

A-580-834
Admin. Review
POR: 7/1/04 - 6/30/05
Public Document
IA/Office 2: BR

DATE: January 23, 2007

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty
Administrative Review on Stainless Steel Sheet and Strip in Coils
from the Republic of Korea – July 1, 2004, through June 30, 2005

Summary

We have analyzed the comments of the interested parties in the 2004-2005 administrative review of the antidumping duty order covering stainless steel sheet and strip in coils (SSSSC) from the Republic of Korea (Korea). As a result of our analysis of the comments received from interested parties, we have made changes in the margin calculation for DaiYang Metal Co., Ltd. (DMC) as discussed in the “Margin Calculation” section of this memorandum. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments from parties:

Issues

1. Constructed Export Price (CEP) Offset
2. Offset for Countervailing (CVD) Duties
3. U.S. Indirect Selling Expense (ISE) Ratio
4. U.S. Date of Sale
5. Home Market Date of Sale
6. Home Market Early Payment and Quantity Discounts
7. Home Market Credit Expenses
8. Whether to Apply an Adverse Inference to DMC’s Reported Yield Information
9. DMC’s Hot Coil Purchases

Background

On April 10, 2006, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on SSSSC from Korea. See Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 71 FR 18074 (April 10, 2006) (SSSSC from Korea Prelim 04-05). The period of review (POR) is July 1, 2004, through June 30, 2005.

We invited parties to comment on our preliminary results of review. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results.

Margin Calculation

We calculated export price (EP) and normal value (NV) for DMC using the same methodology stated in the preliminary results, except as follows:

- We have eliminated the offset to CEP for CVD duties based on the findings in the most recently completed administrative review of the CVD order on SSSSC from Korea. See Comment 2, below;
- We revised DMC's U.S. ISE ratio using a denominator based on the total sales value of Ocean Metal Corporation (OMC), DMC's U.S. affiliate, rather than the allocations provided by DMC. See Comment 3, below;
- We revised the margin calculation programming for DMC to use the earlier of shipment date or invoice date as the date of sale for all of DMC's U.S. sales. See Comment 4, below;
- We revised the calculation of DMC's general and administration (G&A) expenses to: 1) exclude the valuation losses on equity and on securities available for sale; 2) include miscellaneous gains as an offset; and 3) adjust the packing expense deducted from the cost of goods sold (COGS) in the denominator to reflect the actual packing expenses for the year ending December 31, 2005. See the January 23, 2007, memorandum from Michael Harrison to Neal Halper entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Final Results - DaiYang Metal Co., Ltd." ("DMC Final Cost Calculation Memorandum"); and
- We revised the financial expense ratio to allow short-term interest income as an offset to interest expenses and to reflect the same adjustments made to the COGS denominator of the G&A ratio calculation. See the "DMC Final Cost Calculation Memorandum."

Discussion of the Issues

Comment 1: CEP Offset

During the POR, DMC made all of its U.S. sales through an affiliated party, OMC. In its questionnaire response, DMC requested that the Department grant it a CEP offset, contending that its home market sales were made at a more advanced level of trade (LOT) than the sales made to OMC. After analyzing DMC's response on this topic, we denied this request in our preliminary results because we found that DMC's home market and U.S. LOTs were the same and, therefore, a CEP offset was not warranted. DMC disagrees with this preliminary decision and continues to maintain that its home market LOT is more advanced than its U.S. LOT. DMC argues that, because there is no data available to make an appropriate LOT adjustment, the Department must grant it a CEP offset in accordance with both the antidumping duty law and its own practice. See, e.g., Notice of 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, 71 FR 7513 (Feb. 13, 2006), and accompanying Issues and Decision Memorandum at Comment 6 (where the Department found that, while the respondent's home market sales were at a more advanced LOT than its CEP sales, the data available did not provide an appropriate basis to determine an LOT adjustment and, therefore, a CEP offset was warranted).

Regarding its U.S. LOT, DMC states that OMC performs many key selling activities for its U.S. sales, such as negotiation of sales terms, maintenance and collection of accounts receivables, evaluation of customer credit, importation of subject merchandise, and delivery of the merchandise to the customer. DMC also contends that OMC performs other selling activities, including sales promotion, sales/marketing support, and market research for U.S. sales. DMC asserts that while DMC performs these latter selling activities to a low degree in the home market, they are still significant sales activities that indicate a more advanced LOT in the home market because DMC does not perform these selling functions for its sales to OMC.

