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

FROM: Jeffrey A. May
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Certain Polyester Staple Fiber from the Republic of Korea for the period May 1, 2002 through April 30, 2003

SUMMARY

We have analyzed the case briefs and rebuttal brief of interested parties in the third administrative review of polyester staple fiber from the Republic of Korea ("Korea"). **As a result of our analysis, we have made changes in the margin calculations. 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 by parties:

- Comment 1: Inclusion of Indirect Selling Expenses in Saehan's G&A Calculation
- Comment 2: Inclusion of Non-Operating Gains and Losses in Saehan's G&A Calculation
- Comment 3: Calculation of Saehan's Net Interest Expense Ratio
- Comment 4: Clerical Errors in Saehan's Preliminary Margin Calculations
- Comment 5: Huvis' Reported Credit Expenses on Home Market Sales
- Comment 6: Huvis' Home Market Short-Term Interest Rate

BACKGROUND

On June 2, 2004, the Department of Commerce ("the Department") issued the preliminary results of the third administrative review of the antidumping duty order on polyester staple fiber ("PSF") from Korea. See Certain Polyester Staple Fiber from Korea: Preliminary Results of Antidumping Duty

Administrative Review, Partial Rescission of Review and Preliminary Notice of Intent to Revoke, in Part, 69 FR 32497 (June 10, 2004) (“Preliminary Results”). The period of review (“POR”) is May 1, 2002, through April 30, 2003.

We invited parties to comment on the preliminary results of the review. On July 12, 2003, Arteva Specialties S.a.r.l., d/b/a KoSa, and Wellman, Inc. (collectively “the petitioners”), and the respondents, Saehan Industries, Inc. (“Saehan”) and Huvis Corporation (“Huvis”), filed case briefs. On July 19, 2003, Huvis filed a rebuttal brief.

Comment 1: Inclusion of Indirect Selling Expenses in Saehan’s G&A Calculation

Saehan argues that when the Department re-calculated its general and administrative (“G&A”) expense ratio in the Preliminary Results, the Department failed to deduct indirect selling expenses which Saehan had already reported in its sales data. Saehan argues “double-counting” indirect selling expenses is contrary to the Department’s longstanding practice to maintain cost and sales data separately.

For the final results, Saehan argues that the Department must calculate a G&A ratio that is not only based on a respondent’s books and records, but is also “reasonable.” See American Silicon Techs. v. United States, 334 F.3d 1033, 1037 (Fed. Cir. 2003). To achieve this goal, Saehan contends that the Department must examine “the nature of the activity generating the income or expense and the relationship between the activity and the principal operations of the company.” See Final Results of Redetermination Pursuant to Court Remand, U.S. Steel Group v. United States, Court No. 95-09-01144 at Comment 1. Only income and expenses closely related to the company’s core business should be included in the G&A calculation. See also 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, 56325 (October 19, 1999) (“DRAMs from Taiwan”). Saehan argues that the recalculated G&A ratio used by the Department in the Preliminary Results was unreasonably high. For the final results Saehan asks that the Department not double-count indirect selling expenses and exclude items not associated with Saehan’s core business.

Saehan contends it appropriately calculated all relevant expenses by separating the indirect selling expenses from the G&A expense calculation. Saehan argues that the reporting of expenses as either G&A expenses or indirect selling expenses was based on its accounting records used in the ordinary course of business. To tabulate the indirect selling expenses, Saehan identified the sales, general and administrative (“SG&A”) expenses for its fiber division, the division responsible for the selling and producing of PSF. Next, Saehan asserts that it deducted movement and direct selling expenses and administrative expenses, which it labeled as “indirect selling part” and “common expenses.”¹ Because

¹The types of expenses identified by Saehan as “indirect selling part” and “common expenses” are proprietary.

they are administrative in nature, Saehan argues that it appropriately classified these as G&A expenses rather than indirect selling expenses. In its calculation of G&A, Saehan included the G&A expenses identified as “indirect selling part” and “common expenses” from the PSF division, as well as from the company’s other two divisions, the textile division and the environmental materials division, *i.e.*, on a company-wide basis.

Saehan states that compared with the G&A ratio the Department calculated in the Preliminary Results (based on Saehan’s fiscal year 2002 financial statements), the G&A ratio calculated from Saehan’s 2003 financial statements is “drastically” lower. Saehan argues that G&A expenses are period costs and should not “radically” differ from one year to the next, unless there is some distortion in the calculation. The differential, in Saehan’s estimation, is indicative of the Department’s distorted and irrational G&A calculation in the Preliminary Results.

