

DATE: May 13, 2010

MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty
Administrative Review on Certain Welded Stainless Steel Pipes
from the Republic of Korea – December 1, 2007, through
November 30, 2008

Summary

We have received comments from the respondent, SeAH Steel Corporation (SeAH), in the 2007-2008 administrative review of the antidumping duty order covering certain welded stainless steel pipes (WSSP) from the Republic of Korea (Korea). We did not receive comments from any other parties in this proceeding. After analyzing these comments, we have made changes in the margin calculations from the preliminary results. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments from SeAH:

General Issues

1. Offsetting of Negative Margins
2. Inclusion of Inventory Valuation Allowances in Cost of Production
3. Application of the Major Input Rule

Background

On January 7, 2010, the Department of Commerce (the Department) published the preliminary results of 2007-2008 administrative review of the antidumping duty order on WSSP from Korea. See Certain Welded Stainless Steel Pipes from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review, 75 FR 973 (Jan. 7, 2010) (Preliminary Results). The period of review (POR) is December 1, 2007, through November 30, 2008.

We invited parties to comment on our preliminary results of review. SeAH, the sole respondent in this proceeding, submitted a case brief. The petitioners did not submit comments.¹ After analyzing the comments received, we have changed the results from those presented in the preliminary results.

Margin Calculations

For the final results we have calculated constructed export price (CEP) and normal value (NV) using the same methodology stated in the preliminary results, except as follows. See Preliminary Results, 75 FR at 974.

- We revised the calculation of SeAH's general and administrative (G&A) expense ratio to exclude an inventory valuation loss shown in its 2008 financial statements. See Comment 2.

Discussion of the Issues

Comment 1: *Offsetting of Negative Margins*

In the preliminary results, we followed our standard methodology of not using non-dumped comparisons to offset or reduce the dumping found on other comparisons (commonly known as "zeroing"). SeAH argues that the Department has unlawfully continued to use zeroing when calculating its weighted-average antidumping duty margin.

SeAH states the Department's zeroing policy is inconsistent with the Department's Final Section 123 Determination in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification, 71 FR 77722 (Dec. 27, 2006) (Zeroing Notice). Further, SeAH cites to Chevron, U.S.A., Inc. v. Natural Res. Def. Council, 467 U.S. 837, 104 S. Ct. 2778 (1984) (Chevron), stating that the Department's post-Zeroing Notice interpretation of section 771(35) of the Tariff Act of 1930, as amended (the Act), cannot be sustained as reasonable. Specifically, SeAH alleges that the Department is unreasonably interpreting section 771(35) of the Act in diametrically opposite ways, as providing both for zeroing and for not zeroing in proceedings. SeAH contends that it is a well established principle of statutory construction that an agency should interpret identical statutory language consistently unless the statute indicates a different meaning is intended. As support for this assertion, SeAH cites RHP Bearings Ltd. v. United States, 288 F.3d 1334, 1346 (Fed. Cir. 2002) and SKF USA Inc. v. United States, 537 F.3d 1373, 1382 (Fed. Cir. 2008).² In this case, SeAH

¹ The petitioners are Bristol Metals, LLC, Felker Brothers Corporation, Marcegaglia USA, Inc., and Outokumpu Stainless Pipe, Inc.

² SeAH also cites the following cases in support of its argument: National Organization of Veterans' Advocates, Inc. v. Secretary of Veterans Affairs, 260 F.3d 1365, 1379 (Fed. Cir. 2001) (where the Court remanded an agency determination to allow the agency to provide a reasonable explanation for its decision to interpret virtually identical statutory language inconsistently); Former Employees of Merrill Corp. v. United States, 483 F. Supp.2d 1256, 1270 (CIT 2007) (where the Court remanded an agency determination to allow the agency to provide a reasonable explanation for applying different definitions of the same phrase); Sorensen v. Treasury, 475 U.S. 851, 860 (1986) (where the Court stated that "the normal rule of statutory construction assumes that 'identical words used

argues that the Department's inconsistent interpretation of the same provision is unreasonable and unlawful.