Moreover, DMC contends that the Department's preliminary analysis was incorrect because it was based on a misunderstanding of certain facts on the record. Specifically, DMC claims that the Department erroneously determined that DMC performed inventory maintenance for its sales to OMC, despite the fact that DMC did not, in fact, perform this selling activity. DMC maintains that the Department's determination was based on its statement that DMC checks the inventory and orders production when it receives an order from OMC. DMC argues that this statement does not support the Department's conclusion that DMC performs inventory maintenance for sales to OMC but, rather, indicates that DMC's sales to OMC are made to order. Therefore, DMC asserts that the Department cannot rely on the fact that DMC performs inventory maintenance on sales to OMC when analyzing this issue for the final results.

Finally, DMC contends that the Department determined that a CEP offset was appropriate in the last administrative review in which DMC participated (the 2000-2001 review), based on an analysis of the selling activities performed by DMC and OMC. See Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind in Part, 67 FR 51216, 51223 (Aug. 7, 2002) (SSSSC from Korea Prelim 00-01), unchanged in the final results. DMC argues that, because the facts regarding its selling activities in the present case are almost identical to those of the 2000-2001 review, the Department should find that a CEP offset is appropriate here, consistent with its prior determination.

The petitioners agree with the Department's preliminary decision not to grant a CEP offset to DMC. The petitioners contend that it is immaterial that OMC performs many selling functions (e.g., negotiation of sales terms, maintenance and collection of accounts receivables, evaluation of customer credit, importation of subject merchandise, and delivery of merchandise to the customers) for CEP sales, stating that the key selling activities mentioned by DMC are either trivial or duplicated in the upstream transaction between DMC and OMC.

Regarding these selling activities, the petitioners argue that there is no difference between the selling activities for DMC's home market sales and CEP sales. First, the petitioners claim that information provided by DMC in its questionnaire response demonstrates sales negotiation and extension of credit were performed in both markets because OMC issued purchase orders to DMC for U.S. sales, as well as extended credit to U.S. customers. The petitioners also argue that documentation of payment from OMC to DMC on the record demonstrates that DMC maintained and collected accounts receivables for its sales to OMC. In addition, the petitioners assert that OMC's selling activity related to the importation of subject merchandise is limited to it acting as the importer of record on customs documents, while DMC acts as the exporter of record on export documents in Korea. Therefore, the petitioners suggest that DMC and OMC both perform selling activities related to importation. Regarding selling activities related to delivery, the petitioners argue that DMC arranged for delivery to OMC, as shown by documentation including a bill of lading, an export permit, and a container list.

Finally, the petitioners contend that DMC's reliance on the Department's previous determination in the 2000-2001 administrative review is misplaced. The petitioners maintain that administrative reviews should be conducted based on the facts and arguments on the record in each segment of the proceeding. See Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod From Mexico, 71 FR 27989 (May 15, 2006), and accompanying Issues and Decision Memorandum at Comment 6 (where the Department stated that it "makes determinations based on the facts and its understanding of the facts on the record of each review"). Therefore, the petitioners contend that the Department should continue to deny DMC a CEP offset because the facts on the record of this segment do not support a finding that the U.S. LOT differs from the LOT in the home market.

Department's Position:

We continue to find that a CEP offset is not warranted for DMC for the final results. Pursuant to 19 CFR 351.412(c)(2), the Department may find differences in LOT only under the following conditions:

The Secretary will determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing (emphasis added).