Saehan argues that the use of divisional indirect selling expenses is consistent with Department practice. See Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From South Korea, 65 FR 41437 (July 5, 2000) and accompanying Issues and Decision Memorandum at Comment 5; Oil Country Tubular Goods from Mexico: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke in Part, 65 FR 54998 (September 12, 2000); Notice of Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from Taiwan, 65 FR 16877 (March 30, 2000) and accompanying Issues and Decision Memorandum at Comment 22, where the Department accepted the respondent’s indirect selling expenses based upon expenses incurred from its selling division.

Additionally, Saehan argues that it is Department practice to distinguish between indirect selling and G&A expenses and not double count them. Although selling expenses, *i.e.*, those incurred in the sale and distribution of goods and services, and G&A expenses, *i.e.*, expenses related to the general operations of a company and not related to sales, are both typically recorded in the SG&A portion of a company’s income statement, they are treated differently by the Department. Saehan argues that the Department does not include the same expenses in both the sales and cost data of its analysis. Citing to previous cases, Saehan contends that the Department also does not include G&A expenses in the calculation of indirect selling expenses or vice versa. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 63 FR 20585, 20598 (April 27, 1998) at Comment 17; Drycleaning Machinery from West Germany, 50 FR 1256, 1259 (January 10, 1985); Notice of Final Determination of Sales at Less Than Fair Value: Cold-Rolled Flat Products from Germany, 67 FR 62116 (October 3, 2002) and accompanying Issues and Decision Memorandum at Comment 18.

Finally, Saehan contends that the Department has consistently acted to ensure that no expenses are double-counted in its analysis. Saehan cites Fresh Garlic from the PRC and Tetrahydrofurfuryl Alcohol from the PRC, in which the Department adjusted its calculations to ensure that there was no double-

counting of the surrogate financial ratios and an overhead expense, respectively. See Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 69 FR 33626 (June 16, 2004) (“Fresh Garlic from the PRC”) and accompanying Factors of Production Memorandum, and Notice of Preliminary Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol from the People's Republic of China, 69 FR 3887 (January 27, 2004) (“Tetrahydrofurfuryl Alcohol from the PRC”). Saehan also argues that the Court of International Trade has remanded cases to the Department because the Department's calculations contained known, impermissible double-counting. See Pohang Iron and Steel Co., Ltd. v. United States, 24 CIT 566 (July 6, 2000). Accordingly, Saehan urges the Department to revise the G&A calculation by deducting indirect selling expenses that Saehan reported in its sales data.

The petitioners did not comment on this issue.

Department's Position:

We agree with Saehan that indirect selling expenses should not be double-counted, and for the final results have revised the G&A expense ratio to exclude indirect selling expenses related to the sale of PSF. While Saehan is correct that the Department will calculate indirect selling expenses on a divisional basis, G&A expenses are calculated on a company-wide basis. In supplemental questionnaires, we asked Saehan to provide a breakdown of SG&A expenses and explain how each line item was allocated between selling and G&A. Many of the items classified by Saehan as indirect selling expenses are not expenses that the Department would typically consider to be indirect selling expenses. Because the allocation of the SG&A expenses is proprietary information, specific details cannot be provided in this memorandum. However, as a whole we find that Saehan's allocation of the expenses reported as SG&A expenses on Saehan's income statement overstated the amount attributable to indirect selling expenses. To avoid double-counting, for the final results we have excluded the indirect selling expenses that Saehan allocated to the PSF division from the total G&A expense ratio. **The remaining** SG&A expenses classified by Saehan as indirect selling expenses, but which we find to be G&A expenses, were included in the G&A expense ratio calculation. See **Memorandum to the File**, “Final Results Calculation Memorandum for **Saehan Industries Co.,**” dated October 8, 2004 (“Saehan Calculation Memorandum”).

Comment 2: Inclusion of Non-Operating Gains and Losses in Saehan's G&A Calculation

In the Preliminary Results, the Department included certain non-operating income and expense items in the G&A ratio calculation that had been omitted in Saehan's original calculation. Saehan argues that these items should be excluded from the G&A calculation for the final results.

