2005

A-580-839  
Fourth Administrative Review  
POR: 05/01/03-04/30/2004  
**Public Document**  
Office 1: Y. Bordas

DATE: December 5, 2005

MEMORANDUM TO: Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Fourth Antidumping  
Duty Administrative Review of Certain Polyester Staple Fiber  
from the Republic of Korea

---

## SUMMARY

We have analyzed the case and rebuttal briefs of interested parties in the fourth administrative review of certain polyester staple fiber from the Republic of Korea. As a result of our analysis, we have made changes to the preliminary results. We recommend that you approve the positions we have developed in the "Discussion of Issues" section of this memorandum. Below is a complete list of the issues in this review for which we received comments and rebuttals from interested parties:

### General Comments

- Comment 1: Huvis's Specialty Products
- Comment 2: Antidumping Duty Reimbursement
- Comment 3: Credit Period Recalculation
- Comment 4: SG&A Expense Ratio Calculations
- Comment 5: Interest Earned on Deposits

## BACKGROUND

On June 6, 2005, the Department of Commerce (“the Department”) published in the Federal Register the preliminary results of the fourth administrative review of the antidumping duty order on certain polyester staple fiber (“PSF”) from the Republic of Korea.<sup>1</sup> The period of review (“POR”) is May 1, 2003, through April 30, 2004. We invited interested parties to comment on the Preliminary Results.

On July 6, 2005, we received case briefs from Invista S.a.r.l. (formerly Arteva Specialties S.a.r.l, d/b/a/ KoSa);<sup>2</sup> Wellman, Inc., and DAK Fibers, LLC., (collectively, “the petitioners”), and Huvis Corporation (“Huvis”). On July 11, 2005, we received rebuttal briefs from the petitioners and Huvis.

## DISCUSSION OF ISSUES

### GENERAL

#### **Comment 1: Huvis's Specialty Products**

*Petitioners' Argument:* The petitioners claim that Huvis did not demonstrate that its alleged specialty fibers have distinguishing physical characteristics that differentiate specialty fibers from regular fibers (*i.e.*, non-conjugate and conjugate fibers). According to the petitioners, the case record indicates that identical raw material chip inputs and chemical additives are used in the production of both Huvis's specialty and regular PSF.<sup>3</sup> The petitioners also allege that Huvis provided conflicting information regarding direct material costs and product classifications, resulting in fundamental discrepancies that undermine Huvis's specialty product assertion. The petitioners cite to the following alleged discrepancies: (1) Huvis provided conflicting information regarding the production stage when an additional chemical was added to its dope-dyed (“DOD”) fibers,<sup>4</sup> (2) Huvis's response is unclear as to whether a certain chip input was consistently used in the manufacture of DOD fiber, undermining its explanation that the chip

---

<sup>1</sup> See Certain Polyester Staple Fiber from Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review, 70 FR 32756 (June 6, 2005) (“Preliminary Results”).

<sup>2</sup> On March 11, 2005, the Department was informed that Arteva Specialties, Inc. d/b/a KoSa had changed its name to Invista S.a.r.l.

<sup>3</sup> The petitioners cite the bill of materials provided by Huvis in Huvis's March 15, 2005, Supplemental Questionnaire Response, (“March 2005 SQR”) at Appendix S-35 and in Huvis's June 13, 2005, Supplemental Questionnaire Response, (“June 2005 SQR”) at Appendix 46.

<sup>4</sup> See Huvis's September 10, 2004, Questionnaire Response, (“September 2004 QR”) at B-3; see also Huvis's January 14, 2005, Supplemental Questionnaire Response, (“January 2005 SQR”) at 28.

input is the *sine qua non* of DOD fibers,<sup>5</sup> (3) although Huvis used the identical chip inputs for certain fibers, the reported per-unit direct material costs differ significantly,<sup>6</sup> (4) certain products classified as flame-retardant (“FRF”) are also DOD,<sup>7</sup> and (5) the chip Huvis used to produce certain DOD products does not contain the chemical additive Huvis reported as unique to the DOD chip.<sup>8</sup>

The petitioners maintain that, assuming *arguendo*, physical characteristic differences exist between Huvis's specialty and regular products, Huvis did not demonstrate that these differences are commercially significant.<sup>9</sup> The petitioners cite 19 U.S.C. 1677(16) and assert that the Department selects commercially significant physical characteristics, rather than minor or secondary characteristics, for matching purposes.<sup>10</sup> According to the petitioners, Huvis segregated its specialty PSF products because Huvis's regular PSF does not contain additional chemicals used in specialty PSF. The petitioners argue that Huvis's claim regarding the lack of additional chemicals is not true for much of its regular PSF, and that any chemical additives in either regular or specialty PSF do not result in commercially significant physical differences between the products.