The Tariff Act of 1930, as amended (the Act), and the Statement of Administrative Action (SAA) direct the Department to analyze the LOT for CEP sales at the constructed level, after expenses associated with economic activities occurring in the United States have been deducted. See section 772(d) of the Act and SAA at 829. Therefore, the Department evaluates the LOT for CEP sales based on the price after adjustments are made under section 772(d) of the Act. See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part, 66 FR 36551 (July 12, 2001), and accompanying Issues and Decision Memorandum at Comment 22; Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Notice of Final Determination of Sales at Less Than Fair Value, 61 FR 38139, 38143 (July 23, 1996). We note that we have consistently adhered to this interpretation of the SAA and of the Act in performing our LOT analysis. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Spain, 67 FR 35482 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2 (Beams from Spain); Static Random Access Memory Semiconductors From Taiwan: Final Results of Antidumping Duty New Shipper Review, 65 FR 12214 (Mar. 8, 2000), and accompanying Issues and Decision memorandum at Comment 3; Extruded Rubber Thread From Malaysia: Final Results of Antidumping Duty Administrative Review, 65 FR 6140, 6141 (Feb. 8, 2000); Notice of Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above (DRAMs) from Taiwan, 64 FR 56308, 56313 (Oct. 19, 1999).

Moreover, the Court of Appeals for the Federal Circuit has held that the statute unambiguously requires the Department to deduct the selling expenses set forth in section 772(d) of the Act from the CEP starting price prior to performing its LOT analysis. See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-15 (Fed. Cir. 2001).

Therefore, in this case, in accordance with the Department's practice, we conducted our analysis based on the selling functions performed by DMC for sales in the home market compared to those performed by DMC for the U.S. market (i.e., selling functions performed by DMC for sales to OMC) after deduction of expenses associated with economic activity in the United States.

This analysis showed that DMC performed essentially the same selling activities for its home market sales and for sales to OMC. Specifically, in our preliminary results, we stated:

{DMC's} selling activities can be generally grouped into four core selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these core selling functions, we find that DMC performed sales and marketing and inventory maintenance and warehousing services in both markets, including sales forecasting, strategic/economic planning, personnel training/exchange, procurement and sourcing services, engineering services, order input/processing, provision of direct sales personnel, and inventory maintenance. Additionally, for its sales to OMC, we find that DMC performed freight and delivery services. Finally, we find that warranty and technical support services are not performed in either market.

We evaluated the core selling function categories in the U.S. and home market LOTs and found them to be similar with respect to sales and marketing, inventory maintenance, and warranty and technical support. Although freight services were provided for U.S. sales to OMC and not home market sales, we did not find this to be a material selling function distinction significant enough to warrant a separate LOT. Therefore, after analyzing the selling functions performed in each market, we find that the distinctions in selling functions are not material and thus, that the home market and U.S. LOTs are the same. Accordingly, we determine that no LOT adjustment is warranted or possible for DMC. Regarding the CEP-offset provision, as described above, it is appropriate only if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability. Because we find that no difference in LOTs exists, we do not find that a CEP offset is warranted for DMC.

See SSSSC from Korea Prelim 04-05, 71 FR at 18079.

Given that the Act requires the Department to conduct its LOT analysis after all deductions are made pursuant to section 772(d) of the Act, we find that DMC's arguments are not persuasive. Specifically, in its May 10, 2006, case brief, DMC did not address the specific selling functions performed after expenses associated with economic activities occurring in the United States have been deducted, but rather argued that a CEP offset is warranted because OMC performs selling functions for U.S. sales such as sales negotiation, maintenance and collection of accounts receivables, evaluation of customer credit, importation of subject merchandise, and the delivery of subject merchandise to the customer. We find that this analysis does not address the issue at hand because it does not examine the selling functions performed by DMC for its sales to OMC but, instead mistakenly addresses the selling functions performed by OMC. We note that any selling activities performed by OMC are not relevant; rather the focus of the LOT analysis is on the selling activities performed solely by DMC in making sales to its U.S. affiliate.

Moreover, we disagree with DMC's argument that the Department incorrectly interpreted the facts on the record with respect to inventory maintenance. In its March 15, 2006, supplemental response, DMC stated that, "when orders are placed from OMC, an export salesman from DMC checks the inventory and orders production." See DMC's March 15, 2006, supplemental response at page 3. The fact that a DMC employee checks the inventory maintained in Korea when an order is placed from OMC suggests that DMC would ship products from inventory if the inventory level were sufficient. Consequently, we continue to find that inventory maintenance may be performed by DMC for its sales to OMC. Nonetheless, even if we agreed with DMC's assertion that it did not perform inventory maintenance for its U.S. sales, this function alone would not cause us to alter our decision that substantial differences in selling activities across markets do not exist. See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part, 70 FR 67665 (Nov. 8, 2005), and accompanying Issues and Decision Memorandum at Comment 21 (where the Department found that, because the selling functions performed by the respondent were "substantially the same in both markets" there was not a different LOT for direct home market and U.S. sales); Beams from Spain at Comment 2 (where the Department found that the respondent's home market and U.S. sales were made at the same LOT because the respondent performed "essentially the same selling functions" in the home market and U.S. sales after all selling expenses incurred in the United States were deducted from the CEP).