First, Saehan argues that the Department does not include gains and losses associated with security-related investments in the G&A calculation. Therefore, for the final results income and expenses related to security-related investments must be excluded from the G&A calculation. See Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Korea, 60 FR 33561, 33567 (June

28, 1995) (“OCTG Korea”); Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from France, 64 FR 30820, 30837 (June 8, 1999); Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Canada, 67 FR 55782 (August 30, 2002). Saehan contends that in addition to the Department’s long-standing practice not to include these expenses in the G&A calculation, Saehan specifically identified the excluded dividend income, gains and losses on disposition of investment assets, gains and losses on investment security impairment and reversal of loss on investment as “investment activities.” Thus, for the final results the Department should exclude gains and losses associated with security-related investments from the G&A expense calculation.

Second, Saehan contends that the Department should exclude losses on finished goods inventory from the G&A calculation. Saehan argues that this is an expense that the Department does not typically include in the G&A expense calculation, and should not do so in this case. See Stainless Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 69 FR 19153 (April 12, 2004), and accompanying Issues and Decision Memorandum at Comment 7; DRAMs From Taiwan at 56325.

Third, Saehan argues that losses associated with the disposal of business units should not be included in the G&A expense calculation. Saehan states that it incurred losses when it sold three separate business units that were unrelated to the production of the subject merchandise or any of Saehan’s ongoing general operations. Citing the Statement of Administrative Action (“SAA”), Saehan argues that these losses should be excluded from its G&A calculation because they were not “representative . . . of the material, labor, and other costs, including financing costs, incurred to produce the subject merchandise, or the foreign like product.” SAA, H.R. Rep. No. 316 at 835. Furthermore, Saehan contends that the losses should be excluded because the sale of these companies was a significant business activity warranting separate treatment, not a routine sale of an asset. Saehan argues that non-recurring income or losses generated from the sale of lines of business unrelated to the company’s normal business operations are excluded by the Department in the G&A calculation. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Korea, 67 FR 73196, 73210 (December 29, 1999); Polyethylene Terephthalate Film, Sheet and Strip From Korea: Final Results of Antidumping Duty Administrative Review, 66 FR 57417 (November 15, 2001) and accompanying Issues and Decision Memorandum at Comment 1; Certain Hot-Rolled Lead and Bismuth Carbon Steel Flat Products from the United Kingdom: Final Results of Antidumping Duty Administrative Review, 60 FR 44009, 44012 (August 24, 1995). Because the expenses associated with the sale of the three business units were non-recurring and not part of its primary business activities, Saehan argues that the Department should exclude the expenses from the G&A calculation.

Should the Department decide not to exclude the entire loss from the sale of these business units, Saehan argues that a significant portion of the losses should be excluded because they are losses on items that the Department normally excludes from the G&A calculation, namely losses on accounts receivables, selling activities and finished goods inventory. See Notice of Final Determination of Sales

at Less Than Fair Value: Stainless Steel Bar from Taiwan, 67 FR 3152 (January 23, 2002); Stainless Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 69 FR 19153 (April 12, 2004), DRAMs From Taiwan at 56325.

Fourth, Saehan argues that the so-called “donation” expenses associated with a real estate investment should not be included in the G&A calculation because they are properly considered investment activities. Saehan contends that the expenses were incurred as a requirement to proceeding with a real estate investment project. Initially, the expenses for the project were cumulated and charged to a construction-in-progress account and were transferred in 2002, when Saehan ceased implementation of the project, to the line item “donation” in its financial statements. Saehan alleges that these expenses stemmed from real estate investments, were not designed to expand Saehan’s production operations, are not related to Saehan’s core business activities and, as such, argues that they should be excluded from the G&A calculation. Saehan contends that the Department does not include income and losses from investments in the G&A calculation and should apply the same principle with respect to Saehan’s real estate investments. See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, 67 FR 55780 (August 30, 2002); OCTG from Korea at 33567; Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada, 67 FR 15539 (April 2, 2002). Furthermore, Saehan states that these expenses were not typical voluntary donations and were incurred in order to obtain licenses and permits needed to profit from an investment. Citing Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From France, 64 FR 30820, 30837 (June 8, 1999), Saehan argues that the Department should not treat these as voluntary expenditures in the G&A calculation.

If the Department chooses not to exclude the entire amount of donation expenses, then Saehan contends that it should at least exclude the donation expenses it incurred prior to 2002. Saehan explains that the amount recognized in the donation account is the cumulated costs for a four-year period, beginning in 1999. Citing Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Mexico, 67 FR 55800 (August 30, 2002), Saehan argues that, because a portion of the expenses was incurred in years prior to 2002, Saehan argues that these expenses should not be included in the G&A calculation because they have no relation to the costs of producing and selling PSF products during the POR. See also Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From the United Kingdom, 67 FR 3146 (January 23, 2002) and accompanying Issues and Decision Memorandum at Comment 4.