The petitioners argue that case precedent establishes Huvis's burden to substantiate changes to the Department's model match program.<sup>11</sup> According to the petitioners, Huvis has altered the Department's product matching hierarchy by introducing an additional “fiber composition” code assignment in the first digit of its control numbers. The petitioners contend that the Department selected “fiber composition,” defined as “conjugate” or “non-conjugate,” as the most important matching criterion because the production processes for these two types of PSF impart obvious physical characteristics with associated costs and prices that were different enough to warrant separation. The petitioners assert that the Department rejected the use of color as a matching criterion in the original investigation. Therefore, Huvis must justify changing the “fiber

---

<sup>5</sup> See June 2005 SQR, at Appendix S-45; see also January 2005 SQR, at 28.

<sup>6</sup> See June 2005 SQR, at Appendix S-45.

<sup>7</sup> See Petitioners' Case Brief for Huvis Corporation, July 6, 2005 at Attachment 3.

<sup>8</sup> See June 2005 SQR, at Appendix S-46.

<sup>9</sup> See Notice of Final Determination of Sales at Less than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey, 65 FR 15123 (March 21, 2000).

<sup>10</sup> See Pesquera Mares Australes Ltda. v. United States, 266 F.3d 1372, 1384-1385 (Fed. Cir. 2001) (“Pesquera Mares Australes”); see also Stainless Steel Bar From Japan: Final Results of Antidumping Administrative Review, 65 FR 13717 (March 14, 2000), and accompanying Issues and Decision Memorandum at Comment 2; see also Circular Welded Non-Alloy Steel Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review, 63 FR 33041, 33049 (June 17, 1998) (“Pipe and Tube from Mexico”).

<sup>11</sup> See Koyo Seiko Co., Ltd. v. United States, 905 F. Supp. 1112, 1117 (CIT 1995).

composition” field to account for color or chemical additives, and Huvis has not done so in petitioners’ view.<sup>12</sup>

The petitioners claim that Huvis has used the specialty fiber composition code to segregate home market sales of high cost products made at extremely high or extremely low prices. According to the petitioners, Huvis's use of “fiber composition” code “4” artificially excludes many otherwise comparable home market sales from the basis for normal value, and allows Huvis to allocate a disproportionate amount of costs to the specialty products. The petitioners assert that because Huvis (1) did not provide evidence of physical characteristic differences between its specialty and regular products, (2) did not provide evidence of the commercial significance of the alleged differences, and (3) did not demonstrate the need to change the most important sales matching key, the Department should adjust its preliminary methodology for product matching by eliminating Huvis's fiber composition code “4” and should combine the sales and costs for the specialty and regular PSF products.

*Huvis's Argument:* Huvis asserts that the Department’s preliminary decision to treat Huvis's specialty PSF as distinct from its regular PSF is correct and consistent with the Department’s practice in prior reviews. Huvis contends that: (1) it did provide evidence of physical characteristic differences between its specialty PSF and regular PSF, (2) the case record clearly establishes that the differences between specialty PSF and regular PSF are commercially significant, and (3) the sales matching hierarchy has not changed from previous reviews. Huvis claims that the Department has gathered sufficient information to treat Huvis's specialty products as distinct from its regular PSF products, and argues that the Department should not deviate from the product classification methodology used in previous reviews.