Furthermore, we find unconvincing DMC's assertion that while certain selling activities provided only in the home market (i.e., sales promotion, sales/marketing support, and market research) were performed to a low degree, they are still significant sales activities that indicate a more advanced LOT in the home market. We note that it is the Department's practice to examine the selling functions of each market collectively in order to determine the appropriate LOT. See Beams from Spain at Comment 1 (where the Department found that the cumulative selling activities of each market should be examined when making LOT determinations). Therefore, when analyzing DMC's selling activities in each market in totality, we continue to find that the performance of sales promotion, sales/marketing support, and market research to a low degree in the home market does not warrant determining that DMC's home market sales are performed at a more advanced LOT. Indeed, under the plain language of 19 CFR 351.412(c)(2), the difference in selling activities must be substantial, not merely existent, and even so, the Department may find that these substantial differences are not sufficient if they do not reach the level of a difference in marketing stages.

Finally, we disagree with DMC's argument that the Department must grant it a CEP offset because it also did so in the 2000-2001 review based on a similar fact pattern to this review. Significantly, we disagree with DMC that the facts in the two segments are the same. In the 2000-2001 review, we stated:

For sales in the home market to either end-users or distributors, DMC's selling activities consisted of receiving and processing customers' orders, arranging freight and delivery for small customers and delivery services for customers purchasing large quantities, and inventory maintenance for small distributors. Because DMC's selling activities did not vary by channels of distribution, we preliminarily determine that there is one LOT in the home market.

In the U.S. market, DMC sold all of its merchandise through its's U.S. subsidiary, OMC. Consequently, DMC claimed that OMC performed the requisite selling activities, such as the negotiation of sales terms, maintenance and collection of accounts receivable, evaluation of customer credit, importation of subject merchandise and delivery of the merchandise to the unaffiliated customer. For the U.S. market, DMC's selling functions are limited to freight and delivery arrangements, which did not vary by customer type. Therefore, we preliminarily determine that there is one LOT in the U.S. market. For these CEP sales, we determined that fewer and different selling functions were performed for CEP sales to OMC than for sales at the home market LOT. We found sales at the home market LOT were at a more advanced stage of distribution (to end users) compared to the CEP sales.

See SSSSC from Korea Prelim 00-01, 67 FR at 51223.

Regarding DMC's home market selling activities, we find that, while we determined in both reviews that DMC's home market sales were made at one LOT, the underlying facts differ between the 2000-2001 review and the current review. See SSSSC from Korea Prelim 00-01, 67 FR at 51223. See also the June 30, 2006, memorandum from Brianne Riker to the file entitled, "Placing Information from the 2000-2001 Administrative Review on the Record of the 2004-2005 Administrative Review of Stainless Steel Sheet and Strip in Coils from the Republic of Korea." We note that DMC reported only two common selling activities in the two reviews (*i.e.*, order input/processing and inventory maintenance). In addition, in the 2000-2001 review, DMC reported that it provided freight arrangement and delivery services for certain customers, but did not report this selling activity for the current review. See DMC's March 15, 2006, supplemental response at Exhibit A-26. DMC also reported several additional home market selling activities in the current review (*i.e.*, sales forecasting, strategic/economic planning, personnel training/exchange, engineering service, sales promotion, procurement/sourcing service, providing direct sales personnel, sales/marketing support, and market research) which were not reported in the 2000-2001 review.