Finally, Saehan addresses its expenses related to losses on tangible asset impairment related to real estate investment projects. Saehan argues that the disposition of real estate assets was unrelated to the core operations of the company and, therefore, should be excluded from the G&A calculation. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Korea, 67 FR 62124 (Oct. 3, 2002) and accompanying Issues and Decision Memorandum at Comment 15; Sweaters Wholly or in Chief Weight of Man-Made Fiber from the

Republic of Korea, 55 FR 32659 (August 10, 1990).

Saehan argues that should the Department reject Saehan's argument to exclude the entire amount of the losses on tangible asset impairment, the Department should exclude the losses incurred prior to the 2002 fiscal year. This, Saehan argues, would be consistent with Department practice of excluding per-period expenses from the G&A calculation.

The petitioners did not comment on these issue.

Department's Position:

We agree with Saehan, in part, and have excluded some non-operating gains and losses from Saehan's G&A expense calculation for the final results. Saehan is correct that the Department does not usually include gains and losses related to security-related investments **and losses on write-down of finished goods inventory in the G&A calculation. For the final results we have revised the G&A calculation to exclude these items. See Saehan Calculation Memorandum.**

With respect to Saehan's losses associated with the disposal of the three business units, we find that these losses should also be excluded from the G&A expense calculation. During the POR, Saehan disposed of three business units that were distinct and separate lines of business from the subject merchandise. When determining if an activity is related to the general operations of the company, the Department considers the nature, the significance, and the relationship of that activity to the general operations of the company. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Korea, 67 FR 73196, 73210 (December 29, 1999). Saehan is in the business of manufacturing and selling merchandise, not selling entire factories or business units. Prior to disposal, these business units (i.e., film processing, textiles, and water purification) had ongoing operations related to the production and sale of non-subject merchandise. Routine sales of machinery and equipment are a normal part of ongoing operations for a manufacturing company and, accordingly, any resulting gains or losses are normally included as part of the G&A rate calculation. However, the sale of a fully functioning plant or business unit is a significant transaction, both in form and value, and the resulting gain or loss generates non-recurring income or losses that are not part of a company's normal business operations and are unrelated to the general operations of the company. See Polyethylene Terephthalate Film, Sheet and Strip From Korea: Final Results of Antidumping Duty Administrative Review, 66 FR 57417 (November 15, 2001) and accompanying Issues and Decision Memorandum at Comment 1. Therefore for the final results, we have not included the losses from the disposal of these three business units in the G&A ratio calculation.

We disagree with Saehan that donations should be excluded from the G&A calculation. In its normal books and records, Saehan reported these donations as expenses. It is standard Department practice to treat expenses as they are reported in the company's normal books and records. Furthermore,

despite the underlying reasons for the donations, they were made in good faith and are consistent with typical, albeit generous, donation expenses. As such, we have continued to include the donation expenses in the G&A calculation for the final results.

In regard to the losses on tangible asset impairment related to real estate projects, we agree with Saehan that these projects were related to real estate investment activities. That is, as a result of the significant decline in the Korean real estate market, certain of Saehan's real estate investment holdings lost value and, thus, were written down in value. These real estate holdings are not related to Saehan's ongoing manufacturing operations and, thus, should be excluded from the cost of producing subject merchandise. The Department's practice is to exclude gains or losses related to investment activities which are not associated with the core business of the company. See Notice of Final Results of Sales at Less Than Fair Value: Antifriction Bearings from Japan, 65 FR 49219 (August 11, 2000) and accompanying Issues and Decision Memorandum at Comment 71; U.S. Steel Group a Unit of USX Corp., USS/Kobe Steel Co., Koppel Steel Corp. v. United States, 988 F. Supp. 1151 (Ct. Int'l Trade 1998). Therefore, for the final results, we have not included the losses from the tangible asset impairment in the G&A ratio calculation.

