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Administrative Review
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DATE: February 6, 2006

MEMORANDUM TO: David M. Spooner
Assistant Secretary
Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
Import Administration

RE: Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea (Period of Review: August 1, 2003, through July 31, 2004)

SUBJECT: Issues and Decisions for the Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea (2003-2004) (Final Results)

Summary

We have analyzed the case and rebuttal briefs submitted by interested parties and respondents.¹ 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 Interested Party Comments, sections A and B, infra. Outlined below is the complete list of the issues in this review for which we received comments from the parties.

¹ Case briefs and rebuttal briefs were submitted by the following domestic interested parties and respondents: On November 15, 2005, United States Steel Corporation (US Steel) and Mittal Steel USA ISG Inc. (Mittal) (collectively, petitioners) filed case briefs (respectively, US Steel's Case Brief and Mittal's Case Brief). On November 22, 2005, US Steel and Mittal filed rebuttal briefs (respectively, US Steel's Rebuttal Brief and Mittal's Rebuttal Brief). The Nucor Corporation, another domestic interested party, did not submit a case brief or a rebuttal brief. On November 15, 2005, Dongbu Steel Co., Ltd. (Dongbu), Hyundai HYSCO (HYSCO), Pohang Iron & Steel Company, Ltd. (POSCO) and Pohang Coated Steel Co., Ltd. (POCOS) (collectively, the POSCO Group) and Union Steel Manufacturing Co., Ltd. (Union) (collectively, respondents, in the Discussion of Interested Party Comments, section A. General Issues, infra.) filed case briefs (respectively, Dongbu's Case Brief, HYSCO's Case Brief, the POSCO Group's Case Brief, Union's Case Brief). On November 22, 2005, the same respondents filed rebuttal briefs (respectively, Dongbu's Rebuttal Brief, HYSCO's Rebuttal Brief, the POSCO Group's Rebuttal Brief and Union's Rebuttal Brief).

I. Background

The Department of Commerce (the Department) initiated this review of the antidumping duty order on certain corrosion-resistant carbon steel flat products (CORE) from the Republic of Korea (Korea) on September 22, 2004, for all companies. See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 69 FR 56745 (September 22, 2004). On September 7, 2005, the Department published the preliminary results of this administrative review. See Certain Corrosion-Resistant Carbon Steel Flat Products from Korea: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review 70 FR 53153 (September 7, 2005) (Preliminary Results). This review covers five manufacturers/exporters: the POSCO Group, Union, HYSCO, Dongbu, and Dongshin Special Steel Co., Ltd., (Dongshin). The period of review (POR) is August 1, 2003, through July 31, 2004.

II. List of Comments

A. General Issues

- Comment 1: Model-Match Methodology and Laminated Products
- Comment 2: Adjustments to U.S. Prices for Duty Drawback Paid in Korea
- Comment 3: Section D Costs As Weighted-Average Values for the Entire POR
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- Comment 8: CEP Offset for HYSCO
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- Comment 14: Treatment of Union's CEP Offset
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- Comment 18: Union's Treatment of Factory Warehousing Expenses in Korea for its U.S. Sales
- Comment 19: Treatment of Union's Warranty Expenses
- Comment 20: Treatment of Certain Estimated Shipment Dates and/or Estimated Payment Dates for Certain U.S. Warehoused Sales
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- Comment 22: Union's Treatment of "Oxidized Steel" (Rust) in its Cost Calculations

Pohang Iron & Steel Company, Ltd. and Pohang Coated Steel Co., Ltd.

- Comment 23: Treatment of the POSCO Group's Indirect Selling Expenses Incurred in Korea
- Comment 24: Treatment of the POSCO Group's CEP Offset
- Comment 25: The POSCO Group's Treatment of Advertising Expenses as Indirect Selling Expenses
- Comment 26: The POSCO Group's Rebates for Home Market Sales
- Comment 27: Revision of the POSCO Group's Indirect Selling and Commission Expense
- Comment 28: Treatment of the POSCO Group's Home Market Sales As Outside the Ordinary Course of Trade
- Comment 29: Treatment of the POSCO Group's Home Market Credit Expense
- Comment 30: The POSCO Group's "Window Period" Sales Adjustment

III. Use of Adverse Facts Available in the Calculation of Dongshin's Margin

In the Preliminary Results, we applied adverse facts available (AFA) to determine Dongshin's dumping margin as a result of its failure to respond to the Department's questionnaire. See Preliminary Results at 53154. We did not receive comments regarding this issue; therefore, pursuant to sections 776(a)(2)(A) and (C) of the Tariff Act of 1930, as amended, (the Act), we have determined that Dongshin's failure to respond to the Department's questionnaire warrants the use of facts otherwise available. Further, because of Dongshin's failure to respond to the Department's questionnaire, we find that Dongshin failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. Accordingly, consistent with the Preliminary Results and in accordance with section 776(b) of the Act, we continue to apply

AFA and are assigning Dongshin an AFA rate of 17.70 percent, which is the highest margin upheld in this proceeding. See id.

IV. Discussion of Interested Party Comments

A. General Issues

Comment 1: Model-Match Methodology and Laminated Products

In their case briefs, petitioners restate their points raised from the most recently completed administrative review,² restate their analysis submitted in this review,³ and also submit new arguments, to support their position that the Department's current model-match methodology is flawed. They argue that the Department must calculate dumping margins as accurately as possible and that an accurate calculation requires that the merchandise used in the comparison market be as similar as possible. See NTN Bearing Corporation of America v. United States, 747 F. Supp. 726, 735 (CIT 1990); see also Lasko Metal Products, Inc. v. United States, 43 F.3d 1442, 1446 (Fed. Cir. 1994). Petitioners assert that they submitted new information in this review that complements their study on price-list information that the Department rejected in both the last administrative review and in the Preliminary Results.⁴ In addition, they argue that the Department has refused to request that respondents submit more specific information to allow the current methodology to be tested for reasonableness. According to petitioners, this refusal is an abuse of discretion by the Department and it precludes petitioners from pursuing an issue of critical importance on which it has made reasonable showings.

Petitioners also submit new arguments in their case briefs stating that their analysis of data provided by three of the four respondents regarding actual widths and thicknesses of the products reported in their sales listings should lead the Department to revise its model-match methodology or to request further information to identify goods more specifically in these final results.⁵ Petitioners urge the Department to request more precise information on widths and thicknesses for use in these final results for purposes of the margin calculations of the respondents. They argue that using more precise information would allow the Department to perform a more careful

² See Notice of Final Results of the Tenth Administrative Review and New Shipper Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 70 FR 12443 (March 14, 2005) (Tenth Review Final Results) and Accompanying Issues and Decision Memorandum at Comment 1.

³ See Mittal's Letter to the Department, titled Request for Changes to Questionnaire That Will Be Issued in the 11th Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from Korea, dated September 21, 2004 (Mittal's Model-Match Letter); see also Mittal's Letters to the Department, titled Deficiency Comments on Reported Costs of Production, dated June 9, 2005 (re Union), dated June 20, 2005 (re Dongbu), dated June 21, 2005 (re HYSCO), dated July 19, 2005 (re the POSCO Group) (collectively, Mittal's Section D Letters)

⁴ Id.

⁵ See Mittal's Case Brief at 7-9.

analysis of the respondents' sales information and to calculate their margins as accurately as possible.

Respondents argue that petitioners have neither met the high factual threshold nor provided a compelling reason to warrant a revision of the Department's long-established model-match methodology. They note that the Department rejected petitioners' model-match arguments in the Tenth Review Final Results and in the Preliminary Results of this review. Respondents contend that the Department did in fact incorporate petitioners' concerns into the supplemental questionnaires that were sent to each of the respondents. In response to petitioners' new arguments on thicknesses and width dimensions, respondents argue that the steel industry does not price or cost identical products on the basis of individual thickness or width. In addition, they assert that the thickness and width dimensions were created during the 1992 investigation when the selling practices of all countries subject to the CORE investigations were considered. Respondents also argue that it is not practicable for the Department to account for every difference among products in every case by modifying its model-match variables. Lastly, respondents argue that petitioners have not presented sufficient evidence of changes in industry practice to warrant seeking additional information. Therefore, respondents state that the Department correctly rejected petitioners' proposed revision to the model-match methodology in the Preliminary Results.

Respondents also challenge the Department's model-match methodology, arguing that the Department erred by assigning laminated products the same matching code as other pre-painted products. Specifically, respondents assert that under the product matching code characteristic "type" (i.e., CTYPEH/U), the Department incorrectly assigned laminated subject merchandise the same matching code as other pre-painted products (i.e., 'B1B - coated/plated with metal: Painted, or coated with organic silicate, All Other'), rather than as a separate and distinct category. They claim that this assignment does not appropriately account for the product differences between laminated and other pre-painted products. Respondents argue that the Department's decision to reject respondents' laminated products argument in the Preliminary Results is flawed on two counts. First, according to respondents, the Department's reliance in the Preliminary Results on its findings in the Tenth Review Final Results was flawed because the Tenth Review Final Results was based on facts available, whereas in this review the Department requested and received specific supplemental responses regarding the difference between laminated and pre-painted products. Thus, the Department has a complete record to make its determination. Second, respondents argue that the record demonstrates that laminated and pre-painted products are significantly different. According to respondents, laminated products have a higher cost of production, are designed for different uses, and command a significantly higher price than pre-painted products. For these reasons, respondents argue that laminated products should be assigned a different product matching code than the product matching code used for pre-painted products.

With respect to respondents' arguments on laminated subject merchandise, petitioners argue that the Department should not make any ad hoc changes to its model-match methodology, but should

instead request further information on all products under review. Petitioners again state that they have repeatedly urged the Department to request more detailed information identifying specific physical characteristics of all products on a sale-by-sale basis. Therefore, petitioners argue that if respondents believe the Department's method is inaccurate as applied to certain selected goods, such as laminated or specialty painted products, then petitioners suggest that the Department's current method is potentially inaccurate as to many other products as well. Petitioners believe that if the Department were to allow one-way adjustments to the matching methodology, it would be used for unfair and arbitrary results and would be an abuse of discretion. Thus, petitioners argue that the Department should refrain from any ad hoc changes; rather it should either reject the respondents' requests or re-examine the model-match methodology in a comprehensive review based on a full record of the facts.

Department Position

We are not persuaded by either petitioners or respondents that the model-match methodology should be changed in this review for the reasons discussed below.

Petitioners' Proposed Model-Match Methodology

In a memorandum from the previous administrative review, the Department addressed some of the same model-match issues that petitioners have raised again in their case briefs in this instant case. See Memorandum from Eric B. Greynolds, Program Manager to Melissa G. Skinner, Office Director, Concerning Petitioners' Proposal for Changes to the Model-Match Methodology, dated August 27, 2004 (Tenth Review Model-Match Memo). It is important to note that petitioners' arguments and analysis in this review are similar to those submitted in the tenth administrative review.⁶ In particular, our findings with respect to petitioners' arguments on price-list information has already been addressed in our Tenth Review Model-Match Memo. In the Tenth Review Final Results, the Department did not alter the model-match criteria because we found that petitioners failed to adequately demonstrate the necessity for a revision to the model-match criteria currently in place. As we also found in the tenth administrative review, the price lists submitted by petitioners contained no evidence indicating that the price lists reflect actual transaction prices, and, thus, we found that they do not necessarily reflect the Korean respondents' actual sales and pricing practices.

Petitioners' assert that they have developed further information in this review that complements its price-list analysis, but that the Department has abused its discretion by refusing to request further model-match information from respondents. However, the Department issued supplemental questionnaires to respondents⁷ that included petitioners' requests for more detailed

⁶ See Mittal's Case Brief at 5-7.