SeAH further states that the U.S. Court of Appeals for the Federal Circuit (CAFC) expressly rejected the argument that section 771(35) of the Act should be read as providing for zeroing in administrative reviews but not in investigations. See Corus Staal BV v. Department of Commerce, 395 F.3d 1343, 1347 (Fed. Cir. 2005), cert. denied, 546 U.S. 1089 (2006) (Corus I). SeAH notes that in Corus I, the CAFC held that section 771(35) of the Act was the only statutory provision relevant to the question of zeroing and that there was no basis to interpret this section differently in investigations than in administrative reviews. As a result, while SeAH concedes that the CAFC has found that the Department's "zeroing" practice is within its discretion in Timken Co. v. United States, 354 F.3d 1334, 1341-2 (Fed. Cir. 2004) (Timken), cert. denied sub nom Koyo Seiko Co. v. United States, 543 U.S. 976 (2004), SeAH claims that the Department's new statutory interpretation in the Zeroing Notice, which provides for the use of zeroing in administrative reviews but not investigations, is unreasonable.

Finally, SeAH contends that nothing in the statute or legislative history of section 771(35) of the Act supports the Department's reading of the statute, which SeAH describes as giving the statutory term "weighted-average dumping margin" in section 771(35)(B) of the Act different meanings between investigations and administrative reviews. SeAH asserts that the Department has not articulated plausible policy grounds for these inconsistent interpretations, and it should therefore recalculate SeAH's dumping margin for purposes of the final results without the use of zeroing.

The petitioners did not comment on this issue.

Department's Position:

We have not changed the methodology for calculating the weighted-average dumping margin, as suggested by SeAH, in these final results.

Section 771(35)(A) of the Act defines "dumping margin" as the "amount by which the normal value exceeds the export price (EP) or CEP of the subject merchandise" (emphasis added). Outside the context of antidumping investigations involving average-to-average comparisons, the Department interprets this statutory definition to mean that a dumping margin exists only when NV is greater than EP or CEP. As no dumping margins exist with respect to sales where NV is equal to or less than EP or CEP, the Department will not permit these non-dumped sales to offset the amount of dumping found with respect to other sales. The CAFC has held that this is a reasonable interpretation of section 771(35) of the Act. See, e.g., Timken, 354 F.3d at 1342; and Corus I, 395 F.3d at 1347-49.

Section 771(35)(B) of the Act defines weighted-average dumping margin as "the percentage determined by dividing the aggregate dumping margins determined for a specific exporter or

in different parts of the same act are intended to have the same meaning"); and Altx Inc. v. United States, 167 F. Supp.2d 1353 (CIT 2001).

producer by the aggregate export prices and constructed export prices of such exporter or producer.” The Department applies these sections by aggregating all individual dumping margins, each of which is determined by the amount by which NV exceeds EP or CEP, and dividing this amount by the value of all sales. The use of the term aggregate dumping margins in section 771(35)(B) of the Act is consistent with the Department’s interpretation of the singular “dumping margin” in section 771(35)(A) of the Act as applied on a comparison-specific level and not on an aggregate basis. At no stage of the process is the amount by which EP or CEP exceeds the NV permitted to offset or cancel out the dumping margins found on other sales.

This does not mean that non-dumped transactions are disregarded in calculating the weighted-average dumping margin. It is important to note that the weighted-average margin will reflect any non-dumped transactions examined during the POR; the value of such sales is included in the denominator of the weighted-average dumping margin, while no dumping amount for non-dumped transactions is included in the numerator. Thus, a greater amount of non-dumped transactions results in a lower weighted-average margin.

We disagree with SeAH that the Department’s interpretation of section 771(35) of the Act, with respect to zeroing, is improper. In Chevron, the U.S. Supreme Court explained that, when the language and congressional intent behind a statutory provision is ambiguous, an administrative agency has discretion to reasonably interpret that provision, and that different interpretations of the same provision in different contexts is permissible. See Chevron, 467 U.S. at 864.