According to Huvis, the petitioners’ allegation that Huvis did not provide evidence of the physical characteristic differences between its specialty and regular PSF is groundless. Huvis cites to the record, and points out that the polymer used in the flame retardant specialty products is different from the polymer used in regular products.<sup>13</sup> Huvis argues that comparing the raw material charts for its products shows that its DOD fibers have a substantially distinct chemical composition.<sup>14</sup> Huvis refutes the alleged “fundamental discrepancies” cited by the petitioners, and notes that: (1) the special input listed for Huvis's DOD products is consistent throughout Huvis's responses, (2) the petitioners’ cost comparison between chip costs of various control numbers ignores the fact that Huvis weight-averaged the costs of different products that are reported as one control number under the product characteristic hierarchy established by the Department, (3) the DOD products classified as special were manufactured prior to the POR and sold out of inventory, (4) none of the regular chips produced by Huvis contains the special input

---

<sup>12</sup> See Zenith Elecs. Corp. v. United States, 18 CIT 870, 880 (1994).

<sup>13</sup> See June 2005 SQR, at 2.

<sup>14</sup> See September 2004 QR, at Appendix B-3; see also January 2005 SQR, at 12 and Appendix S-13.

used in the DOD product, and (5) Huvis did not add the DOD chip to flame retardant products, and never suggested that it did.

Second, Huvis argues that it has identified the commercially significant differences between its specialty and regular PSF in terms of physical characteristics, production processes, end uses, and costs of production.<sup>15</sup> Huvis asserts that it provided a comparison chart, which demonstrated that Huvis's regular products differ from specialty products in that the regular products do not contain chemical additives and have a simpler production process.<sup>16</sup> Huvis contends that it provided information on the commercially significant difference of two of its specialty products, which have special color fastness or flame retardant properties.<sup>17</sup> Huvis also notes that it provided information that shows how specialty and regular products are markedly different with regard to input costs and end use.<sup>18</sup>

Third, Huvis disputes the petitioners' allegation that its product matching hierarchy differs from that established by the Department in previous reviews. Huvis asserts that the Department did not restrict the respondents' fiber composition choices to "conjugate" or "non-conjugate," and the Department's antidumping questionnaire offers additional choices, including "blended, please specify" and "other, please specify." Huvis argues it followed the questionnaire's instructions by coding its specialty products as "other" and by specifying how the products differ from conjugate or non-conjugate products.<sup>19</sup>

In addition, Huvis notes that the Department considered and approved Huvis's coding of its specialty products as "other" fiber composition in a previous review.<sup>20</sup> Huvis cites specifically to the 2001-02 administrative review, and notes that the Department has previously established the following:<sup>21</sup> (1) Huvis's specialty and regular products are physically different because of the addition of unique chemicals during the production process, (2) Huvis has satisfied its burden to support the commercially significant distinction, and (3) Huvis complied with the Department's questionnaire, which clearly lists "other" as a category of fiber composition.

---

<sup>15</sup> See September 2004 QR, at 2-4 and Appendix B-3.

<sup>16</sup> See January 2005 SQR, at 12 and Appendix S-13.

<sup>17</sup> See January 2005 SQR, at 13.

<sup>18</sup> See June 2005 SQR, at 1-4 and Appendices S-45, S46.

<sup>19</sup> See September 2004 QR, at 2-4 and Appendix B-3.

<sup>20</sup> See Certain Polyester Staple Fiber from Korea: Final Results of Antidumping Duty Administrative Review ("2001-02 PSF Administrative Review"), 68 FR 59366 (October 15, 2003), and accompanying Issues and Decision Memorandum at Comment 6.

<sup>21</sup> See 2001-02 PSF Administrative Review at Comment 2.

Huvis notes that in the 1999-2001 administrative review, the petitioners used their current argument to challenge the commercial significance of grade matching characteristics.<sup>22</sup> Huvis points out that, in the 1999-2001 administrative review, the Department supported using grade as a matching characteristic, and the Department's decision noted that Huvis satisfied the burden established in Pesquera Mares Australes regarding the commercial significance of grade.<sup>23</sup> Huvis contends that the petitioners' current challenge to "other" fiber composition is identical to the previous grade matching challenge, and suggests that the Department's previous decision is applicable to the specialty products challenge in the instant review.

*Department's Position:* We disagree with the petitioners' allegation that the case record does not support Huvis's claim that its specialty products have physical characteristics that are different from its regular products. For example, Huvis's product brochure details many physical characteristics that differentiate the specialty fibers from the regular fibers.<sup>24</sup> The flame retardant fiber is described as passing four different flame retardancy tests; bio-health fiber is described as having anti-bacterial, anti-static, and ultraviolet blocking properties; and the dope-dyed fiber is described as having special color-fast properties. In its September 2004 QR, Huvis describes the polyester wool fiber as having a physically-distinct wool-like texture, the polytrimethylene terephthalate fiber as having special elastic and dye-ability properties, and the hydrophilic fiber as having a special affinity to water. Therefore, Huvis has demonstrated that most of its specialty products have special physical characteristics that are not generally shared with Huvis's regular products.