⁷ See the Department's supplemental questionnaires issued in this administrative review for the following respondents: 1) the June 3, 2005, Section D supplemental for Union; 2) the May 17, 2005, and July 1, 2005, Sections A-D supplementals for Dongbu; 3) the May 25, 2005, Sections A-D supplemental for the POSCO Group; and 4) the April 8, 2005, June 24, 2005, and July 22, 2005, Sections A-D supplementals for HYSCO.

information on the physical characteristics of the goods that are sold in Korea and in the United States. See Mittal's Model-Match Letter. The Department also incorporated questions addressing petitioners' comments on costs of production. See Mittal's Section D Letters. We did, however, determine not to incorporate petitioners' requests that the Department request actual measurement data on the specifications of the subject merchandise (e.g., thicknesses, width dimension, etc.). This is because the reporting of this data would have been extremely burdensome for the respondents. In addition, the thickness and width dimension information we do collect was created in the 1992 investigation in which the selling practices of nine countries involved in the antidumping duty investigations on CORE were considered. Also, petitioners have not presented sufficient evidence of changes in industry practice that would warrant seeking such additional information. Finally, it is not practicable for the Department to account for every difference among products in every case by modifying its model-match variables.

A new argument that petitioners raised for the first time in their case briefs in this administrative review was based on an analysis of width and thickness data submitted by three of the four respondents,. See Mittal's Case Brief at pages 5-9. We note that petitioners raised this argument after the deadline for submission of factual information and after the Preliminary Results. Thus, for the Department to apply the changes suggested by petitioners in its case brief, we would have had to collect new home market and U.S. sales listings from all the respondents, recalculate the company-specific margin calculation programs, release the new margin calculation programs to the interested parties in this segment of this proceeding, and finally, at a minimum, provide all interested parties another opportunity to submit case briefs and rebuttal briefs on the Department's new calculations. Because of the time required to collect new factual information and provide interested parties an opportunity to comment on the aforementioned facts, the Department was unable to address petitioners' arguments in this segment of this proceeding. However, had petitioners raised these arguments earlier, the Department would still have considered the significant reporting burden placed on respondents against the perceived benefits of modifying the model-match methodology.

The Department refrains from revising the model-match criteria unless there is evidence that the model-match is not reflective of the merchandise in question, there have been industry changes to the product that merit a modification, or there is some other compelling reason present requiring a change. See Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rope from Malaysia, 66 FR 12759 (February 28, 2001), and Accompanying Issues and Decision Memorandum at Comment 3. Inherent in this practice is the notion that the model-match criteria should be consistent across reviews so that parties may have a predictable means of determining possible product matches in current as well as future administrative reviews. See Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan: Final Results of Antidumping Duty Administrative Review, 56 FR 41508 (August 21, 1991), and Accompanying Issues and Decision Memorandum at Comment 1. We find that the record evidence, including petitioners' submissions and information collected from respondents, does not demonstrate that the model-match criteria are not reflective of the subject merchandise, there has been a change in industry practice or there is some other compelling reason to warrant revision to the model-match

methodology. Petitioners' arguments do not meet the Department's high factual threshold necessary to consider this magnitude of change.

Respondents' Proposed Model-Match Methodology on Laminated Products

In response to the concerns raised by respondents that the Department should assign laminated products a different matching code, the Department requested detailed information from respondents on their laminated products. The Department finds that respondents have not provided sufficiently supported and compelling reasons to warrant revision to the model-match methodology. In particular, we reviewed the respondents' submissions on laminated products and found that (1) respondents have not defined their respective proposed new product matching code characteristic for laminated subject merchandise under CTYPEH/U in sufficiently precise terms for the Department to appropriately integrate this change into its hierarchy for the "type" code; (2) respondents have not demonstrated that any industry-wide, commercially accepted standards exist that recognize the material physical characteristics of various types of laminated subject merchandise; and (3) respondents do not adequately distinguish among physical characteristics that are attributable to the subjective preferences of the customer from those that are commercially significant differences in the physical characteristics of the product. We discuss below our findings regarding the information submitted on the record by respondents.

The POSCO Group and Union have not defined their proposed new product characteristic in sufficiently precise terms for the Department to appropriately integrate this characteristic into its product matching code characteristic hierarchy. Specifically, the distinction between pre-painted products and laminated products is unclear. The POSCO Group's October 27, 2004, model-match submission at 7-8 states that "POCOS produces laminated products by coating the steel sheet with either colored polyvinyl chloride (PVC) or polyethylene terephthalate resin (PET) films." The POSCO Group states that "PVC films are applied to unpainted products, and PET films are applied after the steel sheet is coated with a **primer**" (emphasis added). See the POSCO Group's October 27, 2004, model-match submission, at 8, footnote 3. However in the POSCO Group's January 31, 2005, section B questionnaire response at 12, it claims that "POCOS produces a small quantity of laminated products by coating the steel sheet with either **colored** PVC or PET films" (emphasis added). These statements are inconsistent because in one section of the POSCO Group's response, the discussion of PVC films has no mention of color, while in another section there is discussion of color with respect to PVC films. With respect to PET films, these statements are inconsistent because in one section of the POSCO Group's response the discussion of PET films includes no mention of primer (*i.e.*, paint) while in another section the PET film discussion references a primer. In addition, Union includes in its June 3, 2005, section D supplemental response at 21-22, a discussion of its lamination process with PET film. In this supplemental response, Union also includes its product brochure for laminated products at Exhibit B-37. The product brochure describes the application of primer (*i.e.*, paint) for laminated PET film sheet. Therefore, given the fact that products laminated with PET film may also be treated with primer (*i.e.*, paint), it is not obvious to the Department that its categorization of laminated subject merchandise with other pre-painted products is inaccurate.

Dongbu and Union have also defined product characteristics in terms that are inconsistent. In Dongbu's June 9, 2005, supplemental questionnaire response at page 8, it states that laminated products should be separately coded because they command a higher price and a higher cost of production than other pre-painted products. However, in the same submission at Exhibit A-32 at page 7, its product brochure lists one of the advantages of PVC laminated steel to be "cost reduction" due to the elimination of the coating process, as is used in the painted products. In addition, Union cites its January 19, 2005, section A response at Exhibit A-26 at 16-17, for more information on laminated products. This citation includes a description of hot-dip galvanized steel, which raises the issue of whether Union's laminated product line includes hot-dip galvanized steel as well. Thus, there appears to be a discrepancy in the information provided by the respondents.

Based on our review of the questionnaire responses, including company product brochures, we do not find any industry-wide, commercially accepted standards that recognize the material physical characteristics of various types of laminated subject merchandise. Specifically, it is not clear whether the physical characteristics of laminated CORE adhere to some industry standard or are primarily driven by customer-specific requirements. In fact, Exhibit A-31, at page 10 of Dongbu's June 9, 2005, supplemental questionnaire response, states that the function of a laminator is to create various patterns and designs on the product. Thus, this suggests that the purpose of applying a laminate is for aesthetic reasons. Additionally, we do not find that the product brochures from these three respondents are authoritative or representative of an industry standard for a commercially accepted definition of laminated CORE products versus non-laminated products.

Respondents argue that the Department's decision is flawed because the decision in the Tenth Review Final Results was based on facts available, whereas in this review the Department requested and received specific supplemental responses regarding the difference between laminated and pre-painted products. Although there is more information regarding laminated products on the record of this administrative review, given the inconsistencies in respondents' submissions, we have not modified the model-match criteria to include a separate category for laminated products. Further, while there is some evidence that that laminated and pre-painted products are different from one another physically, with respect to costs of production, and sales price, it is not clear whether the products are significantly different. Thus, for purposes of these final results we will continue to classify laminated products as subject merchandise and adequately differentiated from other CORE products when classified under the product matching code characteristic pre-painted product (i.e., B1B).

Comment 2: Adjustments to U.S. Prices for Duty Drawback Paid in Korea

Petitioners assert that adjustments for duty drawback paid in Korea increase U.S. prices and are advantageous to claimants. As a result, claimants have the burden of proof in establishing entitlement for this claim. Petitioners argue that the Department's traditional standards are problematic in the context of Korean drawback law, in that the "substitution" aspect of the law

allows the exporter to claim disproportionate amounts on exports to a given destination, such as the United States, even if the exporter did not use the imported materials on exports to that destination. Petitioners claim that the effect of this law distorts antidumping calculations by artificially reducing dumping margins and can result in a disproportionate upward adjustment to the U.S. price.

Petitioners contend that if the Department should continue to allow respondents to calculate a duty drawback adjustment in this manner, then the Department should require respondents to perform a reasonable allocation of the aggregate drawback it receives to all export shipments to all destinations. To achieve this, petitioners assert that the Department must collect information that would allow the Department to “fairly limit” the amounts of duty drawback adjustment that a respondent could claim on U.S. imports for antidumping purposes. Petitioners state that they requested that the Department require respondents to provide worksheets with aggregate data to arrive at a “fairly limited” level of duty drawback adjustment, but the Department refused to request such information. Petitioners claim that this refusal permits respondents to potentially enjoy an upward adjustment to U.S. price without adequately demonstrating that such adjustments were reasonable, as measured by fair allocation techniques. Therefore, the Department should conclude that all respondents have failed to meet the burden of proof and either request further information to allow appropriate allocations or disallow all duty drawback claims.

Petitioners also addressed the Department’s two-prong duty drawback methodology that has been upheld by the courts. *See, e.g., Far East Machinery Co., Ltd v. United States*, 699 F. Supp. 309, 315 (CIT 1988) (*Far East I*). Petitioners assert that, in *Far East I*, a case involving similar facts as this proceeding, the appellant argued that the Department had erred in not appropriately allocating the drawback received to all exports to all destinations. *Id.* Petitioners contend that, although the Court of International Trade (CIT) upheld the Department’s two-prong test in *Far East I*, they claim that this holding is factually distinguishable because the CIT noted that the appellant had objected to the Department’s duty drawback test after the record was closed. Petitioners also assert that the CIT had “future cases in mind” when it stated in *Far East I* that it is “possible that ITA should tighten its standard for allowing the [duty drawback] adjustments.” *Id.* Petitioners assert that their request for a change to the duty drawback methodology has been made on a timely basis.

Respondents argue that they have satisfied the Department’s two-prong test for entitlement to a duty drawback adjustment. They assert that there is no basis for changing the Department’s practice. The Department confirmed that the Korean duty drawback system meets the requirements for an adjustment to the U.S. price pursuant to 19 U.S.C. § 1677b and the Department’s two-part test. *See Avesta Sheffield v. United States*, 838 F. Supp. 608 (CIT 1993). Therefore, respondents assert that consistent with its determination in the tenth administrative review, the Department should continue to grant the duty drawback adjustment for all respondents.

Respondents argue further that the Department has rejected similar arguments to add any additional steps to its duty drawback analysis. Respondents contend that in addition to rejecting the same argument in the tenth administrative review, the Department has also rejected similar arguments in other proceedings. For example, respondents state that in Certain Circular Welded Non-Alloy Steel Pipe from Korea, the Department rejected the petitioner's attempt to add another "prong" to the Department's duty drawback analysis.⁸ Specifically, respondents argue that the Department rejected petitioner's attempt to limit duty drawback adjustment to the extent that such duties were paid on inputs used for home market sales.⁹ Thus, respondents assert that the Korean duty drawback system meets the Department's two-prong test and the record shows that respondents meet the Department's long-established two-prong test for granting a duty drawback adjustment.

Department Position

We agree with the respondents that the duty drawback adjustment is justified in the present proceeding and should not be limited to only duties paid on inputs specifically used for exports to the United States. Petitioners have provided no compelling evidence that our long-standing practice is flawed and should be modified.

In accordance with section 772(c)(1)(B) of the Act, the duty drawback adjustment is an adjustment to the U.S. price to account for import duties "which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States." See Allied Tube & Conduit Corp. v. United States, 374 F. Supp.2d 1257, 1261 (CIT 2005); Far East I at 309, 314. With regard to petitioners' claim that the CIT's holding in Far East I may support its position, we note that, subsequent to the Far East I decision, the CIT again rejected the argument that the Department should allocate, on a proportional basis, the total pool of duty drawback. Avesta Sheffield, Inc. v. United States, 838 F. Supp. 608, 612 (CIT 1993).