The CAFC has found the language and congressional intent behind section 771(35) of the Act to be ambiguous. See Timken, 354 F.3d at 1341-2. Furthermore, antidumping investigations and administrative reviews are different proceedings with different purposes. Specifically, section 777A(d)(1) of the Act specifies particular types of comparisons that may be used in investigations to calculate dumping margins and the conditions under which those types of comparisons may be used, while for administrative reviews these comparisons are reflected in section 777A(d)(2) of the Act. The Department’s regulations further clarify the types of comparisons that will be used in each type of proceeding. See 19 CFR § 351.414. In antidumping investigations, the Department generally uses average-to-average comparisons, whereas in administrative reviews the Department generally uses average-to-transaction comparisons. See 19 CFR § 351.414(c). The purpose of the dumping margin calculation also varies significantly between antidumping investigations and reviews. In antidumping investigations, the primary function of the dumping margin is to determine whether an antidumping duty order will be imposed on the subject imports. See sections 735(a) and (c), and 736(a) of the Act. In administrative reviews, in contrast, the dumping margin is the basis for the assessment of antidumping duties on entries of merchandise subject to the antidumping duty order. See section 751(a) of the Act. Because of these distinctions, the Department’s limiting of the Zeroing Notice to antidumping investigations involving average-to-average comparisons does not render its interpretation of section 771(35) of the Act in administrative reviews improper. Therefore, because section 771(35) of the Act is ambiguous, pursuant to Chevron, the Department may interpret that provision differently in the context of antidumping investigations involving average-to-average comparisons than in the context of administrative reviews.

Finally, SeAH's reliance on Corus I is misplaced. The CAFC in Corus I did not hold, as the respondent alleges, that section 771(35) of the Act could not be interpreted differently in antidumping investigations and administrative reviews. Rather, after acknowledging that antidumping investigations and administrative reviews were different proceedings, the CAFC held that the Department's zeroing methodology was equally permissible in either context. See Corus, 395 F.3d at 1347. Moreover, the CAFC has affirmed the Department's denial of offsets in the context of administrative reviews. See Corus Staal BV v. United States, 502 F.3d 1370 (Fed. Cir. 2007) (Corus II). Specifically, the CAFC found that the Zeroing Notice had no effect on the Department's ability to deny offsets in administrative reviews, and that, thus, the judicial precedent upholding the Department's zeroing methodology in administrative reviews remains binding.³ Following that precedent, the Court of International Trade recently rejected Union Steel's identical interpretation of Corus I in the context of the thirteenth administrative review. See Union Steel v. United States, 645 F. Supp. 2d 1298, 1309 (CIT 2009).

For the foregoing reasons, we have not changed the methodology employed in calculating SeAH's weighted-average dumping margins for purposes of the final results of this administrative review.

Comment 2: *Inclusion of Inventory Valuation Allowances in Cost of Production*

In the preliminary results, we included an inventory valuation loss recognized by SeAH in its 2008 financial statements in the calculation of its general and administrative (G&A) expense ratio. SeAH argues that the Department erroneously included this amount and should exclude it for purposes of the final results.

According to SeAH, the "loss" at issue is not an actual loss; rather, it is an allowance SeAH recorded in a balance sheet inventory contra account to recognize the difference between the year-end inventory value of raw materials and work-in-process (WIP) recorded at historical cost and the current (lower) market price. SeAH claims that this "lower of cost or market" (LCM) adjustment is required by Korean generally accepted accounting principles (GAAP) as a conservative financial statement presentation measure. According to SeAH, while it records and accumulates the LCM adjustment in a contra account, it does not write down its inventory. Instead, SeAH states that it continues to calculate its cost of production (COP) using the historical costs recorded in its cost accounting system. SeAH argues that, because its cost of manufacture (COM) reflects the actual historical costs of raw materials and WIP, including the LCM adjustment in G&A would overstate its COP.