The Department also disagrees with the petitioners' assertion that evidence exists that specialty and regular products have the same chip and additive inputs. Huvis submitted a product characteristics chart which compares specialty fibers with similar "regular" PSF products.<sup>25</sup> This chart shows that the chips used to make at least three specialty products are not used in the production of regular PSF. Huvis provided the bill of materials ("BOM") to support its product characteristic chart.<sup>26</sup> The BOM for regular and specialty products support Huvis's assertion that its specialty products are either made with specialty chips or contain chemical additives. In addition, Huvis submitted a chart that lists the specific additives that are used to impart special characteristics to Huvis's specialty products.<sup>27</sup>

---

<sup>22</sup> See Polyester Staple Fiber from Korea: Final Results of Antidumping Duty Administrative Review ("1999-2001 PSF Administrative Review"), 67 FR 63616 (October 15, 2002), and accompanying Issues and Decision Memorandum at Comment 13.

<sup>23</sup> See 2001-02 PSF Administrative Review at Comment 13.

<sup>24</sup> See September 2004 QR, at Appendix A-20.

<sup>25</sup> See June 2005 SQR, at Appendix S-45.

<sup>26</sup> See June 2005 SQR, at Appendix S-46.

<sup>27</sup> See September 2004 QR, at Appendix B-3.

Huvis's responses to the Departments's original and supplemental questionnaires have been remarkably consistent regarding input direct material costs and product classifications. We have found no evidence of the fundamental discrepancies alleged by the petitioners. The information on the record is consistent with regard to whether a certain chip input was consistently used in the manufacture of DOD fiber.<sup>28</sup> We agree with Huvis that the cost differences alleged by the petitioners of identical chip inputs are the result of Huvis reporting the weight-averaged costs for numerous specialty products produced during the POR.

Huvis has demonstrated that the commercial differences between its specialty products and its regular products are significant. Therefore, the petitioners' reference to Pesquera Mares Australes and Pipe and Tube from Mexico is misplaced. In the September 2004 QR, Huvis states that its specialty products generally incur higher manufacturing costs than its regular products.<sup>29</sup> In its January 2005 SQR, Huvis notes that its DOD product is dyed a black color, which is a commercially valuable attribute because PSF is difficult to dye.<sup>30</sup> In order to assess commercial significance for specialty product sales, the Department compared products that were differentiated only by the fiber composition designation. We generally found that the majority of Huvis's specialty products either incurred higher costs or were made at substantially different prices than their regular counterparts.<sup>31</sup> These cost and price differences support Huvis's assertion that its specialty products have distinct commercial attributes.

The Department disagrees with the petitioners' assertion that Huvis has altered the Department's product matching hierarchy from previous reviews. In both the 2001-2002 and 2002-03 administrative reviews of this case, Huvis designated its specialty products with a fiber composition code of "4."<sup>32</sup> Huvis has used this same designation for its specialty products in the instant review.

In accordance with sections 771(16)(A) and (B) of the Tariff Act of 1930, as amended ("the Act"), we matched the subject merchandise with products that are identical or similar in physical characteristics and that are approximately equal in commercial value.<sup>33</sup> Because the case record

---

<sup>28</sup> See June 2005 SQR, at 2 and Appendix S-45; see also March 2005 SQR, at Appendix S-36; see also September 2004 QR, at Appendix B-3; see also January 2005 SQR, at Appendix S-13.

<sup>29</sup> See September 2004 QR, at 4.

<sup>30</sup> See January 2005 SQR, at 13.

<sup>31</sup> See Huvis's Home Market Sales Database submitted with Huvis's May 6, 2005, Supplemental Questionnaire Response, ("May 2005 SQR").

<sup>32</sup> See 1999-2001 PSF Administrative Review, at Comment 1.