Moreover, regarding DMC's U.S. sales, we find that in the 2000-2001 review, DMC reported that it only performed freight and delivery arrangements for its U.S. sales to OMC. However, in the current review, DMC reported that it performed the following selling activities for its sales to OMC: sales forecasting, strategic/economic forecasting, engineering service, order input/processing, providing direct sales personnel, and providing freight and delivery services. See DMC's March 15, 2006, supplemental response at Exhibit A-26. Therefore, the fact pattern

regarding the selling functions performed by DMC for its sales to OMC in the 2000-2001 review and the current review is inherently different as DMC reported that it performed different selling activities for its sales to OMC in the current review. Therefore, we continue to find that the facts of this particular segment clearly support the conclusion that a CEP offset is not warranted for DMC.

Comment 2: Offset for CVD Duties

In the preliminary results, we increased DMC's CEP to account for countervailing duties imposed on imports of subject merchandise to offset export subsidies, in accordance with section 772(c)(1)(C) of the Act. In order to perform this calculation, we used the portion of the CVD deposit rate currently in effect for DMC which related to export subsidies. The petitioners contend that this methodology is inappropriate, given that the Department has not yet assessed actual CVD duties on imports during the POR. The petitioners note that, while DMC presumably made duty deposits for this time period, these deposits do not represent actual duties.

The petitioners note that, at the time of the submission of the case briefs, there was an ongoing CVD review for DMC which covered calendar year 2004. The petitioners assert that, if this review concludes that no countervailable export subsidies occurred, the Department will fully refund DMC's duty deposits. Thus, the petitioners contend that accounting for duty deposits may artificially raise U.S. prices. As a consequence, the petitioners contend that, while the Department may consider actual CVD duties that DMC paid during the POR, it should not allow an offset for the payment of deposits that may ultimately be refunded.

DMC maintains that the Department's decision to increase CEP by the amount of the export subsidies found for DMC in the most recently completed segment of the CVD proceeding is consistent with both the Act and the Department's prior practice. As support for this assertion, DMC cites Top-of-the-Stove Stainless Steel Cooking Ware from the Republic of Korea: Final Results and Rescission, in Part, of Antidumping Duty Administrative Review, 68 FR 7503 (Feb. 14, 2003) (Cookware from Korea), in which the Department stated that its practice is to add assessed duties directly to export price or CEP. DMC contends that here, as in Cookware from Korea, actual assessment of CVD duties is not only being made under the outstanding CVD order, but it has been made since imposition of that order in 1999. According to DMC, the fact that an administrative review is ongoing does not change the Department's practice of adding the most recently determined amount of export subsidy to U.S. price in performing the margin calculation. Finally, DMC contends that the Department should not rely on the petitioners' argument with respect to a full refund of CVD deposits because it is similarly likely that the Department may find the export subsidy rate to be understated at the conclusion of the CVD review (and thus the upward adjustment would be under-, not over-, stated).

Department's Position:

According to section 772(c)(1)(C) of the Act, the Department is required to increase U.S. price by "the amount of any countervailing duty imposed on the subject merchandise under subtitle A to offset an export subsidy." The Department has a long-standing practice of implementing this provision by deriving the offset for CVD duties using the export subsidy rates found in the most recently completed CVD administrative review. See, e.g., Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not To Revoke in Part: Certain Pasta From Italy, 67 FR 51287, 51830 (Aug. 9, 2002), unchanged in the final results.

Since the time of the preliminary results, the Department has completed its 2004 administrative review of the CVD order on SSSSC from Korea. As a result of that review, the Department found that DMC did not receive any countervailable export subsidies. See Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea, 72 FR 120 (Jan. 3, 2007). Consequently, in accordance with our practice, we have applied these results in this proceeding, and we are no longer granting DMC an offset for CVD duties for purposes of the final results.

Comment 3: U.S. ISE Ratio

For purposes of the preliminary results, we accepted the U.S. ISE ratio reported by OMC, DMC's U.S. affiliate. The petitioners contend that the Department should revise the U.S. ISE ratio because: 1) DMC failed to adequately explain OMC's allocations of its total selling expenses between manufacturing of non-subject merchandise, direct selling expenses, and selling, general, and administrative (SG&A) expenses for subject and non-subject merchandise; 2) the numerator of the ISE ratio does not include income statement expenses related to returns and interest charges; and, 3) the denominator of the ISE ratio is overstated.