In prior investigations and administrative reviews, the Department has examined the Korean individual-rate system and found that the government controls in place enable the Department to examine the criteria for receiving a duty drawback adjustment (i.e., that (1) the rebates received were directly linked to import duties paid on inputs used in the manufacture of the subject merchandise, and (2) there were sufficient imports to account for the rebates received).¹⁰

⁸ Certain Circular Welded Non-Alloy Steel Pipe from Korea, 69 FR 32492 (June 10, 2004), and Accompanying Issues and Decision Memorandum (Certain Circular Welded Non-Alloy Steel Pipe from Korea) at Comment 2.

⁹ Id.

¹⁰ See Notice of Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review: Circular Welded Non-Alloy Steel Pipe From the Republic of Korea, 62 FR 55574, 55577 (October 27, 1997); see also Notice of Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review: Certain Polyester Staple Fiber from Korea, 68 FR 34378, 34380 (June 9, 2003) ("Polyester Staple Fiber from Korea").

We find that petitioners' proposal to allocate each respondent's total duty drawback between U.S. exports and exports to other countries is supported neither by the statute nor Department practice. The statute dictates that U.S. price be adjusted by the amount of any import duties that have been rebated or not collected by reason of exportation. See section 772(c)(1)(B) of the Act. The only limitation placed on the duty drawback adjustment is that the adjustment to the U.S. price may not exceed the amount of import duty actually paid. Respondents provided and we verified such evidence in the tenth administrative review, and we find that the record evidence is the same for this issue in this current review. Accordingly, for the final results, we have continued to grant the respondents' claimed duty drawback adjustments in full.

Comment 3: Section D Costs As Weighted-Average Values for the Entire POR

Petitioners assert that Dongbu and HYSCO did not develop and apply a single weighted-average cost of the subject coil for the entire POR, but instead used coil costs as incurred during the particular period in which that matching control number (CONNUM) using the input was produced. According to petitioners, Dongbu and HYSCO should have developed a single weighted-average value for the coil applicable to the entire POR, even if it varied. Petitioners assert that a failure to report weighted-average cost of production (COP) data for each CONNUM, as instructed, is a failure to report in conformity with the questionnaire. Petitioners state that the case is less clear for the POSCO Group and Union, but the record suggests a failure to determine appropriate weighted-average POR costs. Therefore, petitioners argue that the Department should restate the values of any misreported costs or should reject costs for not conforming to the questionnaire.

The POSCO Group asserts that the Department instructs respondents to use the finished product costs calculated in the company's normal accounting system, and to average these costs using production quantity, regardless of market sold, as the weighting factor.¹¹ The POSCO Group claims that it reported a single, weighted-average cost for each CONNUM that it sold during the POR. The POSCO Group argues that the reported costs were based on quarterly product costs calculated in the normal course of business, utilizing the exact same methodology from the prior administrative review.

Dongbu argues that under section 773(f)(1)(A) of the Act, the COP should be calculated based on the records of the exporter of the merchandise, if such records are kept in accordance with the generally accepted accounting principles (GAAP) of the exporting country. In addition, section D of the Department's questionnaire provides the methodology that respondents must use to calculate the CONNUM-specific costs for the POR. Dongbu states that it followed the Department's instructions with a detailed explanation of its normal cost accounting system, the use of that system to determine COP, and the reconciliation of the submitted COP to the audited financial statements. It explains further that in January 2004, Dongbu's cost accounting system

¹¹ See the Department's November 1, 2004, Section D Questionnaire to the POSCO Group at Instruction Number 2.

switched to an ERP/SAP system. Thus, two different cost accounting systems were used during the POR.

Prior to the change in accounting systems, Dongbu states that it used an actual cost-based system under which Dongbu calculated monthly inventory values for products that included some, but not all, of the Department's CONNUM physical characteristics. As a result, Dongbu claims that the inventory value could not be used. Thus, Dongbu asserts that it allocated the total actual costs incurred in the August to December 2003 portion of the POR to the products produced in the period, with Dongbu's product coding system as the basis for product definition. For the costs in 2004, Dongbu used the new SAP system, which is a standard cost accounting system that allocates variances monthly to arrive at actual cost-based inventory values for products that encompass all but one of the CONNUM characteristics. Thus, from the January to July 2004 portion of the POR, Dongbu used standard costs adjusted for variances as recorded in the monthly inventory ledgers, as these costs represented the actual cost of producing the products that encompassed the Department's physical characteristics. The reported CONNUM-specific cost for the POR was then determined by multiplying the COP of each product within the CONNUM by the production quantity for that product. Dongbu argues that its approach is in compliance with the Department's instructions, as the weighted-average CONNUM-specific cost was reported based on the costs recorded in Dongbu's normal accounting system.

Dongbu further argues that under the Department's established practice, a respondent can deviate from its normal cost accounting system only when the COP under that system distorts the actual cost. In this situation, there is no distortion of the manufacturing costs under Dongbu's normal cost accounting system. The evidence on the record confirms that there are only limited instances in which a distortion may have occurred since some products were produced and sold in limited quantities during the POR. Dongbu argues that the products in question are outlier products that are produced in very small quantities at limited times of the year and are sold only in the home market. Therefore, the Department should reject petitioners' argument and continue its practice of requiring respondents to report weighted-average CONNUM costs in accordance with the company's normal cost accounting system.

Department Position

We agree with the respondents that the Department should continue to rely on the methodology used in the respondents' normal books and records to value input costs. It is the Department's practice to rely on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the GAAP of the exporting country and reasonably reflect the costs associated with the production of the merchandise. See section 773(f)(1)(A) of the Act. Pursuant to the statute, we note that each of the respondents in the current review based their reported costs on the product-specific costs calculated in their normal books and records and on their respective audited financial statements which were prepared in accordance with Korean GAAP. The Department has determined that it is not appropriate to deviate from a company's normal books and records where the company used coil-specific slab costs (i.e., not POR weight-

averaged input costs as petitioners are arguing for here) and no evidence of manipulation or distortive costs was found. See Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 69 FR 19388 (April 13, 2004), and Accompanying Issues and Decision Memorandum, at Comment 4. In this instance, the Department believes that the input costs reported by the CORE respondents reasonably reflect the costs associated with the production of CORE. Over the course of this review, the Department has found no evidence that the respondents manipulated the input selection process in the production of CORE. Therefore, as we found no evidence on the record that supports deviating from the respondents' normal books and records for the calculation of raw material input costs, we have continued to rely on the input costs calculated in the respondents' normal books and records for the final results.

Finally, to address the petitioners' allegation that the CORE respondents' submissions did not conform to the questionnaire, we disagree that the respondents calculated their reported input costs contrary to the Department's instructions. While the Department's standard section D questionnaire directs respondents to calculate a weighted-average POR CONNUM cost, the questionnaire does not, as alleged by petitioners, provide a specific or standard methodology for calculating material input costs. As noted above, the Department's overall guideline for determining whether a company has appropriately calculated the reported per-unit costs (including input costs) is the reliance on the company's GAAP-based financial records, unless such calculations fail to reasonably reflect the costs incurred to produce the merchandise under investigation. As such, the adequacy of a respondent's normal books and records for use in the calculation of the reported costs (including input costs) should be analyzed and determined on a case-by-case basis.

Comment 4: Adjustments to DIFMER Calculation

Petitioners and respondents note that the Department implemented the difference-in-merchandise (DIMFER) adjustments incorrectly in its computer programs in the Preliminary Results.

Department Position

We agree with the petitioners and respondents and will correct the computer programs with respect to the DIFMER adjustments for the final results.

B. Company-Specific Issues

Dongbu Steel Co., Ltd.

Comment 5: Treatment of Dongbu's Indirect Selling Expenses Incurred in Korea

Petitioners argue that the Department should increase U.S. constructed export price (CEP) selling expenses to account for all CORE selling activities performed by Dongbu in Korea in connection

with Dongbu USA's resales (i.e., sales from the U.S. affiliate to the unaffiliated U.S. customer) in the United States. Petitioners argue that although Dongbu did not report any selling expenses incurred in Korea in connection with its U.S. affiliate's resales, such expenses do occur. As examples, petitioners cite to personnel possibly trained in Korea, as well as a website and brochures created by Dongbu to assist Dongbu USA in reaching customers in the United States. Petitioners also assert that because Dongbu's sales in the U.S. are made to order, Dongbu is involved in selling activities involved in making this merchandise to order. Thus, petitioners argue that if the Department finds these activities in Korea to be associated with the U.S. resales, then expenses associated with these activities should be deducted from Dongbu's U.S. price.

Dongbu argues that it is the Department's practice not to deduct indirect selling expenses from the CEP calculation if those expenses support sales to the affiliated purchasers, rather than their sales to the unaffiliated customer. In addition, Dongbu asserts that in order to be deductible, such indirect selling expenses should relate to commercial activities performed in the U.S. and that they must be incurred on behalf of the buyer, not just expenses the exporter incurs on its own behalf to complete the sale the affiliated importer. Dongbu states that it was verified during the tenth administrative review, thus providing the Department opportunity to observe the activities performed by Dongbu and Dongbu USA. Therefore, the Department should follow its practice and continue to disregard the indirect selling expenses incurred by Dongbu in selling to Dongbu USA, as these expenses are not related to the sale to the unaffiliated U.S. customer.

Department Position

It is the Department's practice not to deduct from the CEP calculation indirect selling expenses incurred outside the United States if the indirect selling expenses support sales to the affiliated purchasers and not to the unaffiliated customer. See Notice of Final Results of Antidumping Duty Administrative Review: Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Romania, 70 FR 7237 (February 11, 2005), and Accompanying Issues and Decision Memorandum at Comment 4; see also Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Mexico, 70 FR 677 (January 26, 2005), and Accompanying Issues and Decision Memorandum at Comment 7. There is no evidence on the record to suggest that the indirect selling expenses reported by Dongbu in Korea are attributable to Dongbu's U.S. sales to unaffiliated customers. During the tenth administrative review, we verified that the home-market indirect selling expenses reported by Dongbu are general in nature and are unrelated to sales between Dongbu USA and its unaffiliated U.S. customers. In this review, we have analyzed the selling functions reported by Dongbu and found that Dongbu USA performed the selling activities involved in Dongbu's sales to unaffiliated U.S. customers. See Dongbu Supplemental Questionnaire Response for Sections A-D, dated June 9, 2005 (Dongbu's Supplemental Questionnaire Response) at pages 4-7 and at Exhibit A-30. Accordingly, we have not altered our treatment of reported indirect selling expenses for U.S. sales from the Preliminary Results.

Comment 6: Treatment of Dongbu's CEP Offset

Petitioners argue that Dongbu has not described all relevant selling activities at the CEP level of trade (LOT), and thus has failed to meet its burden of proof for establishing entitlement to a CEP offset. First, they claim that parent companies, in general, routinely engage in interaction with U.S. subsidiaries that resell merchandise in the United States, and here the record shows that Dongbu has employees in Korea designated to assist Dongbu USA by performing various selling functions in connection with its U.S. sales. Petitioners argue that examples of Dongbu employees performing selling functions on behalf of Dongbu USA include processing orders, arranging for shipments, conducting administrative meetings, frequent communications and education programs to benefit Dongbu USA. In addition, petitioners state that because all of Dongbu's U.S. sales are made to order and are not from inventory, all of the activities involved are relevant to Dongbu's efforts to sell its goods for export to the United States. Therefore, petitioners argue that there is no reason for the Department to conclude that Dongbu engages in more selling activities in the home market (HM) than at the CEP LOT and that Dongbu has not met its burden of proof for establishing a CEP offset. Thus, petitioners assert that the record evidence does not allow the Department to make a determination that Dongbu's HM sales are at a more advanced LOT than U.S. CEP sales.