<sup>33</sup> See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber from the Republic of Korea, 64 FR 14865, 14872 (March 29, 1999); Extruded Rubber Thread from Malaysia: Final Results of Antidumping Duty Administrative Review, 62 FR 62547, 62558 (Nov. 24, 1997); Notice

indicates that Huvis's specialty products have distinct physical characteristics and because the commercial value of the specialty products is not equal to the commercial value of Huvis's regular products, for the final results, the Department has continued to match home market sales of regular products to United States sales of regular products.

## **Comment 2: Antidumping Duty Reimbursement**

*Petitioners' Argument:* The petitioners assert that for certain U.S. sales, Huvis acted as the importer of record ("IOR") and directly paid the antidumping duties on its entries. According to the petitioners, there is a clear pattern of price discrimination for sales where Huvis acted as the IOR. The petitioners argue that the price differences result from Huvis not including the antidumping duties it paid in the price of certain sales. The petitioners maintain that 19 CFR 351.402(f) directs the Department to deduct from the U.S. price antidumping duties paid directly on behalf of the importer.<sup>34</sup> The petitioners argue that, in Hoogovens Staal BV v. U.S., the U.S. Court of International Trade ("CIT") recognized the Department's authority to use this statute as a remedy to account for duties paid by an exporter.

The petitioners also contend that Huvis incorrectly cited LEU from France<sup>35</sup> to support its inclusion of antidumping duty deposits in the export price of certain sales by virtue of alleged "long-settled Department policy."<sup>36</sup> The petitioners argue that the Department's decision in LEU from France does not address antidumping duties paid directly by the exporter or producer. The petitioners cite to Antidumping Duties; Countervailing Duties, 62 FR 27296, 27355 (May 19, 1997), and argue that the CIT has long recognized the Department's authority to deal with situations not expressly addressed by the statutes.<sup>37</sup> According to the petitioners, the CIT has repeatedly affirmed the Department's discretionary authority to reinterpret the Act, "if new arguments or facts support a different conclusion."<sup>38</sup> The petitioners argue the Department's LEU from France decision does not affect the Department's authority to address the issue of

---

of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy, 61 FR 30326, 30346 (June 14, 1996).

<sup>34</sup> See Color Television Receivers from the Republic of Korea: Final Results of Antidumping Duty Administrative Reviews, 61 FR 4408, 4410 (February 6, 1996) ("Color Television Receivers"); see also Hoogovens Staal BV v. United States, 4 F. Supp. 2d, 1213, 1216-1217 (CIT 1998) ("Hoogovens Staal BV v. U.S."), citing Color Television Receivers.

<sup>35</sup> See Notice of Final Results of Antidumping Duty Administrative Review: Low Enriched Uranium From France, 69 FR 46501, 46506 (August 3, 2004) ("LEU from France").

<sup>36</sup> See January 2005 SQR, at 21.

<sup>37</sup> See Melamine Chemicals, Inc. v. United States, 732 F.2d 924, 930 (1984).

<sup>38</sup> Hoogovens Staal BV v. U.S., 4 F. Supp. at 1217. See also Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1088 (CIT 1988).



antidumping duties paid directly by the exporter or producer because (1) the LEU from France decision does not deal with import duties paid directly by the exporter or producer, and (2) the Courts have long recognized the Department's authority to reinterpret the Act if new arguments support a conclusion different from long-standing practice. The petitioners assert that price discrimination on certain sales indicates that Huvis directly paid antidumping duties for certain customers. The petitioners, therefore, urge the Department to deduct antidumping duty deposit from the export price for the final results.

*Huvis's Argument:* Huvis argues that the petitioners' allegation regarding a pattern of price discrimination for certain sales where Huvis acted as the IOR does not account for special circumstances unique to these sales. Huvis contends that its U.S. sales database clearly reveals the reason pricing differences exist for certain customers. Huvis also claims that the petitioners fail to acknowledge that the Department has repeatedly addressed the issue of including antidumping duty deposits in the export price.<sup>39</sup> Huvis maintains that the Department has stated, "{t}he reimbursement regulation is inapplicable where the foreign producer is also the importer of record."<sup>40</sup> According to Huvis, the Department's final results for the instant review should continue to follow its established policy of not deducting antidumping duty deposits from export price.