Comment 3: The Department's Calculation of Saehan's Net Interest Expense Ratio

In its section D questionnaire response, Saehan requested that the Department adjust the interest expense ratio downward to account for the fact that Saehan had excessive financial expenses in 2002. In the Preliminary Results, we did not make the requested adjustment. Saehan argues that the unadjusted interest expense ratio does not reasonably reflect actual PSF production costs because a significant portion of the expenses are attributable to activities unrelated to Saehan's PSF production operations. Accordingly, Saehan has requested that the Department adjust Saehan's interest expense ratio downward for the final results.

Saehan argues the Department is statutorily authorized to make the adjustment because it is required to calculate the cost of production using costs that "reasonably reflect the costs associated with the production and sale of subject merchandise." See 19 U.S.C. § 1677b(f). Furthermore, the SAA states that the information used to calculate a respondent's production costs should be a "representative measure of the material, labor, and other costs, including financing costs, incurred to produce the subject merchandise, or the foreign like product." See SAA at 835. The Department is moreover authorized to adjust unrepresentative or distorted costs. See 19 U.S.C. § 1677b(f)(1); SAA at 834-835. In the present case, Saehan argues that the Department should adjust the interest expense by eliminating the portion of Saehan's financial expenses that do not reasonably reflect the cost of producing and selling the subject merchandise.

Saehan asserts that some of the interest expenses incurred during the 2002 fiscal year were based on a series of large loans from prior periods that were used to invest in new projects and affiliated companies unrelated to the subject merchandise. Saehan argues the Department has excluded interest

expenses unrelated to subject merchandise in past cases and must do the same here. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from India, 66 FR 50406 (October 3, 2001) (“Flat Products from India”); Stainless Steel Wire Rod from India, 68 FR 26288 (May 15, 2003) and accompanying Issues and Decision Memorandum at Comment 4.

Saehan also notes that record evidence shows that its 2002 interest expenses far exceed its expenses in previous years, as well as those of other PSF producers. Accordingly, the fiscal year 2002 interest expenses reported in the financial statements do not reasonably reflect actual PSF production costs. In previous cases, the Department has rejected or adjusted cost data obtained from a respondent’s financial statements if the costs are significantly distorted or unrepresentative of the **costs of producing and selling the subject merchandise**. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Korea, 63 FR 40404 (July 29, 1998) (“Stainless Steel Wire Rod from Korea”); Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Mexico, 60 FR 33567, 33572 (June 28, 1995) (“OCTG from Mexico”). Similarly, Saehan argues that in non-market economy cases, the Department has declined to use the financial statements of a surrogate company to calculate SG&A, overhead and profit because the company’s data were distorted and unrepresentative of the industry as a whole because of financial and business restructuring. See Certain Hot-Rolled Carbon Steel Flat Products from the People’s Republic of China, 66 FR 49632 (September 28, 2001). Saehan asserts that for the final results the Department should adjust Saehan’s interest expense ratio in a similar manner by subtracting Saehan’s reported interest expense adjustment from the total interest expense amount.

The petitioners did not comment on this issue.

Department’s Decision:

We disagree with Saehan that the net interest expense amount should be adjusted. As Saehan acknowledged in its questionnaire response, the Department typically treats all interest expenses as a single item attributable to all current financial activities of the company. The cases cited by Saehan are exceptions to the rule that do not pertain to the present review.

The facts in Flat Products from India are significantly different than those in the present review. In Flat Products from India, the issue was the capitalization of interest associated with the construction of a new facility. The respondent in that review capitalized the portion of its interest expense related to capital projects in its normal books and records, in accordance with Indian generally accepted accounting principles (“GAAP”). The Department agreed that not making the adjustment would distort the cost of producing the subject merchandise and, moreover, the adjustment yielded a result that was in accordance with U.S. GAAP. In the present review, the interest expenses that Saehan is asking the Department to exclude were recorded as current period costs and not capitalized in its books and records in accordance with Korean GAAP.

Although Saehan's interest expenses may far exceed those of other Korean PSF manufacturers, we do not find that this is a sufficient reason for the Department to decrease Saehan's own interest expenses. We disagree that the cases cited by Saehan support an adjustment to Saehan's net interest expenses. In Stainless Steel Wire Rod from Korea and OCTG from Mexico, the issue at hand was the impact of severe currency devaluations on the respondents' net interest expenses. In both cases, the currency devaluation occurred after the conclusion of the period of investigation, and therefore the Department used financial statements from prior fiscal periods. Saehan's reliance on these cases is misplaced since Saehan's excessive interest expenses were the result of Saehan's business decisions, not national economic events. Furthermore, the choice of a surrogate company in a non-market economy is not analogous to the use of a company's own financial statements in a market economy antidumping proceeding.