SeAH agrees with the Department's reasoning for including inventory valuation losses when a company actually writes down its inventory. SeAH cites the Final Results of the Antidumping Review: Stainless Sheet and Strip in Coils from Mexico, 69 FR 6259 (Feb. 10, 2004), and accompanying Issues and Decision Memorandum at Comment 14, where the Department explained its decision to include inventory write-downs on raw materials and WIP (stating, "{w}e note that both raw materials and WIP inventories are inputs into the cost of manufacturing

³ See Corus II, 502 F.3d at 1375. See also SNR Roulements v. United States, 521 F. Supp. 2d 1395, 1398 (CIT 2007) (finding that, regardless of the Zeroing Notice, no changed circumstances have occurred with respect to zeroing in administrative reviews).

the merchandise. It is the Department's practice to recognize the full amount paid to acquire production inputs, which are included in raw materials and WIP inventories in determining the cost of producing subject merchandise."').⁴ SeAH agrees that, if it had adjusted its raw material and WIP inventory, it would be appropriate to include the LCM adjustment in G&A or as some part of the COP. However, SeAH argues that, because it does not write down its inventory, but instead uses the actual cost of the raw materials and WIP in the calculation of the COP, no adjustment is required to capture the LCM adjustment. Therefore, SeAH argues that the Department should remove the allowance from the calculation of SeAH's COP for purposes of the final results.

The petitioners did not comment on this issue.

Department's Position:

We agree with SeAH that the LCM adjustment should not be included in the calculation of SeAH's COP in this case.

Consistent with section 773(f)(1)(A) of the Act, it is the Department's practice to rely upon a company's normal books and records when they are prepared in accordance with the home country's GAAP and reasonably reflect the cost of producing and selling the subject merchandise. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from France, 67 FR 3143 (Jan. 23, 2002), and accompanying Issues and Decision Memorandum at Comment 13. In this case, SeAH's reported costs are based on its normal books and records and are in accordance with Korean GAAP. Because SeAH did not directly write down its inventory values and continued to use its actual inventory historical costs in calculating production costs in its normal books and records, we find that SeAH's reported costs reasonably reflect the cost of producing and selling the merchandise under consideration.

We note that the Department's normal practice is to include write-downs of raw material and WIP inventory in COP when the inventory is actually written down. See, e.g., Cold-Rolled Steel from Taiwan at Comment 8 (where we stated, "CSC's claim that the Department's treatment will ultimately result in double-counting these costs is unsupported. These costs will only be included in the income statement one time. When the items are used in production, they will be recorded at the lower values to which they were adjusted.'). Thus, when a company writes down its inventory and actually uses the lower valued inventory in a subsequent period to calculate its COP, to not include the write-down would result in these costs never being recognized.

We recognize, however, that the facts of this case are distinguishable from the facts in the cases cited above. In the instant case, the actual historical cost of inventory is recognized in SeAH's

⁴ SeAH also cites Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Taiwan, 65 FR 34658 (May 31, 2000) (Cold-Rolled Steel from Taiwan), and accompanying Issues and Decision Memorandum at Comment 8 (where the Department included a write-down because the company in question had reduced the inventory value by the amount of the write-down in its cost accounting system); and Notice of Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above (DRAMs) From Taiwan, 64 FR 56308 (Oct. 19, 1999) (where the Department included write-downs associated with raw materials and WIP in COP but not write-downs associated with finished goods).

normal books and records when consumed. Therefore, because SeAH's normal accounting records and its reported costs reflect the historical cost of the raw materials and WIP, the Department has determined that there is no need to adjust them in the final results of this administrative review.

Comment 3: Application of the Major Input Rule

During the POR, SeAH purchased stainless steel hot-rolled coils from an affiliated party, the Pohang Iron and Steel Company (POSCO). In the preliminary results, we applied the major input rule pursuant to section 773(f)(3) of the Act and tested the transfer price for these coils against both the average price that POSCO charged to unaffiliated purchasers for the same product and POSCO's costs. Because we found that the market price was higher for one grade of coil than both the transfer price and the cost, we adjusted the reported amounts to reflect the market value.

SeAH claims the Department's application of the major input rule in the preliminary results was flawed because it failed to take into account the basis upon which POSCO sets its prices for stainless steel hot-rolled coils. Specifically, SeAH maintains that POSCO takes into consideration a number of factors when setting its sales price⁵ and therefore SeAH argues that the Department should determine the average market price charged by POSCO using only a subset of its total sales of hot-rolled coils in order to make an apples-to-apples comparison between transfer price and market price. SeAH argues that the Department's decision to ignore these factors is unreasonable and should be reversed in the final results.