Dongbu argues that the same selling functions and level of activity exist now as were relied on by the Department in the Preliminary Results to grant the CEP offset to Dongbu.¹² It argues that in Cold-Rolled Steel from Korea and Tenth Review Final Results, the Department concluded that Dongbu did not have an LOT in its HM that was comparable to its CEP sales and that the HM was at a more advanced LOT than CEP sales. Dongbu asserts that in both of these previous cases, the Department verified the functions performed by Dongbu and Dongbu USA and issued a decision that allowed the offset based on the same set of facts that exist on the record in this review. Dongbu argues that in the Preliminary Results, the Department granted a CEP offset, as the Department was unable to quantify the differences in LOT, *i.e.*, to make a LOT adjustment. Dongbu argues that, in all of these proceedings, it has provided evidence that demonstrates that expenses incurred in the U.S. by Dongbu USA are at a less advanced LOT than the HM. Therefore, as the facts remain the same for Dongbu, a CEP offset is warranted in these final results as well.

Department Position

We agree with Dongbu that the evidence on the record was sufficient to demonstrate that Dongbu's HM sales were at a more advanced LOT than its CEP sales, and as the data available does not provide an appropriate basis to determine an LOT adjustment, a CEP offset is

¹² See Notice of Final Determination of Sales at Less than Fair Value: Certain Cold-Rolled Carbon Steel Products from Korea, 67 FR 62 (October 3, 2002) (Cold-Rolled Steel from Korea) at 124, and Accompanying Issues and Decision Memorandum at Comment 10; see also Tenth Review Final Results and Accompanying Issues and Decision Memorandum at Comment 3.

warranted. As noted in the Preliminary Results and Tenth Review Final Results, section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate normal value (NV) based on sales at the same LOT as the CEP transaction. When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the CEP sale in the United States, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. Sales are at a different LOT if they are made at different marketing stages. See 19 C.F.R. 412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. Id. See also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731, 61732 (November 19, 1997) (Plate from South Africa). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we review the distribution system in each market (*i.e.*, the “chain of distribution”), including selling functions, class of customer (“customer category”), and the level of selling expenses for each type of sale. For CEP sales, we consider the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See Micron Technology, Inc. v. United States, 243 F.3d 1301, 1315 (Fed. Cir. 2001).

In comparing CEP sales to sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act if the difference in LOT involves the performance of different selling activities and is demonstrated to affect price comparability. For CEP sales, if an NV LOT is more remote from the factory than the CEP LOT, and there is no basis for determining whether the difference in LOT between NV and CEP affected price comparability (*i.e.*, no LOT adjustment was practicable), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See, e.g., Plate from South Africa.

In the Preliminary Results, we found that the evidence on the record was sufficient to demonstrate that Dongbu’s HM sales were at a more advanced LOT than its CEP sales; and because there was no basis for determining where the LOT difference affected price comparability, we determined that a CEP offset was warranted for Dongbu’s U.S. CEP sales.¹³ Specifically, we reviewed Dongbu’s Supplemental Questionnaire Response at Exhibit A-30, which identifies the selling functions performed by Dongbu for its HM sales and the selling functions performed by Dongbu USA on its U.S. sales. As to petitioners’ claim that Dongbu should not be granted a CEP offset because all of its U.S. sales are at the same LOT as their respective HM sales, we adhere to our decision in the Preliminary Results where we determined that Dongbu’s U.S. LOT (*i.e.*, CEP sales) is different and not comparable to its HM LOT, and at a less advanced LOT than that of the HM. See id. Moreover, the petitioners have not provided

¹³ See Calculation Memorandum for Dongbu Steel Co., Ltd., Preliminary Results in the 03/04 Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea, dated August 31, 2005 (Dongbu’s Preliminary Calculation Memorandum); see also Dongbu’s Supplemental Questionnaire Response at pages 4-7 and Exhibit A-30.

any new information or arguments that would lead us to change our Preliminary Results in these final results.

Comment 7: Dongbu's Treatment of Short-term Interest Rate

Petitioners argue that the Department should use the U.S. prime rate in calculating Dongbu's U.S. imputed credit expense, instead of the short-term interest rate reported by Dongbu. They state that Dongbu developed its rate from its total accumulated POR loan balance and POR interest expense and not from a weighted-average interest rate from its actual loans. Furthermore, petitioners state that the record is unclear as to whether the data used by Dongbu includes loans from the parent company to Dongbu USA. In addition, they contend that Dongbu's reported rate is lower than the U.S. prime rate during the POR. Therefore, petitioners assert that the Department should use the U.S. prime rate as "facts available" because Dongbu's reported rate is problematic.

Dongbu argues that petitioners do not provide a sufficient argument for why Dongbu USA's short-term interest rate for its U.S. sales is unreliable and should warrant the Department to use facts available. They argue further that the method used to calculate Dongbu USA's short-term interest rate is accurate and was verified by the Department in the last administrative review. Respondents state that the interest rate was calculated by dividing the total accumulated value of all short-term loans during the POR by 365 to arrive at the average daily balance of accumulated loan amounts. The total accumulated value was determined on a loan-by-loan basis, taking into account the actual time of an outstanding loan. Dongbu states that the total amount of actual interest paid by Dongbu USA during the POR is then divided by the average daily balance to arrive at Dongbu USA's average short-term interest rate. Dongbu argues that this methodology takes into account the exact number of days that a loan is outstanding as well as the exact amount of interest paid on each loan. Therefore, it is an accurate approach in determining the short-term interest for the POR.

Additionally, Dongbu argues that the record provides sufficient documentation of every short-term loan that Dongbu USA received during the POR and that the record shows there were no loans from the parent company to Dongbu USA. Dongbu argues further that the fact that Dongbu USA's average short-term interest rate is lower than the U.S. prime rate does not undermine the accuracy and validity of that interest rate. It states that petitioners did not provide sufficient evidence or explanation for why its reported rate is not accurate, thereby warranting the use of facts available by the Department. As a result, Dongbu asserts that the Department should continue to use Dongbu USA's reported average short-term interest rate.

Department Position

We disagree with petitioners that the record supports rejection of Dongbu's reported interest rate. The Department agrees with Dongbu and finds that its calculation methodology for U.S. credit expense utilizes an accurate approach in determining the short-term interest rate for the POR.

Further, the methodology is consistent with the methodology used by the Department to calculate a short-term interest rate for Dongbu in previous reviews. Because Dongbu provided sufficient documentation in support of its short-term loans, there is no basis for the application of facts available.

Hyundai HYSCO

Comment 8: CEP Offset for HYSCO

Petitioners argue that HYSCO performs numerous activities to assist its U.S. subsidiary in selling to the United States, but HYSCO did not identify these activities in this review. Petitioners contend that since HYSCO has the burden of proof in establishing entitlement to offset adjustments and HYSCO has failed to do so, the Department should deny a CEP offset for purposes of the final results.

HYSCO argues that the Department correctly concluded that HYSCO was entitled to a CEP offset because HYSCO's HM sales were made at a different, and more advanced, stage of marketing than the CEP LOT and the data available do not provide an appropriate basis to determine an LOT adjustment. HYSCO urges the Department to continue to allow a CEP offset for the final results.

Department Position

We agree with HYSCO that the evidence on the record was sufficient to demonstrate that HYSCO's HM sales were at a more advanced LOT than its CEP sales, and that the data available does not provide an appropriate basis to determine an LOT adjustment. Therefore, a CEP offset is warranted.¹⁴ The petitioners have not provided any new information or arguments that would lead us to change our decision in these final results.

Comment 9: U.S. Sales Reconciliation for HYSCO

Petitioners argue that HYSCO purported to have reconciled HYSCO's U.S. sales values to its U.S. affiliate, Hyundai Pipe America (HPA)'s general ledger and financial statements, but failed to place HPA's 2004 general ledger and financial statements on the record. Petitioners contend that without the 2004 financial statements, there is no way to verify the accuracy of the total value of U.S. sales reported in the response, and therefore, the Department must reject HYSCO's reported U.S. sales and use AFA.

HYSCO argues that the Department should not reject HYSCO's U.S. sales reconciliation because it complied with the Department's requests and the record is sufficiently complete for the

¹⁴ See Calculation Memorandum for Hyundai Hysco, Preliminary Results in the 03/04 Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea, dated August 31, 2005.

Department to confirm that the reported sales reconcile to HPA's financial statements. Specifically, HYSCO lists a number of financial statements that it has placed on the record, including HPA's 2003 financial statements in the Section A response, Hyundai America Company (HAC)'s 2003 and 2004 financial statements, HYSCO's 2004 audited, consolidated and unconsolidated financial accounts, and HYSCO's annual Korean SEC business report in its supplemental questionnaire responses. HYSCO contends that it did not provide HPA's 2004 financial statements because they were not available at the time of filing of the Section A questionnaire response, and the Department did not specifically request it in its supplemental questionnaires. In addition, HYSCO argues that it has provided worksheets demonstrating how the reported sales reconcile to HPA's financial statements, and that those worksheets tie directly to HPA's 2003 financial statement, which allows the Department to verify the overall accuracy of information in HYSCO's quantity and value reconciliation.

HYSCO states that under the statute, the Department may use facts otherwise available in reaching a determination only if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information."¹⁵ In order to adopt petitioners' position in its final results, the Department would need to find that (1) HYSCO's multiple submissions throughout the course of the review are unusable in their entirety; and (2) HYSCO has failed to cooperate. HYSCO asserts that neither criterion is satisfied here, and therefore, the Department should reject petitioners' claims and continue to rely upon HYSCO's submitted U.S. sales reconciliation.

Department Position

We agree with the petitioners that the Department's questionnaire requires that each respondent provide a complete package of documents and worksheets reconciling the quantity and value of the sales reported in the response to the company's financial statements. Such a reconciliation is essential in order for the Department to determine the accuracy of the reported sales, especially where no verification is scheduled. However, HYSCO's failure to place HPA's 2004 financial statement on the record does not mean that we are unable to measure whether HYSCO completely and accurately reported its U.S. sales. The information HYSCO did provide on the record is sufficiently complete for the Department to determine that the reported U.S. sales are accurate. Specifically, the quantity of U.S. sales ties to HYSCO's financial statements,¹⁶ and the value of U.S. sales is corroborated by a variety of sales documentation.¹⁷ Therefore, we disagree with petitioners that we should reject HYSCO's sales and rely on AFA.

¹⁵ See Section 776 of the Act.

¹⁶ See HYSCO's sales reconciliation submission, dated August 10, 2005.

¹⁷ HYSCO provided complete sales documentation for all but one U.S. shipment. See the January 10, 2005, Section A Questionnaire Response (HYSCO's Section A QR) and the May 5, 2005, Supplemental Questionnaire Response (HYSCO's Supp. QR) at Exhibit S-34.

Comment 10: U.S. Indirect Selling Expense Ratio for HYSCO

Petitioners contend that if the Department does not reject HYSCO's U.S. sales in their entirety, it should reject HYSCO's reported U.S. indirect selling expense ratio and use the highest monthly indirect selling expense ratio for 2003 because HYSCO failed to place HPA's general ledger and HPA's 2004 financial statements on the record, thus failing the U.S. sales reconciliation.

HYSCO argues that petitioners' argument relies solely on the absence of HPA's 2004 financial statement for support. HYSCO urges the Department to reject petitioners' argument based on the reasons stated supra.

Department Position

We disagree with petitioners (see comment 9).

Comment 11: HYSCO's Indirect Selling Expenses Incurred in Korea

Petitioners argue that the Department should deduct HYSCO's indirect selling expenses incurred in Korea from HYSCO's U.S. sales prices. Petitioners contend that the Department's practice is to deduct indirect selling expenses from CEP where such expenses relate to and support the sale to the first unaffiliated U.S. customer. In support of their position, petitioners cite 19 C.F.R. 351.402(b) and Oil Country Tubular Goods, Other Than Drill Pipe, from Korea, 68 FR 2313 (Jan. 16, 2003) (OCTG from Korea), and Accompanying Issues and Memorandum at Comment 2.