*Department's Position:* We agree with Huvis that the reimbursement rule (19 CFR 351.402(f)(1)) does not apply to the facts of this case. In Steel Pipes and Tubes from Thailand, the Department stated that the reimbursement rule does not apply when the importer and foreign producer are the same entity.<sup>41</sup> Since Huvis is both the importer and foreign producer for the sales in question, there is no basis for reducing the U.S. price under the Department's reimbursement regulation.

Moreover, Huvis has submitted evidence that supports the existence of special circumstances surrounding the sales for which Huvis acted as the importer of record. Huvis's U.S. sales database shows that other factors, which are discussed in the December 5, 2005, "Business Proprietary Memorandum for Final Results of Fourth Administrative Review," influenced price

---

<sup>39</sup> See Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review, 66 FR 53388 (October 22, 2001), and accompanying Issues and Decision Memorandum ("Steel Pipes and Tubes from Thailand") at Comment 1; see also Structural Steel Beams From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 68 FR 2499 (January 17, 2003), and accompanying Issues and Decision Memorandum at Comment 2; Certain Cold-rolled Carbon Steel Flat Products from the Netherlands: Final Results of Antidumping Duty Administrative Review, 64 FR 11825, 11833 (March 10, 1999); and Pipe and Tube from Mexico, 63 FR 33041, 33044.

<sup>40</sup> See Steel Pipes and Tubes from Thailand, at Comment 1.

<sup>41</sup> See Steel Pipes and Tubes from Thailand, at Comment 1; see also Certain Preserved Mushrooms from India: Final Results of Antidumping Duty Administrative Review ("Certain Mushrooms from India"), 67 FR 46172 (July 12, 2002).

differences for certain sales. Therefore, the Department finds no evidence that the reimbursement rule should be applied to the sales in question.

### **Comment 3: Credit Period Recalculation**

*Huvis's Argument:* Huvis asserts that the Department erred in the recalculation of the credit period for one of Huvis's home market customers.<sup>42</sup> Huvis claims that it explained the question of negative monthly sales amounts in its first supplemental questionnaire response. Huvis reiterates that these are domestic open account sales that were converted to local letters of credit (“L/C”) sales. According to Huvis, the Department revised Huvis's credit period by excluding these negative monthly sales from the denominator of the average credit period calculation. Huvis claims the Department erred when it failed to adjust the numerator in the average credit period calculation. Huvis urges the Department to recalculate credit period for this customer by deducting the negative monthly sales from the calculation’s numerator.

*Petitioners’ Argument:* The petitioners contend that the Department’s preliminary methodology for recalculating the credit period is both correct and supported by substantial record evidence. The petitioners assert that Huvis's proposed revision to the credit period calculation would result in an overstated numerator by including balances related to local L/C sales for the open-account sales credit period calculation. According to the petitioners, Huvis reported both open-account and local L/C sales to a certain customer in its home market database.<sup>43</sup> The petitioners argue that Huvis should only have included open account sales in both the denominator (monthly sales) and the numerator (average month-end balance), since Huvis relied on the average account balance to calculate the credit period for open-account sales.<sup>44</sup>

The petitioners assert that Huvis erred when it included the negative amounts (open account sales that were later converted to local L/C sales) in the “monthly sales” column because the corresponding positive amounts were not recorded at the time of the sale. According to the petitioners, this resulted in an offset to Huvis's open-account sales. The petitioners argue that the Department correctly removed the negative amounts from the denominator (monthly sales) because these amounts were related to L/C sales, and should not have been included in the credit period calculation for open-account sales. The petitioners contend that the Department correctly relied on the month-end balances as reported by Huvis in calculating credit period, because neither the beginning of the month balances, nor the monthly increase, were associated with open-account sales.

Moreover, the petitioners argue that the Department should recalculate credit period for all of

---

<sup>42</sup> See *Preliminary Results Calculation Memorandum for Huvis* (“*Calculation Memorandum*”), (May 31, 2005) at 4 and Attachment 3 at 4.

<sup>43</sup> See January 2005 SQR, at Appendix S-15.

<sup>44</sup> See September 2004 QR, at B-9.

Huvis's open-account home market sales. The petitioners claim that Huvis's inability to support its calculated credit period for certain customers suggests that Huvis's credit period calculation methodology is flawed. The petitioners assert that this provides a basis for the Department to apply partial facts available to all of Huvis's open-account sales.