Comment 4: Clerical Errors in the Preliminary Margin

Saehan argues that in the Preliminary Results, the Department made errors in converting variables in the home market sales listing denominated in U.S. dollars to Korean won. First, Saehan contends that the Department erred by converting the variables in question in the wrong place in the comparison market program. Second, Saehan argues that the Department incorrectly converted U.S. dollar-denominated home market values to Korean won based on the home market date of sale, and then converted those values back to U.S. dollars based on the U.S. sale date. Saehan asserts that the Department's use of multiple exchange rates distorts the Department's calculation, and should be corrected for the final results.

Furthermore, Saehan argues that in the comparison market program, the Department double-counted inventory carrying costs by adding home market inventory carrying costs to the indirect selling expense variable twice. For the final results, Saehan urges the Department to correct this error.

The petitioners did not comment on this issue

Department's Decision:

We agree with Saehan that the aforementioned errors should be corrected. For the final results we have corrected these clerical errors. See Saehan's Calculation Memorandum.

Comment 5: Huvis' Reported Credit Expenses on Home Market Sales

The petitioners argue that although Huvis had access to transaction-specific credit period information, it calculated the average credit period for certain home market sales during the POR based on the customer's pre-POR credit history. According to the petitioners, this methodology greatly exaggerated the payment period for customers' purchases during the POR. For example, as noted in Huvis' questionnaire response, "Huvis approved sales to {a} customer during the POR only on the condition

that the customer pay the bill for each shipment within the same month as the shipment, in order to reduce the risk of credit.” See Huvis’ May 10, 2004 supplemental response at 2. The petitioners contend that data included in the responses make clear that Huvis had the ability to link the customer’s individual payment to the corresponding shipment. The petitioners argue that, because Huvis included the customer’s unpaid accounts receivable balances for the customer’s purchases outside the POR in the calculations, the resulting credit period is skewed. The petitioners assert that these same problems occur with other customers whose credit and payment information is available on the record.

According to the petitioners, as stated in the Department’s questionnaire, the Department prefers the sale-specific credit period over other methodologies. The petitioners assert that the alternative methodology must reasonably reflect the customer’s credit experience for its purchases during the POR. The petitioners cite 19 CFR 351.401(b)(1) to emphasize that the respondent bears the burden to establish that its reported deductions and other adjustments to its home market prices are reasonable, accurate, and verifiable. The petitioners contend that Huvis has failed to establish that its reported credit period is supported by the record evidence. Huvis’ calculated credit periods for many of the home market open payment (“OP”) sales, according to the petitioners, were found to be unverifiable in the 2001/2002 Administrative Review of this proceeding and the Department corrected the credit periods for those affected sales based on the verification findings. See 2001/2002 Administrative Review’s Memorandum to the File, “Verification of the Sales Response of Huvis Corporation,” dated May 12, 2003 (“2001/2002 Huvis Sales Verification Report”) at 2 and 13; Certain Polyester Staple Fiber from Korea; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review, 68 FR 34378, 34382 (June 9, 2003). The petitioners argue that Huvis placed limited information on the record of this segment of the review after the Department’s repeated inquiries in the supplemental questionnaires and that the limited, inaccurate record must be adjusted for the final results.

The petitioners contend that, given that there was no verification in this segment of the proceeding, the Department must rely on information currently on the record to adjust Huvis’ mis-calculated credit period. Because Huvis failed to provide information in the format as required by the Department, the petitioners argue that there are grounds to apply partial adverse facts available (“AFA”) to correct Huvis’ inflated credit period for its home market OP customers. Despite multiple opportunities, according to the petitioners, Huvis failed to provide in a timely manner data sought by the Department. The petitioners contend that the Department could assign a zero credit period for all of Huvis’ OP sales. An alternative methodology, according to the petitioners, would be to assign the average credit period for those OP sales whose credit period exceeds the average. The petitioners argue, for home market sales to the customer who paid within the same month in which it purchased from Huvis, the adjusted credit period should be set as 15 days.

The petitioners assert that an adjusted credit period based on partial AFA will more accurately reflect Huvis’ OP customers’ actual credit experience during the POR. Another alternative proposed by the petitioners is to use the average credit period that Huvis reported for its letter of credit (“L”) sales to

replace the incorrect credit period for Huvis' OP sales.