Petitioners cite the Porcelain-on-Steel Cookware from Mexico case and argue that in order to avoid inclusion of indirect selling expenses incurred in the country of manufacture (DINDIRSU) as part of the CEP deduction of indirect selling expenses, it is the respondent's burden to show that the selling functions captured in the field of DINDIRSU "relate solely to affiliated party sales."¹⁸ Petitioners allege that HYSCO failed to satisfy this burden. Petitioners assert that the record establishes that for eight out of the eleven selling activities reported in DINDIRSU, the activity and the expense associated with that activity, related exclusively to HYSCO's sale to the unaffiliated U.S. customer and not to its sale to its affiliate, HPA. For the three remaining activities, the expense associated with HYSCO's sales to HPA was minimal or non-existent. Petitioners request that the Department include reported expenses in DINDIRSU as part of the CEP deduction of indirect selling expenses.

¹⁸ See Porcelain-on-Steel Cookware from Mexico, 65 FR 30068 (May 10, 2000) (Porcelain-on-Steel Cookware from Mexico), and Accompanying Issues and Decision Memorandum at Comment 3.

HYSCO argues that, as it did in the previous review, the Department was correct in not deducting indirect selling expenses incurred in Korea in the Preliminary Results.¹⁹ HYSCO contends that the statute, the SAA and case law require the Department to deduct from CEP only those expenses associated with economic activities actually occurring in the United States or when the parent pays selling activities on behalf of the purchaser.

HYSCO argues that the record evidence in this case demonstrates that neither situation applies to HYSCO. First, the selling activities performed by HYSCO are all activities that occurred outside the United States. Second, these selling functions are general in nature that applied to HYSCO's sales in all markets and were not associated with economic activities in the United States. HYSCO contends that the record clearly establishes that HYSCO does not reimburse or otherwise pay directly any expenses incurred by its U.S. affiliates. Accordingly, HYSCO urges the Department to continue its practice of not deducting Korean indirect selling expenses incurred by HYSCO on its sales to its U.S. affiliate in the calculation of CEP.

Department Position

We agree with the petitioners that pursuant to section 772(d) of the Act, the Department will make adjustments for expenses associated with commercial activities in the United States that relate to the sale to an unaffiliated purchaser no matter where or when paid. We disagree with HYSCO's contention that the expenses covered by DINDIRSU relate to HYSCO's sales to its U.S. affiliate, HPA. To the contrary, the record evidence indicates that HYSCO performed most of the functions involved in HPA's U.S. resales. Specifically, in the U.S. selling functions chart provided in HYSCO's May 5, 2005, questionnaire response, HYSCO reports that 11 out of the 14 resales activities were performed by HYSCO, not by the affiliate HPA.²⁰ In addition, HYSCO stated that it negotiated and approved U.S. sales transactions, and that HYSCO "performs very few functions in connection with its sales to HPA."²¹

Accordingly, for the final results, pursuant to 19 CFR 351.402(b) and consistent with OCTG from Korea and Porcelain-on-Steel Cookware from Mexico, we have included a portion of HYSCO's DINDIRSU indirect selling expense in our deductions from CEP. Given that there is no information on the record quantifying the indirect selling expenses incurred in Korea in support of the resales to the U.S. customer, we have recalculated DINDIRSU by applying a ratio based on HYSCO's U.S. selling function chart and deducting DINDIRSU from our CEP calculations. See Mitsubishi Heavy Indus. Co., Ltd. v. United States, 54 F. Supp. 2d 1183, 1187 (CIT 1999); see also Final Results of the Antidumping Duty Administrative Review: Certain

¹⁹ See Tenth Review Final Results and Accompanying Issues and Decision Memorandum at Comment 2.

²⁰ See HYSCO's Supp. QR at Exhibit S-6.

²¹ See HYSCO's Supp. QR at 8; see also HYSCO's Section A QR at 22.

Corrosion-Resistant Carbon Steel Flat Products from Canada, 69 FR 2566 (January 16, 2004), and Accompanying Issues and Decision Memorandum at Comment 3.

Comment 12: Customs Instructions for HYSCO

Petitioners argue that the record shows that HYSCO's wholly owned subsidiary, HAC, imported the subject merchandise during the POR, but did not re-sell it during the POR. For the final results, the Department should revise its draft liquidation instructions and assess HAC's entries at the same duty rate as the rate applicable to entries by HPA.

HYSCO agrees with the petitioners on this issue.

Department Position

We agree with both parties and will assess the same rate to both HPA's and HAC's entries from the final results.

Comment 13: HYSCO's Home Market Sales of Non-prime Merchandise

HYSCO notes that in the Preliminary Results the Department made a ministerial error by failing to exclude non-prime merchandise from its analysis of HM sales as HYSCO did not have any sales of non-prime merchandise in the United States.

Petitioners agree that the Department should compare HYSCO's U.S. sales of prime products only with HM sales of prime products.

Department Position

We agree with both parties and will exclude HYSCO's HM sales of non-prime merchandise from our analysis for the final results.

Union Steel Manufacturing Co., Ltd.

Comment 14: Treatment of Union's CEP Offset

Petitioners assert that the Department's decision in the Preliminary Results to grant Union a CEP offset was based on the faulty premise that Union's HM sales were made at a more advanced LOT than the CEP LOT in the United States. Petitioners argue that the same circumstances exist in this review, as were used by the Department in the previous final results in which the Department did not grant the CEP offset. See Tenth Review Final Results, 70 FR 12443. Petitioners further contend that a more thorough analysis of Union's sales activities will show that a CEP offset is not warranted for Union.

First, petitioners argue that the Department should deny Union's request for the CEP offset because Union failed to meet its burden of demonstrating that its HM sales are at a different and more advanced LOT than its CEP sales, thereby warranting entitlement to a CEP offset. See Statement of Administrative Action, H.R. Doc. No. 103-316 at 829 (1994). Petitioners argue that in order for the Department to assess differences in selling activities that result in a different LOT, the Department must have complete information to evaluate the selling functions performed in both markets. In this case, petitioners argue that Union did not provide the Department the information it requested on the expenses associated with each selling activity. Thus, petitioners assert that Union failed to satisfy its burden of providing information to support its claim of differences in LOT.

Petitioners also challenge the accuracy of the selling activities that Union did report and state that other record evidence contradicts Union's reported selling functions. Petitioners point to vague and contradictory questionnaire responses on differences in selling activities between the HM and the CEP LOT and state that any differences between the two markets is minimal. Thus, petitioners argue that the information on the record is not sufficient for the Department to conclude that there is a difference in selling activities and that the HM LOT is more advanced than the CEP LOT.

Union disagrees with petitioners that its HM and CEP sales are at a similar LOT and that a CEP offset is not warranted for these final results. Union argues that record evidence demonstrates that Union's sales in the HM are made at a more advanced LOT than its CEP sales. Union argues that it reported all of its selling activities in the HM and the U.S. market, based on the categories identified by the Department. Union notes that the Department found significant differences in the selling functions between all channels of HM and CEP sales such that the CEP LOT was less advanced than its HM LOT. See Preliminary Results at 3. Union states that this finding was supported by Union's selling functions chart, which shows that a number of selling activities differed with respect to degree of activity between the HM and the U.S. market. See Union's Section A-C Supplemental Questionnaire Response, dated May 7, 2005, (Union's supplemental questionnaire response) at Exhibit A-31. Therefore, Union asserts that there is no basis for petitioners' claim that information reported by Union in its selling function chart is contradicted by other record evidence. Accordingly, the Department should continue to grant a CEP offset for these final results.

Department Position

We disagree with petitioners. Pursuant to section 19 CFR 351.412(f) of the Department's regulations, we have granted a CEP offset for Union because we found its HM sales to be at a more advanced LOT than its U.S. CEP sales. For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, see Memorandum from Jolanta Lawska, Case Analyst, to James Terpstra, Program Manager, Concerning Analysis Memorandum for Union Steel Manufacturing Co., Ltd. Preliminary Results

of 2003-2004 Administrative Review of the Antidumping Duty Order on Core from Korea, dated August 31, 2005 (Preliminary Calculation Memorandum for Union).

Pursuant to 19 C.F.R. 351.412, to determine whether comparison market sales were at a different LOT, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's-length) customers. If the comparison-market sales are at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we will make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the differences in LOT between NV and CEP affected price comparability, we will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See Plate from South Africa, at 61732-33.

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same LOT as the CEP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT. When NV is based on constructed value (CV), the NV LOT is that of the sales from which we derive selling expenses, general, and administrative expenses (SG&A), and profit. We did not make an LOT adjustment under 19 C.F.R. 351.412(d) because, as there was only one HM LOT, we were unable to identify a pattern of consistent price differences attributable to differences in LOT (see 19 CFR 351.412(d)).

In the Preliminary Results, the Department based its decision to grant Union a CEP offset on information provided by Union in its questionnaire response. See Union's supplemental questionnaire response at Exhibit A-10. In supplemental questions, we asked Union to update the selling functions chart (Exhibit A-31) to account for all activities at the CEP LOT and to demonstrate that the HM LOT is more advanced than the CEP LOT. Contrary to petitioners' assertions that Union's selling activities in the HM via sales intermediaries were not significantly different from its CEP sales made to its affiliate, Dongkuk International, Inc. (DKA), we find that Union provided sufficient information for the Department to compare selling functions and the difference in the degree of selling functions in the two markets. See Preliminary Calculation Memorandum for Union at 3. For example, information provided by Union demonstrates that Union's selling functions for the HM sales are different and more extensive than those associated with Union's sales to DKA. Therefore, we conclude that HM sales are at a more advanced LOT than its U.S. sales.

Finally, based on the information on the record we have determined that it is not possible for the Department to make an LOT adjustment. Specifically, because all HM sales were made at one LOT, which is not the same LOT of the U.S. sales, it is not possible to quantify the extent to which sales at different LOTs in the HM differ in price. Given that the HM sales are at a more advanced LOT, and it is not possible to make an LOT adjustment, we have granted Union a CEP offset pursuant to section 773(a)(7)(B) of the Act.

Comment 15: Treatment of Union's Indirect Selling Expenses Incurred in Korea

Petitioners assert that Union's statement that its U.S. affiliate DKA acted as a selling intermediary between U.S. customers and Union implies that Union participated in non-intermediary activities in regard to the resale transactions. Therefore, petitioners argue that the Department should identify and deduct the expenses associated with all of Union's selling activities incurred in Korea and involved in the sales to the unaffiliated U.S. customer from the CEP calculation.

Alternatively, petitioners also argue that Union's calculation of indirect selling expenses incurred in Korea on its U.S. sales (*i.e.*, DINDIRSU) is based on inaccurate methodology and that the Department should deny the DINDIRSU adjustment to the Department's calculation of Union's CEP profit. Specifically, petitioners state that Union allocated all of its indirect selling expenses between its domestic and export sales. Petitioners then argue that Union then allocated the total indirect selling expenses for export sales over its total value of its export sales. However, petitioners state that Union's response presents its financial data at a specific enough level to allow for the calculation of this adjustment on a U.S. sales specific manner. Thus, petitioners argue, Union should have calculated this adjustment at a more detailed level and; 1) determined what indirect selling expenses were attributable to all export sales; 2) determined what indirect selling expenses were attributable to all U.S. sales; and 3) based DINDIRSU on Union's total U.S. indirect selling expenses over its total U.S. sales value as well as included the appropriate U.S. proportion of the "all export sales" indirect selling expenses. Therefore, petitioners state, because Union failed to provide this calculation using its data at its most specific level, the Department should not deduct DINDIRSU in the calculation of CEP profit.

In regards to the first argument, Union states that over the last twelve years, as well during the verification in the last administrative review, the Department has had ample opportunity to observe the activities conducted by the Korean parent and its U.S. affiliate. As a result, the Department has determined that the indirect selling expenses incurred by Union in Korea do not relate to the commercial activity performed in the United States. Therefore, the Department should continue to follow its practice from the Preliminary Results.

Secondly, Union states that it correctly reported the amounts of its indirect selling expenses. Union states that the methodology it used for calculating its HM indirect selling expenses (INDIRSH), as well as the calculation for DINDIRSU, is consistent with the methodology that Union used and the Department has accepted in all prior administrative reviews, and which has been verified by the Department in the tenth administrative review. See Union's Cost and Sales Verification Report for the Tenth Administrative Review, dated February 1, 2005 (Union 10th AR Verification Report), at Exhibits S13 and S14. Accordingly, the Department should continue to use its indirect selling expenses calculated for these final results.