*Department's Position:* We agree with the petitioners that, in the preliminary results, the Department correctly recalculated credit period for certain open account sales, pursuant to 19 CFR 351.401(c). These sales were related to L/C sales, and the negative amounts should not have been included in the credit period calculation for open-account sales. Accordingly, the Department will not make an adjustment to the preliminary calculation methodology for the final result.

However, the Department does not find a basis to recalculate the credit period for all of Huvis's open-account sales. Huvis submitted evidence regarding its credit period calculation for typical open-account sales and for the exceptional open-account sales in question. For the preliminary results, the Department adjusted the credit period for certain home market customers with exceptional open account sales activity. However, because additional information on the record supports Huvis's credit period calculation for other open-account sales,<sup>45</sup> for the final results, we have continued to rely on the respondent's credit period calculations for all open-account sales not adjusted in the Preliminary Results.

#### **Comment 4: SG&A Expense Ratio Calculations**

*Huvis's Argument:* Huvis asserts that the Department erred in the sales, general and administrative ("SG&A") expense ratio recalculations for two of Huvis's affiliated suppliers because the Department included exportation and bad debt expenses in the SG&A ratios.<sup>46</sup> Huvis explains that the affiliates' bad debt expenses were not related to the production or sale of terephthalic acid. Huvis also notes that the Department excluded bad debt from the SG&A ratio calculation in the 2001/02 and 2002/03 administrative reviews of this order.<sup>47</sup> Huvis contends that the previous decision to exclude bad debt expense was made pursuant to a verification by the Department's cost accountants.

Huvis claims that the exportation expenses reported by one of its affiliated suppliers were direct selling expenses related to export sales. Huvis argues that because Huvis is a domestic customer, its suppliers' exportation expenses should be excluded from the supplier's SG&A ratio

---

<sup>45</sup> See September 2004 QR, at Appendix B-5.

<sup>46</sup> See *Calculation Memorandum*, at 4, and Attachment 3 at 5-6.

<sup>47</sup> See January 2005 SQR, at 26; see also Memorandum to Neal Halper, *Cost of Production and Constructed Value Adjustments {for Huvis} for the Final Results (2<sup>nd</sup> Review)* ("COP/CV Memorandum"), October 6, 2003, at Attachment 2. Huvis did not place the *COP/CV Memorandum* on the record for this review.

calculation.<sup>48</sup> Huvis asserts that the Department routinely excludes direct selling expenses related to these types of sales, and has done so in previous reviews of this case.<sup>49</sup> Huvis contends that the Department should allow the bad debt and exportation expense offsets to the SG&A ratios, and should recalculate the affiliated suppliers' SG&A ratios.

*Petitioners' Argument:* The petitioners contend that the Department's preliminary methodology for recalculating SG&A expenses is correct. The petitioners point out that it is the Department's long-standing practice to rely on a respondent's company-wide audited financial statements to calculate SG&A.<sup>50</sup> Citing Softwood Lumber from Canada, the petitioners claim that by relying on company-wide financial results, the Department avoids distortions that, "may result if, for business reasons, greater amounts of company wide general expenses are allocated disproportionately between divisions."<sup>51</sup>

Regarding Huvis's argument that the SG&A recalculation methodology is a departure from methodology used in prior reviews, the petitioners contend that the CIT has affirmed the Department's authority to reinterpret its decisions, "if new arguments or facts support a different conclusion."<sup>52</sup> According to the petitioners, the Department must calculate antidumping margins based on record information. The petitioners argue that, in this review, Huvis did not provide sufficient information to support its claim that the "exportation expenses" were direct selling expenses. The petitioners assert that there is, therefore, no basis for Huvis to argue that the Department should change its preliminary methodology concerning the SG&A ratio recalculation.

*Department's Position:* We agree with Huvis that, consistent with the 2001-02 and 2002-03 administrative reviews of this order, bad debt expenses should be excluded from the SG&A ratio

---

<sup>48</sup> See January 2005 SQR, at 26.

<sup>49</sup> See 2001/02 PSF Administrative Review at Comment 6; see also Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India, 69 FR 76916, 76918 (December 23, 2004).

<sup>50</sup> See Department of Commerce Antidumping Questionnaire, ("DOC Antidumping Questionnaire") at Section D.13; see also Notice of Final Results of Antidumping Duty Administrative Review and Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada, 69 FR 75921 (December 20, 2004), and accompanying Issues and Decision Memorandum ("Softwood Lumber from Canada") at Comment 23 .