Specifically, the petitioners argue that DMC did not sufficiently explain its allocations between manufacturing and selling-related functions in the calculation of OMC's ISE ratio. The petitioners assert that DMC made the following allocations: 1) 80 percent to manufacturing and 20 percent to SG&A for alarm and security, depreciation, payroll taxes, property taxes, and utilities; 2) 100 percent to manufacturing for auto expenses, garbage disposal, repair and maintenance, and shop supplies and minor tools; and 3) 50 percent to manufacturing and 50 percent to SG&A for wages and salaries. The petitioners contend that these allocations are subjective and results-oriented and, therefore, should be rejected. As proof of their argument, the petitioners maintain that the information on the record shows that, while the non-subject merchandise accounts for a very small portion OMC's total sales value during the POR, nearly one-third of OMC's total POR expenses were allocated to the manufacture of this merchandise. The petitioners argue that DMC did not adequately explain why such a high proportion of its expenses was allocated to a relatively small proportion of the sales value. In light of this, the

petitioners contend that the Department should revise OMC's ISE ratio to reflect an allocation of all POR expenses over all of OMC's POR sales.

Further, the petitioners argue that OMC's income statements for 2004 and the first half of 2005 reflect expenses for returns and interest charges, which were inappropriately excluded from the numerator of the ISE ratio. The petitioners contend that the Department should revise OMC's ISE ratio to include these expenses.

Finally, the petitioners assert that the total sales figure used as the denominator in the calculation of OMC's ISE ratio is overstated, resulting in an understated ISE ratio. The petitioners suggest an alternate POR total sales figure using: 1) two-thirds of the total sales figure from OMC's April through December 2004 financial statements to account for sales made from July through December 2004; and, 2) the entire sales figure of OMC's partial 2005 financial statements to account for sales made from January to June 2005.

DMC contends that the petitioners' arguments are based on outdated information and, thus, should be rejected. Specifically, DMC claims that the petitioners rely on DMC's original questionnaire response, although DMC subsequently revised its allocations at the request of the Department in its April 14, 2006, submission. Regarding the items allocated on an 80/20 percent basis, DMC asserts that it explained in its supplemental response that OMC's facilities have two functions: 1) selling; and, 2) manufacturing of non-subject merchandise. DMC states that, because OMC does not differentiate between selling and manufacturing activities in its accounting system, it is necessary to allocate these expenses on the basis of the surface area of OMC's facility, of which 80 percent is dedicated to manufacturing activities and 20 percent to SG&A activities. According to DMC, alarm and security, depreciation, property tax, and utility expenses are mainly related to the maintenance of the physical facilities and, thus, these expenses were properly allocated based on the ratio of surface area. DMC states that it provided a floor plan of its facility to support this allocation methodology and points out that it was verified and accepted in the 2000-2001 administrative review. In addition, DMC states that in the same supplemental response, it revised its allocation of payroll taxes, basing them upon wages and salaries, rather than surface area.

Regarding auto expenses, garbage disposal, and repair and maintenance, DMC notes that in its supplemental response, it revised its allocation methodology for these expenses based on surface area because they were incurred for sales, as well as manufacturing, activities. Further, regarding wages and salaries, DMC explained that, because OMC's accounting system does not differentiate between manufacturing and selling, it reasonably divided wage and salary expenses between the two functions equally because OMC's small number of employees each performs functions related to both OMC's manufacturing and selling operations. Finally, DMC contends that the alternate allocation methodology suggested by the petitioners is arbitrary and distortive because it would inappropriately assign costs related to the production of non-subject merchandise to subject merchandise.