Department Position

It is the Department's practice not to deduct from the CEP calculation indirect selling expenses incurred outside the United States if the indirect selling expenses support sales to the affiliated purchasers and not to the unaffiliated customer. See Notice of Final Results of Antidumping Duty Administrative Review: Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Romania, 70 FR 7237 (February 11, 2005), and Accompanying Issues and Decision Memorandum at Comment 4; see also Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Mexico, 70 FR 677 (January 26, 2005), and Accompanying Issues and Decision Memorandum at Comment 7. There is no evidence on the record to suggest that the indirect selling expenses reported by Union in Korea are attributable to Union's U.S. sales to unaffiliated customers. During the tenth administrative review, we verified that the HM indirect selling expenses reported by Union are general in nature and are unrelated to sales between its U.S. affiliate and its unaffiliated U.S. customers. In this review, we have analyzed the selling functions reported by Union and found that DKA performed the selling activities involved in the sales to unaffiliated U.S. customers. See Union's supplemental questionnaire response, dated July 15, 2005, at 9 and Exhibit A-31. Accordingly, we have not altered our treatment of reported indirect selling expenses for U.S. sales from the Preliminary Results.

With respect to petitioners' argument that we should deny Union's reported indirect selling expenses incurred in Korea on its U.S. sales (*i.e.*, DINDIRSU), we disagree. Petitioners have not provided any specific analysis or evidence that Union's calculation of DINDIRSU is, in fact, inaccurate. Petitioners have only provided argument and conjecture that Union could have calculated this adjustment on a more specific basis, and therefore, should have. We disagree that, in this administrative review, the record evidence supports the petitioners' assertion that a recalculation of Union's DINDIRSU should be based on: 1) indirect selling expenses attributable to all export sales; 2) indirect selling expenses attributable to all U.S. sales; and 3) Union's total U.S. indirect selling expenses over its total U.S. sales value as well as the appropriate U.S. proportion of the "all export sales" indirect selling expenses. Finally, we disagree with petitioner that its characterization of the facts suggest a more accurate manner to report Union's indirect selling expenses incurred in Korea on its U.S. sales in this administrative review.

Comment 16: Treatment of Union's Indirect Selling Expense Ratio

Petitioners assert that the U.S. indirect selling expense (ISE) ratio should express a respondent's total indirect expenses for the period as a percent of its total revenue for that period. Petitioners argue that Union's calculation of its ISE ratio for its U.S. sales is significantly understated because the denominator incorrectly includes certain DKA revenue amounts which should not have been included because the value of these sales did not constitute revenue to DKA. Specifically, petitioners point to DKA's POR gross sales value of slab and scrap to its parent company. According to petitioners, the sales value of the slab and scrap should not have been treated as DKA's income because DKA only acts as an agent for such transactions, so the

revenue in relation to these transactions was the commission DKA received on the sales, not the sales value of the merchandise. Petitioners argue that where DKA served only as an agent, it is improper to include the sales value of the merchandise sold as part of DKA's revenue for the purpose of calculating the ISE denominator.

Petitioners argue further that DKA's accountants came to the same conclusion on DKA's 2004 financial statements where they stated that in accordance with U.S. GAAP, the sales value of slab and scap is not income to DKA and that according to U.S. accounting principal EITF 99-19, DKA's sales of slab and scrap are agent sales to the parent company, Dongkuk Steel Mill Co., Ltd. (DSM). Petitioners acknowledge that the Department rejected their argument regarding Union's ISE denominator in the last administrative review; however, petitioners argue that the Department's reasoning was flawed. Petitioners argue that the Department "appeared to misapprehend the critical fact that DKA itself served only as an agent for the sales in question and the only revenue DKA received was the commission on such sales." See U.S. Steel's Case Brief at 16. Therefore, inclusion of the sales revenue of the agency sales in the ISE denominator distorts the ISE ratio.

Union argues that it correctly reported DKA's gross sales value as the sales denominator for calculating its U.S. ISE ratio. Union states that in all prior reviews, the Department has accepted Union's ISE ratio methodology, which is based on DKA's gross sales value. See Tenth Review Final Results and Accompanying Issues and Decision Memorandum at Comment 20. Union points to the Department's finding that a substantial portion of DKA's expenses related to the scrap and slab sales are included in DKA's total indirect selling expenses, and thus, it is necessary to use DKA's total sales revenue rather than the total sales as reported in its financial statements. Id. In addition, Union argues that the Department did not confuse the issue of DKA's payment of commissions on certain sales in the denominator, rather it is petitioners who are mistaken. Union argues that petitioners are addressing the Department's reasoning on the numerator of the ISE ratio calculation and not the denominator. Therefore, Union argues that petitioners' critique of the Department's determination from the last administrative review is inapposite.

Department Position

We find that Union did not err in its calculation of its U.S. ISE ratio in the manner alleged by petitioners. The Department has consistently held that the expense amount and the total sales value in a ratio should reflect the same pool of sales such that the total expense amount is divided by the total value of the sales for which the total expense was actually incurred. See, e.g., Notice of Final Results of Antidumping Duty Administrative Reviews and Termination In Part: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, 62 FR 11825, 11836 (March 13, 1997). In this instant administrative review, if the Department removed the sales revenue of scrap and slab to DSM, the indirect selling expenses used in the same ratio would not reflect the same pool of sales as the revenue.

The audited financial statements of DKA substantiate that DKA's books and records are maintained in accordance with U.S. GAAP. We recognize that U.S. GAAP principle EITF 99-19 dictates that DKA report its sales of slab and scrap to DSM as agent sales for purposes of preparing its financial statements. However, as we determined in the Tenth Review Final Results and Accompanying Issues and Decision Memorandum at Comment 20, a substantial portion of DKA's expenses related to the sales of scrap and slab are embedded in DKA's total indirect selling expenses. Consequently, to calculate the ISE ratio to be applied to the gross unit selling prices of DKA's U.S. sales, it is appropriate to include DKA's total sales revenue in the denominator. It is, therefore, necessary to utilize DKA's total sales revenue rather than the total sales revenue as reported in its audited financial statements. In doing so, we are relying on the underlying data in the audited financial report, i.e., the audited books and records of DKA, which establish the invoiced value of DKA's sales to DSM and to its unaffiliated customers. Accordingly, the Department continues to accept Union's calculation of its ISE ratio for the final results.

Comment 17: Union's Treatment of Bad Debt Expenses Incurred by DKA

Petitioners contend that Union's allocation of the allowance for bad debt to the subject merchandise is understated, arguing that the entirety of the bad debt allowance must be included in the expenses allocable to the subject merchandise. Regarding bad debt write-offs, they argue against the Department's findings in the Tenth Review Final Results and claim that the Department should treat certain bad debt write-offs as direct selling expenses related to subject merchandise.

Union claims that it has reported bad debt in the same manner as accepted by the Department in the Tenth Review Final Results, and that the Department has previously rejected arguments similar to those raised by petitioners in the instant review. See Tenth Review Final Results and Accompanying Issues and Decision Memorandum at Comment 21. Union explains further that DKA calculated a provision for bad debt based on its estimate of what was likely to be collectable. Accordingly, Union argues that no adjustment is required for Union's reporting of bad debt.

Union also argues that it properly excluded the write-off of bad debt from the calculation of its U.S. ISE ratio. Union explains that DKA's bad debt expense consists of two parts: a bad debt allowance and bad debt write-offs. The bad debt allowance is a calculation based on unpaid outstanding balances and estimates as to the amount that is unlikely to be collected. According to Union, a bad debt allowance cannot be tied to specific sales because it is impossible to determine which sales will actually become bad debt. Union asserts that DKA's bad debt write-offs were mostly related to sales made prior to the POR. Such sales are also those that provide the basis for DKA's determination as to the amount of the balance to be maintained in its allowance for doubtful accounts, and, in turn, the amount of the bad debt allowance to be charged against income each year and added to the allowance for doubtful accounts to meet the targeted

balance. Union states that it treats this bad debt allowance as an indirect selling expense and includes it in the U.S. ISE ratio.

Union claims that where a write-off for bad debt occurred with respect to sales during the POR, Union reported the amount in the field OTHDISU. Similarly, where the customer underpaid the invoiced amount during the POR, Union reported the unpaid amount in the field OTHDISU. According to Union, petitioners' request that the Department deduct both DKA's bad debt allowance and its bad debt write-offs would result in the double counting of bad debt.

Department Position

The Department found no discrepancies with the way in which Union calculated and reported its bad debt expenses. We examined the record and found that Union had both bad debt allowance (included in its U.S. indirect selling expense ratio) and bad debt write-offs attributable to actual sales (reported in the field OTHDISU).

We find that petitioners' suggestion that the Department deduct both DKA's bad debt write-offs and bad debt allowance would effectively double-count bad debt. The Department cannot deduct both the bad debt allowance attributable to delinquent sales and the bad debt written off, when the provision for the bad debt was charged against income in a prior year. Union's reported bad debt, as part of its indirect selling expense ratio, accounts for all bad debt in the given period during which indirect selling expenses are reported and does not double-count. Accordingly, we are not revising Union's ISE ratio calculation.

Comment 18: Union's Treatment of Factory Warehousing Expenses in Korea for its U.S. Sales

Petitioners urge the Department to address the question of factory warehousing expense in the case of "made to order" goods for purposes of the final results. Specifically, petitioners question Union's statement in its supplemental questionnaire response that all of Union's U.S. sales are made to order and that if they are not shipped immediately, they are held in the finished goods inventory at Union's factory. See Union's supplemental questionnaire response at 7. While acknowledging that 19 C.F.R. 351.401(e) of the Department regulations defines warehousing as "a movement expense" incurred after the merchandise leaves the factory, petitioners assert that the Department has recognized that "made to order" merchandise sometimes requires its own analysis. See Circular Welded Non-Alloy Steel Pipe From The Republic of Korea, 63 FR 32833, 32836 (June 16, 1998). Petitioners argue that in the case of "made to order" goods, the Department should consider the cost of keeping goods at the factory, when awaiting shipment to a particular customer as a circumstance-of-sale expense for purposes of NV calculations. See Section 773 (a)(6) of the Act. Petitioners request that the Department require respondents to identify all sales "made to order" and then determine warehousing expense. Thus, they claim that the Department should deduct factory warehousing expense as direct U.S. selling expense, in U.S. price calculations, when the merchandise involved was made to order.

Union disagrees with petitioners and asserts that since Union did not incur any direct warehousing expenses for its U.S. sales and only incurred the opportunity costs of holding finished goods in inventory until shipment, Union did not report any warehousing expenses in Korea for its U.S. sales. According to the requirements in the Department's questionnaire, Union states that it reported the opportunity cost from the time of final production to the time of shipment from the factory, for both its domestic sales and U.S. sales in the inventory carrying cost fields for the home and U.S. markets. Therefore, there is no basis for the Department to make a circumstance-of-sales adjustment for Union's inventory carrying costs.

Department Position

We disagree with petitioners' assumption that in the case of "made to order" goods we should treat the cost of keeping goods at the factory as a circumstance-of-sale expense. We found no distortions of the facts with the reporting methodology. Storing goods temporarily at the factory that produces the merchandise is not considered warehousing in accordance with the Department's practice. See the Department's sections B and C questionnaire, dated November 1, 2004, regarding instructions on warehousing expenses. The record shows that Union did not incur any direct warehousing expenses for its U.S. sales and only incurred the opportunity costs of holding finished goods in inventory until shipment. Therefore, we conclude that there is no basis to make a circumstance-of-sale adjustment for Union's inventory carrying costs incurred in Korea on its U.S. sales.

Comment 19: Treatment of Union's Warranty Expenses

Petitioners note that Union failed to follow an instruction in a supplemental questionnaire to report sale-specific warranty expenses for sales made during the POR. They reject Union's explanation that "there appears to be no way to capture, in the context of this administrative review, all payments of warranty claims made (or that will be made) on sales made during the POR." See Union's supplemental questionnaire response at 45. They argue that the Department should require Union to report warranty expense only for those sales during the POR that had claims and revise the WARRU field to allow more appropriate allocation. Alternatively, petitioners argue, if Union fails to follow the Department's instructions, the Department should apply facts available in its calculations for the final results.