Huvis argues that the petitioners' objections to Huvis' credit expense reporting methodology for OP sales should be rejected. Huvis contends that the Department, in the 2001/2002 Administrative Review of this order, specifically verified Huvis' OP methodology which calculates a customer-specific credit expense based on the average age of accounts receivable. See 2001/2002 Huvis Sales Verification Report, at 13. Huvis asserts that, notwithstanding the minor corrections made by Huvis at the outset of that verification, the Department concluded that Huvis' OP credit reporting methodology was reasonable and accurate, and the Department accepted and used that methodology in the preliminary and final results.

According to Huvis, the Department has accepted OP methodologies similar to Huvis' in numerous other cases. See, e.g., 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 ("Structural Steel Beams") at Comment 7; Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 67 FR 11976 (March 18, 2002) ("Carbon Steel Flat Products"). Huvis asserts that the Department's questionnaire in this segment of the review specifically authorized Huvis to use an average age of accounts receivable methodology if its accounting system did not allow transaction-specific reporting. Huvis notes that it resorted to this methodology for OP sales because transaction-specific reporting is impossible.

Huvis contends that there is no basis for the petitioners' assertion that "transaction-by-transaction data were readily accessible to Huvis," as it is only available in unusual circumstances. Huvis notes that, for one OP customer that was experiencing financial difficulties and therefore was required by Huvis to pay the bill for each shipment within the same month as the shipment, it is possible to match particular payments and shipments. Huvis points out that despite the petitioners' objections the record shows that other OP customers made ongoing purchases and payments with no possible means of connecting specific payments to specific purchases.

Huvis asserts that it is quite reasonable for there to be a long credit period for a customer that owes a lot of money, and Huvis has capped the credit period at 365 days. Huvis notes that this limit of 365 days ensures that the credit period is not greater than the number of days in the POR. Huvis argues that in Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews, 64 FR 12927 (March 16, 1999), the Department found that variation in home market credit periods "was not significant enough to call into question the general reasonableness of the methodology utilized" and did "not justify using a non-customer specific calculation of credit days, given the preference of the Department to calculate imputed credit on as specific a basis as possible." See 64 FR at 12930. According to Huvis, the Department also concluded in that case that it would be distortive if the receivables balances during the POR did not include unpaid balances from sales before the POR, because the calculation included sales

during the POR as well as outstanding receivables after the POR. See Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Preliminary Results of Antidumping Duty Administrative Reviews, 63 FR 48173 (September 9, 1998) (“1998 Carbon Steel Flat Products”).

Huvis counters the petitioners’ request to apply adverse facts available to all of Huvis’ OP sales by noting that petitioners have identified only one customer whose credit period is unusually long. With respect to the petitioners’ request for further information for a few allegedly aberrant transactions, Huvis contends that the Department requested additional information and Huvis supplied this information. Huvis argues that it reported a credit period of 365 days for only two transactions, and a period of greater than 162 days for less than one percent of all home market sales by value. Thus, according to Huvis, even if the Department were to conclude that an adjustment to the credit period is warranted for the lone customer identified by the petitioners, there is no basis whatsoever for the Department to apply AFA to all of Huvis’s OP sales. Huvis asserts that the Department should make no adjustment to Huvis’ reported credit periods for the final results.

Department’s Position:

As stated by the petitioners, the Department prefers the sale-specific credit period over other methodologies. Despite this preference, we find that Huvis is not able to calculate sale-specific credit periods on OP sales because of the sale/payment structure, except for sales to the one customer highlighted by the petitioners in their case brief. With the exception of this one customer, Huvis has properly employed an average age of accounts receivable methodology by customer which is supported by its questionnaire responses. Consistent with the 2001/2002 Administrative Review and Structural Steel Beams, we continue to accept Huvis’ OP methodology for the final results. In Huvis’ calculation of the average age of accounts receivable, we continue to accept Huvis’ inclusion of unpaid balances from sales before the POR. As noted by Huvis, it is necessary to include these balances because of sales made during the POR for which there are outstanding receivables at the end of the POR. See 1998 Carbon Steel Flat Products.

With respect to the one customer cited above, we find that Huvis did have the ability to calculate the credit period for this customer on a sale-specific basis. For this customer, according to Huvis’ questionnaire responses, the payments made during the POR could be tied directly to the sales to this customer in the same month. Therefore, we find it reasonable to assign a credit period of 15 days for sales to this customer, an approximation for average credit period of sales paid in the same month. See Memorandum from Team to File, “Final Results Calculation Memorandum for Huvis Corporation,” dated October 8, 2004, at 2.