The Department's discussion of SeAH's rationale is limited by the proprietary nature of the factors. Therefore, a full discussion of this issue, including the proprietary information, is contained in the May 13, 2010, Memorandum from Laurens van Houten, Accountant, to Neal Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final Results – SeAH Steel Corporation."

The petitioners did not comment on this issue.

Department's Position:

We disagree with SeAH and continue to find our analysis, as set forth in the preliminary results, warrants an adjustment to COM under the major input and transactions disregarded provisions.

As set forth in section 773(f)(2) of the Act, a transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration. Section 773(f)(3) of the Act governs the major input rule, which applies to transactions of a significant input between affiliated parties. In such instances where we have reasonable grounds to believe or suspect that

⁵ Because SeAH claimed business proprietary treatment for these factors, we are unable to disclose them publicly here. For purposes of this document, we have referred to these factors collectively as "the proprietary reason."

an amount represented as the value of such input is less than the cost of production of such input, the Department may determine the value of the major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under the transaction disregarded rule. As reflected in the Department's regulations at 19 CFR 351.407(b), for any major inputs purchased from affiliated parties, the Department normally compares the transfer price and the market price to the affiliated supplier's COP and adjusts the reported costs to reflect the highest of these three amounts. See, e.g., Notice of Final Determination of Sales at Not Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate (PET) Resin from Taiwan, 70 FR 13454 (Mar. 21, 2005).

During the POR, SeAH purchased four grades of stainless steel hot-rolled coil from an affiliate, POSCO, for use in the manufacture of stainless steel pipe. We relied on POSCO's total quantity and value of sales to unaffiliated home market customers for the market price. When we compared the price SeAH paid for the four stainless steel hot-rolled coil grades with the average sales price for which POSCO sold the same grades of coil to unaffiliated Korean customers, we found that the transfer price was at or above the market price for three of the four grades of stainless steel hot-rolled coil and, therefore, no adjustment was necessary. However because we found that the market price was greater than the transfer price for one grade of stainless steel hot-rolled coil, for the preliminary results, we made an adjustment to SeAH's reported COM to account for the difference in price. See the December 31, 2009, Memorandum from Laurens van Houten, Accountant, to Neal Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – SeAH Steel Corporation."

SeAH did not have its own purchases of stainless steel hot-rolled coils from unaffiliated suppliers that could serve as the market price. Thus, SeAH provided the sales by POSCO of stainless steel hot-rolled coils to unaffiliated customers to establish a market price for those coils. Initially, POSCO limited the sales it reported. On November 7, 2009, we issued SeAH a supplemental questionnaire in which we asked it to "provide the **total** quantity and value of hot-rolled stainless steel coils POSCO sold to all unaffiliated home market customers during the POR for each grade sold to SeAH." SeAH responded with sales by POSCO of stainless steel hot-rolled coils to all unaffiliated customers in the market under consideration on November 19, 2009. While our preference is to use the respondent's own purchase price transactions as the benchmark unaffiliated price (*i.e.*, market price), we recognize in this case SeAH did not have purchases from unaffiliated suppliers. See, e.g., Silicomanganese from Brazil: Final Results of Antidumping Duty Administrative Review 69 FR 13813 (Mar. 24, 2004), and accompanying Issues and Decision Memorandum at Comment 4, where we stated that "if the respondent did not make any purchases of the input from unaffiliated parties during the POR, the Department's next preference is to use the price at which the affiliated parties sold the input to unaffiliated purchasers in the market under consideration."

According to SeAH, POSCO takes into consideration a number of factors in setting its sales price, and therefore SeAH argues that the Department should limit the universe of POSCO's sales to unaffiliated customers used in its major input analysis in order to make an apples-to-apples comparison between transfer price and market price. However, SeAH's proposed limitation has never been the standard relied upon by the Department in applying the major input

rule. Neither the Act at sections 773(f)(2) and (3), the Statement of Administrative Action, accompanying the Uruguay Round Agreements Act (URAA), H.R. Rep. No. 103-316, 870 (1994), the preamble to the regulations, nor the regulations themselves at 19 CFR 351.407(b) contemplate the analysis suggested by SeAH. Moreover, SeAH has not provided any case cite to support its arguments to limit the universe of sales included in the calculation of market price.