<sup>51</sup> Softwood Lumber from Canada at Comment 23.

<sup>52</sup> See Hoogovens Staal BV v. U.S.; see also Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1088 (CIT 1988).

calculation for both of Huvis's affiliated suppliers.<sup>53</sup> We note that the bad debt expenses of Huvis's affiliated suppliers are not related to the production or sale of the terephthalic acid (*i.e.*, the major input).<sup>54</sup> Accordingly, we have excluded bad debt expenses from the SG&A ratio for Huvis's affiliated suppliers, pursuant to section 773(e) of the Act.

We also agree with Huvis that exportation expenses should not be included in the SG&A ratio calculation because these expenses were direct selling expenses related to the affiliate's export sales. Because Huvis is a domestic customer, direct selling expenses incurred on export sales should not be included in the SG&A calculation for sales to Huvis.<sup>55</sup> In calculating SG&A, the Department routinely excludes direct selling expenses related to a different category of sales.<sup>56</sup> Thus, for the final results, we have excluded exportation expenses from the SG&A ratio of one of Huvis's affiliated suppliers.

### **Comment 5: Interest Earned on Deposits**

*Huvis's Argument:* Huvis argues that the Department should allow Huvis to deduct interest earned on retirement insurance deposits in its calculation of net interest expenses. Huvis claims that these annually recurring deposits are short-term because their maturity terms are limited to one year.<sup>57</sup> Huvis urges the Department to revise the final results by allowing Huvis to deduct this interest income from its net interest expense calculation.

*Petitioners' Argument:* The petitioners claim that the Department's correctly denied the "deposit for retirement insurance" deduction from Huvis's net interest expense calculation. The petitioners contend that the Department's questionnaire clearly states that a respondent may reduce the amount of interest expense incurred only for interest income earned on "short-term investments of its working capital."<sup>58</sup> The petitioners argue that despite their periodic nature, deposits for retirement insurance are not short-term investments. The petitioners assert that the Korean Generally Accepted Accounting Principles ("GAAP") require Huvis to make sufficient allowances for retirement benefits. Because Huvis cannot not freely divert these mandated deposits to satisfy its daily operational needs, these are not working capital.

---

<sup>53</sup> See 2001-02 PSF Administrative Review; see also Certain Polyester Staple Fiber from Korea: Final Results of Antidumping Duty Administrative Review and Final Determination to Revoke the Order in Part, 69 FR 61341 (October 18, 2004).

<sup>54</sup> See January 2005 SQR, at 26.

<sup>55</sup> See January 2005 SQR, at 26.

<sup>56</sup> See also 2001/02 PSF Administrative Review at Comment 6; and Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire from Taiwan, 64 FR 17336, 17338 (April 9, 1999).

<sup>57</sup> See January 2005 SQR, at 29.

<sup>58</sup> See DOC Antidumping Questionnaire, at Section D, Instruction for Field Number 20.0 (Net Interest Expense).

*Department's Position:* We agree with the petitioners that the “deposit for retirement insurance” deduction was properly excluded from Huvis's net interest expense calculation. Pursuant to section 773(b)(3) of the Act, it is the Department’s normal practice to deduct interest earned on short-term deposits of working capital from the net interest expense calculation.<sup>59</sup> In accordance with Korean GAAP, Huvis is not able to freely divert the “deposit for retirement insurance” funds and, thus, these funds are not working capital reserve that Huvis can use to meet its daily cash requirements (*i.e.*, payroll, suppliers, etc.). Accordingly, for the final results, we continue to deny this deduction from Huvis's net interest expense calculation.

## 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 this administrative review and the final weighted-average dumping margins for all firms reviewed in the Federal Register.

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

\_\_\_\_\_  
Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date

\_\_\_\_\_  
<sup>59</sup> See Final Results of Stainless Steel Sheet and Strip in Coils from Germany, 69 FR 75930 (December 20, 2004), and accompanying Issues and Decision Memorandum at Comment 2. See also Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of the Antidumping Duty Administrative Review 70 FR 3677 (January 26, 2005) and accompanying Issues and Decision Memorandum at Comment 11.