We disagree with the petitioners’ assertion that the Department was not able to verify Huvis’ average age of accounts receivable methodology in the 2001/2002 Administrative Review. We note that Huvis presented clerical errors at the beginning of the verification, but that the Department reviewed the corrected credit periods and verified the methodology. See 2001/2002 Huvis Sales Verification

Report, at 13 and 25. In the current segment of the proceeding, as Huvis responded to the Department's requests for information about OP credit periods, we find no basis for applying partial AFA to calculate the credit periods of Huvis' OP sales. With the exception of one customer for which we have recalculated the credit period, we find that Huvis' credit period calculation for OP sales is reasonable.

Comment 6: Huvis' Home Market Short-Term Interest Rate

In the questionnaire response Huvis states that "no short-term borrowings of Huvis were guaranteed by either affiliate (i.e., Samyang and SK Chemicals) at the end of FY 2002," as Huvis' creditworthiness had become established. See Huvis' February 26, 2004 response, at 6. The petitioners contend that all of the guaranteed loans as of December 31, 2002, are associated with long-term lease liabilities and facility loans, and most of these loans are denominated in a foreign currency. The petitioners point out that, at the end of 2002, all the loans guaranteed by Huvis' parent companies were long-term in nature. The petitioners assert that it is unreasonable to include Huvis' loan guarantees as part of Huvis' imputed credit expenses for home market sales, given that such expenses are already recorded as "interest expenses."

The petitioners note that most of the loan guarantees provided were for loans denominated in a foreign currency, and therefore, if the Department considers these loan guarantees, these costs should be allocated to U.S. sales as well. The petitioners argue that for the final results the Department should eliminate the costs associated with long-term loan guarantees from the calculation of home market Korean won-denominated short-term interest rate.

Huvis counters by stating that in the second administrative review the Department increased Huvis' reported Korean Won interest rate to account for loan guarantee payments made by Huvis to its parent companies. See 2001/2002 Huvis Sales Verification Report, at 24. Huvis notes that its September 12, 2003 response shows that all of the short-term loan guarantee payments made by Huvis during the POR were made in the period May 2002 through October 2002.

Huvis argues that most of the long-term guaranteed loans that existed at the end of 2002 were denominated in a foreign currency. Huvis stresses that the statement cited in the petitioners' case brief does not suggest that the short-term guaranteed loans that existed from May 2002 to October 2002 were denominated in a foreign currency. Huvis' argument that the guarantee payments related to short-term borrowings is supported by its questionnaire response. See Huvis' February 26, 2004 questionnaire response at Appendix S-13. Huvis contends that the Department should not adjust its calculation of Huvis' home market interest rate in the final results.

Department's Position:

We agree with Huvis that its guarantee payments should continue to be included in its Korean Won-

denominated short-term interest rate calculation. As noted by Huvis, we verified its calculation methodology in the 2001/2002 Administrative Review of this proceeding and found that Huvis incurred costs associated with guarantee payments made on its behalf by its two parent companies. See 2001/2002 Huvis Sales Verification Report at 24. Huvis' September 12, 2003 response at Appendix B-8 indicates that the guarantee payments in this segment of the review related to short-term borrowings and were made in Korean Won. Concerning the petitioners' contentions that the guarantee payments were linked to some long-term loans and that the payments were related to loans denominated in a foreign currency, we do not find sufficient evidence to support these claims. The petitioners have cited to statements in Huvis' questionnaire responses that merely suggest that Huvis did have long-term loans and certain loans denominated in USD. The petitioners have failed to directly link these statements to counter Huvis' claims that the guarantee payments were made on Korean Won denominated short-term loans.

Consistent with our finding in the 2001/2002 Administrative Review, we acknowledge that a short-term interest rate calculation inclusive of guarantee payments represents a "surrogate" interest rate, but we believe this value accurately reflects Huvis' cost of borrowing money. See Memorandum from Team to File, "Preliminary Results Calculation Memorandum for Huvis Corporation," dated June 2, 2003. Accordingly, for the final results, we have continued to treat Huvis' Korean Won denominated short-term interest rate calculation inclusive of guarantee payments.

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 in the Federal Register.

AGREE _____

DISAGREE _____

James J. Jochum
Assistant Secretary
for Import Administration

(Date)