Union asserts that it responded to the Department's request concerning U.S. warranty expenses and was not uncooperative. Union states that it reported the warranty expenses on its U.S. sales in a manner consistent with all of its prior administrative reviews and the Department accepted this methodology. In all prior reviews of this antidumping order, Union asserts that it has reported an average warranty expense based on warranty claims paid during the POR, regardless of whether the merchandise for which the warranty claims were paid was sold during or before the POR. Therefore, Union concludes, the Department should use its reported warranty expenses in the final results.

Department Position

We disagree with petitioners regarding the treatment of warranty expense calculations. Warranties typically extend over a period of time that is longer than the POR as complete information for the reviewed sales during the POR is usually not available at the time the questionnaire response is received. Where appropriate, we collect information on model-specific warranty expenses extending over a three-year period. This allows us to evaluate whether the expenses incurred during the POR are reasonable. We noted that Union's calculation of its warranty expenses during the three most recently completed fiscal years demonstrates that the per-unit warranty expense reported in the current review is consistent with Union's expenses during prior fiscal years.

With respect to petitioners' argument that Union failed to answer the Department's question, we agree, in part. With respect to Union's response to the Department's supplemental question on warranty expenses, we agree that Union's response does not fully address the Department's question (see Union's May 6, 2005, supplemental questionnaire response at 44). However, while its response does not directly address the Department's question, there is nothing on the record to suggest that Union has failed to fully cooperate in its attempts to respond to the Department's request for information. Thus, there is nothing on the record to suggest that we should not accept what Union has provided with respect to this adjustment. Therefore, we are continuing to use Union's submissions and questionnaire responses on warranty expenses reported by Union for the POR.

Comment 20: Treatment of Certain Estimated Shipment Dates and/or Estimated Payment Dates for Certain U.S. Warehoused Sales

Petitioners note that for certain U.S. sales where either payment had not yet been received for warehoused goods or the merchandise had not yet been shipped from the warehouse, Union submitted estimated dates of payment and shipment from the warehouse, in its May 6, 2005, questionnaire response. Petitioners request that the Department ask Union to provide an updated U.S. sales database with respect to the shipment dates from warehouse and the payment dates by customer, and the revised warehousing and credit expenses for these sales to account for developments since May 6, 2005. Petitioners emphasize that the above corrections would be relevant to the proper calculation of inventory carrying costs, warehousing costs, and sales-specific credit costs. In addition, petitioners argue that the Department should reject the method used by Union to make its estimations, and devise a methodology based on data on the record to determine more appropriate ways to measure credit and warehousing expenses on these transactions. Alternatively, petitioners argue that for any sales that Union cannot provide actual information, the Department should use facts available to estimate the dates of shipment and payment.

Union states that it is prepared, if requested, to provide updated information regarding the estimated shipment dates and estimated payments to account for developments since May 6,

2005. Furthermore, Union argues that in the event the Department decides not to request from Union its revised U.S. sales database, the Department's practice with respect to sales where such expenses are not finalized in the database is to substitute the date of the final results in order to calculate relevant expenses.

Department Position

We disagree that we should collect any additional data in this case. In our supplemental questionnaire, dated April 8, 2005, we requested Union to update its sales database with respect to the shipment dates from warehouse and the payment dates by the customer, and the revised warehousing and credit expenses for these sales, and Union did so. It is not the Department's practice to constantly request updated information with respect to requested information. In this case, August 17, 2005, was the date of Union's last submission to the Department, thus its last opportunity to submit factual information. Therefore, we have used this date for all estimated shipment and payment dates, as well as for calculating credit expenses, in these final results.

Comment 21: Treatment of Unico's Home Market Credit Expense

Petitioners argue that because Union failed to deduct the early payment discount for sales to a particular customer from the gross unit price of Unico's sales, the Department should re-calculate the credit expense for that customer. See Union's Section B questionnaire response at 31. Petitioners argue that Union's treatment of its credit expense is contrary to the Department's practice to calculate credit expense based on the gross unit price of the merchandise net of all discounts. See e.g., Antifriction Bearings (Other than Tapered Roller Bearings and Parts Thereof From France), 61 FR 66471, 66472 (December 17, 1996).

Union agrees with petitioners that the Department should re-calculate Unico's HM credit expense.

Department Position

The Department agrees that we should re-calculate Unico's HM credit expense. Accordingly, we have made the suggested changes to correct this error for the final results.

Comment 22: Union's Treatment of "Oxidized Steel" (Rust) in its Cost Calculations

Petitioners note that Union's scrap recovery rate includes "oxidized steel" (rust) in its calculation. Thus, petitioners claim that it is unclear how Union accounted for "oxidized steel" in its cost calculations. Petitioners argue that the Department should request Union to clarify how it treated "oxidized steel" in its cost calculations to ensure that Union is including all steel costs in its cost of materials calculation. Petitioners argue that such a clarification will ensure that Union has not understated its steel costs or overstated any scrap offsets.

Union argues that “oxidized steel” was properly included in the calculation of Union’s scrap recovery rate. Union explains that it applied a consistent methodology for calculating its scrap offset as used in the Tenth Review Final Results, which the Department verified. See Union 10th AR Verification Report at 15.

Department Position

We agree with Union. As Union points out, it followed the same methodology for calculating its scrap offset as used in the Tenth Review Final Results, which the Department verified. See Union’s 10th AR Verification Report at 15. Furthermore, pursuant to the Department’s June 3, 2005, supplemental questionnaire, Union officials submitted a revised worksheet that explains the calculation of Union’s scrap recovery ratio. See Union’s supplemental questionnaire response, dated June 30, 2005, at 11-12 and Exhibit D-34. We have examined the record and find that Union properly included “oxidized steel” in the calculation of Union’s scrap recovery rate and, therefore, has not understated its steel costs.

Pohang Iron & Steel Company, Ltd. and Pohang Coated Steel Co., Ltd.

Comment 23: Treatment of the POSCO Group’s Indirect Selling Expenses Incurred in Korea for U.S. Sales

Petitioners argue that the Department should increase the POSCO Group’s U.S. CEP indirect selling expenses to account for all CORE selling activities performed by its parent companies in Korea in connection with POSCO’s U.S. subsidiaries’ resales. Petitioners argue that the Department should deduct all selling expenses associated with POSCO’s CORE selling functions in resale transactions in the U.S., even when those activities occur outside the U.S. and the expenses are reflected on the parent’s foreign books.

Petitioners state that the POSCO Group performs important resale activities in the U.S. on behalf of its U.S. affiliate, Pohang Steel America Corp. (POSAM). Specifically, petitioners claim that expenses incurred by the parent company include negotiating sales, arranging for freight and delivery, providing technical support services, providing warranties and sales support.²² Petitioners contend that the relevant expenses are selling expenses the POSCO Group pays on behalf of POSAM’s resales in the U.S.

The POSCO Group argues that consistent with its well-established practice and consistent with the Department’s treatment of these expenses in the Preliminary Results, the Department should not deduct any indirect selling expenses incurred in Korea for U.S. sales.²³ The POSCO Group

²² The POSCO Group’s January 31, 2005, Section A Questionnaire Response at 17, 24, and 30. (The POSCO Group’s Section A Response)

²³ See Preliminary Results at 53156.

argues that the Department made this determination based on the specific facts that the POSCO Group submitted in the present review, which are the same facts as those verified by the Department in previous reviews.²⁴ The POSCO Group argues further that the antidumping statute prevents the deduction of the POSCO Group's selling expenses incurred in Korea from CEP.

Department Position

It is the Department's practice not to deduct from the CEP calculation indirect selling expenses incurred outside the United States if the indirect selling expenses support sales to the affiliated purchasers and not to the unaffiliated customer. See Notice of Final Results of Antidumping Duty Administrative Review: Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Romania, 70 FR 7237 (February 11, 2005), and Accompanying Issues and Decision Memorandum at Comment 4; see also Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Mexico, 70 FR 2677 (January 26, 2005), and Accompanying Issues and Decision Memorandum at Comment 7. There is no evidence on the record to suggest the POSCO Group's reported indirect selling expenses are attributable to POSAM's U.S. sales to unaffiliated customers. During the tenth administrative review, we verified that the HM indirect selling expenses reported by the POSCO Group are general in nature and are unrelated to sales between POSAM and its unaffiliated U.S. customers.²⁵ In this review, we have analyzed the selling functions reported by the POSCO Group and found that POSAM performed the selling activities involved in the U.S. sales to the unaffiliated U.S. customers. See the POSCO Group's Section A Response at 29-31. Accordingly, we have not altered our treatment of reported indirect selling expenses for U.S. sales from the Preliminary Results.

Comment 24: Treatment of POSCO Group's CEP Offset

Petitioners argue that the POSCO Group has not met the burden of proof for establishing entitlement to a CEP offset. Petitioners state that as the selling functions that the POSCO Group performs in the HM are generally the same as and performed at the same level as those it performs for its U.S. CEP sales, the selling functions in both markets are similar in nature. They assert that the POSCO Group has the burden of proof for establishing its entitlement to a CEP offset and that it has failed to meet its burden.

The POSCO Group states that, pursuant to section 773(a)(7)(B) of the Act, the Department offsets NV by the amount of indirect selling expenses for the foreign like product when the NV

²⁴ See Tenth Review Final Results and Accompanying Issues and Decision Memorandum at Comment 2 (“{W}e verified that the HM indirect selling expenses reported by the respondents are general in nature and are unrelated to the commercial activities in the United States and to sales between the parent companies and their unaffiliated U.S. customers.”).

²⁵ Id.

LOT is more advanced than the CEP LOT. The POSCO Group states further that many antidumping proceedings involve U.S. affiliates that resell the foreign company's merchandise in the United States, whether in back-to-back transactions or from U.S. inventory. Under petitioners' scenario, the POSCO Group argues that the only instance in which a CEP offset would be warranted is where the U.S. affiliate further manufactures the merchandise in the United States. In response to petitioners' argument that there is an insufficient basis for a CEP offset because the POSCO Group's selling activities at the CEP LOT differed from only one channel of the POSCO Group's HM sales, the POSCO Group claims that, for purposes of a CEP offset, the Department's focus is the differences between the selling activities at the CEP LOT versus the single HM LOT, not the separate distribution channels.

The POSCO Group further argues that the Department found that a CEP offset was warranted in the Tenth Review Final Results, as well as in Cold-Rolled from Korea,²⁶ based on the same facts that exist for this review, as identified in the Preliminary Results. The POSCO Group argues that for its CEP sales, there are several selling functions that the POSCO Group's U.S. affiliate, POSAM, is heavily involved in and performs exclusively. Thus, respondent claims that the POSCO Group's CEP sales should be considered different from the HM LOT and, thus, are at a less advanced LOT than that of the HM.

Department Position

The Department agrees with respondent and will continue to grant the POSCO Group a CEP offset. We agree with the POSCO Group that the evidence on the record is sufficient to demonstrate that the POSCO Group's HM sales are at a more advanced LOT than its CEP sales, and that a CEP offset is warranted.²⁷ Petitioners have not provided any new information or arguments that would lead us to change our decision in the final results.

Comment 25: The POSCO Group's Treatment of Advertising Expenses as Indirect Selling Expenses

Petitioners argue that the POSCO Group failed to report its advertising expenses as direct selling expenses for U.S. sales. Petitioners argue that although POSCO claimed there were no direct advertising expenses in the United States, its selling expense chart indicates that there are advertising expenses incurred on behalf of U.S. sales that should be deducted as a direct selling expense. Moreover, petitioners state that these expenses should also be taken out of the pool of indirect selling expenses in which they were originally reported.

²⁶ Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Korea, 67 FR 62124 (October 3, 2002), and Accompanying Issues and Decision Memorandum at Comment 6 (Cold Rolled from Korea).