We also disagree with SeAH's statement in its case brief that there is undisputed record evidence that shows that POSCO takes into account a number of factors in setting its sales price including "the proprietary reason." The Department has no way of knowing POSCO's intent in its private deliberations when setting prices for the specific transactions at issue. Furthermore, there is no information on the record to suggest that "the proprietary reason" would necessarily result in certain customers always receiving different treatment. Similarly, there is no information on the record concerning which selling functions were performed by POSCO and whether any such different selling functions could have led to price differences.

POSCO provided a worksheet in Exhibit 1 of its November 2, 2009, response to section D of the questionnaire which shows several sales by POSCO to unaffiliated suppliers. POSCO provided its sales to all unaffiliated customers in Exhibit D-5 of its November 19, 2009, supplemental section D response. These two worksheets do not list the names of the unaffiliated customers, nor were the sales grouped in any way. In fact, there is no record evidence of the price differences because of "the proprietary reason" other than SeAH's claims that such differences exist and should be taken into consideration.⁶ Furthermore, there is no detailed sales information on the record concerning POSCO's sales to unaffiliated customers. Thus, we find that the record evidence does not support SeAH's argument.

The transactions disregarded and major input analysis is used to measure the preferential treatment, if any, given to SeAH by POSCO for purchases of stainless steel hot-rolled coil during the POR. In applying the major input rule, we require that the average affiliated party prices for the POR are above the average affiliate's cost of production for the POR and the average market prices. See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Fifteenth Administrative Review, 75 FR 13490 (Mar. 22, 2010), and accompanying Issues and Decision Memorandum at Comment 7. The Department has a practice of using the total average sales price from unaffiliated suppliers during the POR to calculate a market price. See, e.g., Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from Germany, 71 FR 42802 (July 28, 2006), and accompanying Issues and Decision Memorandum at Comment 11 (where we stated that "we continued to compare the average transfer price of BGH's affiliated purchases to the average unaffiliated purchase prices for Fe-Cr and other scrap and alloy inputs"). The Department's practice is set forth in the section D antidumping questionnaire, at question II.A.7, which requires that companies report total average prices paid to unaffiliated suppliers. See pages 7 and 8 of the April 20, 2009, section D

⁶ As support for its argument that POSCO takes a number of factors into consideration when setting prices for sales to SeAH and to other Korean customers, SeAH cites a passage in a verification report issued by the Department in the 2006-2007 administrative review of this order. See SeAH's February 12, 2010, case brief at page 15. We disagree with SeAH that POSCO's pricing practices were verified in the previous administrative review. Contrary to SeAH's assertions, the verification report makes no findings with respect to POSCO's pricing practices. Rather, it merely repeats a statement made by a POSCO official regarding the factors that POSCO may consider when pricing its products.

response. If there are no purchases from unaffiliated suppliers but the affiliated supplier sells the identical product to other customers in the market under consideration, the Department requests that companies report the average prices paid by the unaffiliated customers. Id.

We continue to find that using all sales to unaffiliated purchasers in the market under consideration provides a reasonable basis for determining market value. This POR average price to unaffiliated purchasers provides a reasonable measure of the value of the commodity in the market under consideration since it quantifies what unaffiliated purchasers have paid for the commodity during the period. Sections 773(f)(2) and (3) of the Act do not explicitly direct the Department to apply a particular methodology in determining market price. Thus, because the statute is silent and Congress has not directly spoken to the issue, the Department is permitted to determine a reasonable methodology for establishing market price. The Department's approach in this proceeding has been consistently applied by the agency, is predictable, is based on record evidence, and results in a reasonable reflection of market prices for purposes of the major input rule.

For the foregoing reasons, we have continued to use the entire universe of sales of stainless steel hot-rolled coils by POSCO to unaffiliated Korean customers in our major input analysis and have continued to adjust the cost of one grade of coil to reflect the market price for purposes of the final results.

Recommendation

We recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results and SeAH's final weighted-average dumping margin in the Federal Register.

Agree _____

Disagree _____

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

Date