²⁷ See Calculation Memorandum for the POSCO Group, Preliminary Results in the 03/04 Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea, dated August 31, 2005 (The POSCO Group's Preliminary Calculation Memorandum).

The POSCO Group claims that it properly reported these expenses as indirect selling expenses as the Department's instructions in the advertising expense (i.e., ADVERTU) field directs respondents to report "the cost {it} incurred to advertise to {its} customer's customers." The advertising expenses at issue here are costs incurred by the POSCO Group to print brochures and catalogs and are not the direct advertising expenses that would properly be reported in ADVERTU. The POSCO Group states that the Department has consistently held that advertising expenses must be directed toward its customer's customer to be treated as direct selling expenses.²⁸ The POSCO Group asserts that where advertising materials, such as brochures, are "general in nature and offer a variety of information on the company or products produced by the company," the Department has treated such expenses as indirect expenses.²⁹ The POSCO Group argues that they reported advertising expenses for U.S. sales that cannot be tied to specific sales during the POR, which further supports that they are properly reported as indirect selling expenses. The POSCO Group has repeatedly clarified in this review that it did not incur any direct advertising expenses for its U.S. sales,³⁰ and the Department has verified and confirmed in prior reviews that the brochures and catalogs in question are not used to promote and market the POSCO Group's product to its customer's customers. Therefore, the POSCO Group states that it has properly reported these expenses and no further adjustment to CEP is necessary.

Department Position

We disagree with the petitioners that the POSCO Group improperly reported its advertising expenses as indirect selling expenses, rather than direct selling expenses incurred by the parent company. Based on the record evidence in this review, we have determined that the POSCO Group's advertising expenses were general in nature and not incurred for direct promotion and marketing of the POSCO Group's product to its customer's customers. See id. See also the

²⁸ See Notice of Final Results of Antidumping Duty Administrative Review: Certain Pasta from Italy, 65 FR 7349 (Feb. 14, 2000), and Accompanying Issues and Decision Memorandum at Comment 13 ("{W}e consider the CIBUS fair to be a direct advertising expense because . . . this fair was open to the public, was attended by the customers of {respondent's} customers, including retailers (distributors' customers) and end-users (retailers' customers)."); and Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review, 65 FR 13943 (Mar. 15, 2000), and Accompanying Issues and Decision Memorandum at Comment 21 (finding that because respondent's advertising was direct to its customer's customers, i.e., end-users, such expenses should be treated as direct selling expenses). The Department has also considered whether advertising expenses can be tied directly to specific sales in determining whether they should be reported as direct selling expenses. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan, Part II, 64 FR 30574 (June 8, 1999), and Accompanying Issues and Decision Memorandum at Comment 5 (citing Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Japan, 63 FR 40434, 40437 (July 29, 1998)).

²⁹ See Stainless Steel Sheet and Strip in Coils from Taiwan, 64 FR 30592 (June 8, 1999), and Accompanying Issues and Decisions Memorandum at Comment 11.

³⁰ See the POSCO Group's August 17, 2005, letter at 9.

POSCO Group's Section A questionnaire response, dated January 21, 2005, at 28. The POSCO Group properly reported these expenses and no further adjustment to CEP is necessary.

Comment 26: The POSCO Group's Rebates for Home Market Sales

Petitioners argue that the POSCO Group failed to allocate rebates to the actual transactions to which they applied and that POSCO Group's general allocation methodology of its rebate expenses is distortive. Specifically, the petitioners argue that the POSCO Group's rebate methodology is unreasonable because it fails to meet the Department's standard of allocating rebates on as transaction-specific a basis as possible. The petitioners state that the Department's practice has been to accept an allocation only "when it was not feasible for a respondent to report the adjustment on a more specific basis, provided that the allocation method the respondent used does not cause unreasonable inaccuracies or distortions."³¹ Further, the petitioners state that the POSCO Group's methodology is distortive and the claimed rebate should be disallowed because it allocates the rebate amount from sales which incurred a rebate to sales which did not.

The POSCO Group claims that the Department has verified and accepted the POSCO Group's rebate reporting methodology in the tenth administrative review. The POSCO Group argues that it properly allocated expenses on as specific a basis as possible and that the Department accepts such allocations if they are based on the records maintained by the respondent in the normal course of its business.³²

Department Position

We agree with petitioners that the Department's policy is to have respondents report price adjustments and selling expenses in the most specific manner possible. We disagree with petitioners, however, that there is evidence on the record that the POSCO Group could have, or should have, allocated expenses in a more specific way in this administrative review. Specifically, while petitioners cite to instances in the POSCO Group's responses where they believe the rebate distortions are evident, and provide citations to exhibits and alleged customer specific rebate percentages, petitioners provide no substantial evidence of distortions (e.g., observation numbers, invoice numbers, customer codes, sales dates, tables, charts, worksheets, etc.) in the POSCO Group's allocation methodology.³³ Therefore, we find no basis for denying this rebate adjustment for these final results.

³¹ See Antifriction Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part, 69 FR 55574 (September 15, 2004), and Accompanying Issues and Decision Memorandum at comment 22.

³² The POSCO Group's June 23, 2005 Supp. Response at Exhibit 19.

³³ See US Steel's Case Brief at 11-13.

Comment 27: Revision of the POSCO Group's Indirect Selling and Commission Expense

The petitioners claim that the POSCO Group's reported HM indirect selling expenses improperly included an expense category for "commissions." As these "commissions" are actually direct selling expenses incurred by the POSCO Group on sales of non-subject merchandise, petitioner argues that they should be removed from the indirect selling expense ratio calculation.

The POSCO Group argues that "commissions" that the petitioner is referring to are not sales commissions paid to a selling agent for either subject or non-subject merchandise. Rather, the POSCO Group states, the commissions in question are service fees that are properly included in its indirect selling expense calculation. The POSCO Group further argues that in previous reviews this commission was found by the Department to consist of various service fees including inspection fees, legal fees, and service charges. Thus, as the Department has determined in prior reviews, the POSCO Group argues that the "commissions" in question are, in-fact, service fees that are properly included in its indirect selling expense ratio.

Department Position

We agree with petitioners and will make the adjustment in our program for the final results. The factual record of this administrative review is different from the factual record of the last administrative review on this issue. There is nothing on the record to indicate that the expense in question is anything but a commission. Pursuant to section 772(d)(1)(B) of the Act, commissions are expenses that the Department typically will consider as direct selling expenses and not indirect selling expenses. See Stainless Steel Bar from France: Preliminary Results of Antidumping Duty Administrative, 71 FR 3463, 3464 (January 23, 2006). Thus, for purposes of these final results, we have recalculated the POSCO Group's indirect selling expense ratio to exclude the commissions and calculated a per-unit direct selling expense adjustment from these figures to apply to the POSCO Group's HM sales listing.³⁴

Comment 28: Treatment of the POSCO Group's Home Market Sales As Outside the Ordinary Course of Trade

Petitioners claim that a number of the POSCO Group's HM sales were made outside the ordinary course of trade. The petitioners state that the POSCO Group reported that these HM sales involved products that were damaged by a typhoon in August 2003 while the merchandise awaited shipment to its customer. The petitioners also state that the cash payments that the POSCO Group issued to the customer for the damaged subject merchandise amounted to a "very large" billing adjustment in the HM sales listing and that selling adjustments of this magnitude are highly unusual. Thus, the petitioners argue that the Department should treat these sales as

³⁴ See Calculation Memorandum for the POSCO Group, Final Results in the 03/04 Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea, dated February 6, 2006 (the POSCO Group's Final Calculation Memorandum), for further discussion.

outside the ordinary course of trade and exclude these specific sales from its margin calculations in this administrative review.

The POSCO Group states that the specific products included in the aforementioned sales transactions were damaged by a typhoon while in a warehouse awaiting shipment to the customer. The POSCO Group argues that its customer was appropriately compensated for receipt of the damaged merchandise. The POSCO Group claims that it properly reported these billing adjustments in the field BILADJ1H in its HM sales file because the adjustments were not reflected in the gross unit price at the time of the original sale.³⁵ Finally, no separate exclusions are necessary with respect to these sales.

Department Position

The circumstances associated with these sales of subject merchandise are highly unusual. Section 771(15) of the Act defines the term “ordinary course of trade” as “the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind. In determining whether a sale is outside the ordinary course of trade, the Department does not rely upon one factor taken in isolation but, instead, considers “all of the circumstances particular to the sale in question.” 19 C.F.R. 351.102; See CEMX, S.A. v. United States, 587, 593 (CIT April 24, 1995). See also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold Rolled Carbon Steel Flat Products From Taiwan 67 FR 62104, October 3, 2002. Examining the circumstances of the POSCO Group’s HM sales we find that they are outside the ordinary course of trade. The isolated and unique factual circumstances surrounding these transactions clearly show that they are unusual and not reflective the typical market conditions. The POSCO Group’s issuance of substantial billing adjustments to cover the substantial damage is not in itself inappropriate; however, it does render these transactions not reflective of ordinary market conditions. Thus, for purposes of these final results, the margin calculation program will be modified with respect to these HM sales and they will be excluded from the analysis.

Comment 29: Treatment of the POSCO Group’s Home Market Credit Expense

Petitioners argue that the POSCO Group improperly calculated its short-term borrowing rate used in the calculation of HM credit expense. They assert that the POSCO Group included interest rates of certain short-term borrowings of POCOS that are not a proper measure of the short-term borrowing rate attributable to POCOS. Therefore, the Department should revise POCOS’ calculation of its short-term borrowing rate by excluding these interest rates, in order to accurately reflect its short-term borrowing experience during the POR.

³⁵ See the POSCO Group’s January 31, 2005, Section B Questionnaire Response at 36.

The POSCO Group rebuts that it properly included interest rates of certain short-term borrowings in calculating POCOS' HM credit expenses, as the short-term interest rates were denoted in the same currency in which the HM sales were made. The POSCO Group asserts that the Department's practice is to use short-term interest rates of loans that are tied to the same currency in which the sales are denominated, as is the current situation. Therefore, the POSCO Group argues that the focus of the Department's analysis in determining whether to include certain short-term borrowings in the credit expense calculation should be the currency in which the borrowing was transacted, not the nature of the borrowing activity. Accordingly, the POSCO Group contends that because POCOS' HM sales are invoiced in Korean won and payment is received in Korean won, POCOS' Korean won-denominated interest rate for certain short-term borrowings is properly included in its HM short-term interest rate.

Department Position

We agree with petitioners that the POSCO Group improperly included interest rates of certain short-term borrowings when calculating its HM credit expense on POCOS' HM sales (because the nature of these certain borrowings is proprietary, see POSCO Group Calculation Memo for a detailed discussion). As noted by petitioners, these borrowings should be excluded from the calculation. Therefore, the Department will correct the margin calculation with respect to the POSCO Group's HM credit expense for these final results.

Comment 30: The POSCO Group's "Window Period" Sales Adjustment

Petitioners claim that in the Preliminary Results the Department did not correctly define the window period in the margin calculation program. Petitioners argue that the Department incorrectly defined the start date of the window period as three months prior to the first date of the POR, rather than three months prior to the date of the earliest U.S. sale.

In its case brief, the POSCO Group claims that it reported all its U.S. sales of subject merchandise that entered into the United States. In prior reviews, the POSCO Group argues that it reported the date of shipment as the U.S. date of sale for all these entries. The POSCO Group states that the U.S. sales database includes transactions that had sales dates that occurred prior to the POR, but entered the U.S. during the POR. The POSCO Group argues that the Department should use contemporaneous HM sales used to calculate NV in the final results.

Department Position

We agree with the petitioners that the start of the window period should be based on the date of sale for the earliest U.S. sale in the U.S. sales database, rather than on the first date of the POR. To correct this error for purposes of the final results, we will define the start date of the window period as ninety days prior to the earliest U.S. sale in the U.S. sales database.³⁶

³⁶ See the POSCO Group's Final Calculation Memorandum.

V. Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results and the final weighted-average dumping margins in the Federal Register.

Agree _____ Disagree _____

David M. Spooner
Assistant Secretary
for Import Administration

Date