In addition, DMC disagrees that the Department should include returns and interest expenses in the numerator of OMC's ISE ratio calculation. DMC asserts that returns are direct expenses that are incurred in relation to individual transactions. DMC maintains that there were no returns of subject merchandise during the POR, as evidenced by the fact that it reported no billing adjustments or other warranty claims for subject merchandise. Rather, DMC contends that the returns figure on OMC's financial statements is related to non-subject merchandise and, thus, should not be included in the calculation of ISE. Further, regarding interest expenses, DMC contends that it is the Department's practice to offset interest expenses incurred in the United States by the reported opportunity costs for credit and U.S. inventory carrying costs to avoid double-counting. See, e.g., Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea, 66 FR 3540 (Jan. 16, 2001), and accompanying Issues and Decision Memorandum at Comment 1 (CORE from Korea) (where the Department stated that "it is our policy to calculate an amount of both imputed credit and inventory carrying costs attributable to subject merchandise and subtract this amount, up to the amount of net interest expenses, and add any remainder to the pool of ISEs"). DMC asserts that the standard practice is to allocate a portion of the interest expenses to the subject merchandise and to offset the interest expense by the reported imputed credit costs. According to DMC, in this case, the interest expense amount shown on OMC's financial statements is lower than the sum of the reported credit expenses, and thus no adjustment to ISE is necessary.

Finally, regarding the petitioners' claim that DMC overstated the denominator used in the ISE ratio, DMC argues that petitioners ignored the sales reconciliation provided by DMC that demonstrates that the reported figure is correct. Specifically, DMC asserts that it provided sales reconciliations in its February 17, 2006, and April 14, 2006, supplemental responses that tie the reported figure directly to OMC's income statements covering the POR and to the company's sales sub-ledger. Therefore, DMC contends that the Department should continue to rely on OMC's reported denominator.

Department's Position:

After reviewing the facts on the record with respect to this issue, we agree with the petitioners that DMC's allocation methodology for ISE incurred by OMC does not properly assign selling expenses to subject and non-subject merchandise. Because we find that DMC's methodology is distortive, as discussed more fully below, we have recalculated OMC's ISE for purposes of the final results.

In calculating ISE, it is the Department's normal practice to base the ISE ratio calculation on total sales value. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Indonesia, 70 FR 13456 (Mar. 21, 2005), and accompanying Issues and Decision Memorandum at Comment 4; Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 67 FR 11976 (Mar. 18, 2002), and

accompanying Issues and Decision Memorandum at Comment 1; Stainless Steel Wire Rod from Spain; Final Results of Antidumping Duty Administrative Review, 66 FR 10988 (Feb. 21, 2001), and accompanying Issues and Decision Memorandum at Comment 2. In the past, the Department has departed from this standard practice, but only in instances where the respondent provides a sufficient reason to do so. See Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea; Final Results of Antidumping Duty Administrative Review, 61 FR 20216, 20217 (May 6, 1996) (where the Department accepted the respondent's methodology for calculating its ISE ratio, stating that "It is not our policy to require allocation of indirect selling expenses based upon relative sales value in every instance...{W}e clearly noted that we would accept an allocation basis other than relative sales value provided the methodology was reasonable)."

In this case, DMC allocated OMC's ISE using an "alternate" methodology. Specifically, DMC used a methodology in which: 1) alarm and security, depreciation, property tax, and utility expenses were allocated based on the relative proportion of its facilities claimed to be used in manufacturing versus selling activities; and, 2) wage and salary expenses were divided between manufacturing and selling equally. DMC asserted that this methodology is appropriate because: 1) the expenses allocated on a surface ratio basis are mainly related to the maintenance of the physical facilities; and 2) OMC's small number of employees each performs functions related to both OMC's manufacturing and selling operations. In addition, DMC asserted that this methodology was verified in the last administrative review in which DMC participated (*i.e.*, the 2000-2001 review) and relied upon by the Department in that segment.

Based on our understanding that DMC's sales and manufacturing practices remained unchanged since the previous segment, we accepted DMC's methodology for the preliminary results of this review. However, we have reviewed the facts for the current review and find that this allocation methodology is no longer reasonable. Significantly, we find that the record does not establish that OMC performed substantial manufacturing activities in the United States, nor that it used the same portion of the surface area of its U.S. facility for manufacturing operations. Rather, the record shows that, in the current review, DMC reported that: 1) OMC did not further manufacture subject merchandise purchased from DMC; and, 2) OMC purchased only a small amount of stainless steel coil produced in the United States that was used in the production of stainless steel pipe. See DMC's October 27, 2005, section A response at page 25; February 2, 2006, supplemental response at page 4; and November 13, 2006, submission clarifying the public nature of this information.

This fact pattern stands in marked contrast to the facts present in the 2000-2001 administrative review. In that segment of the proceeding, OMC imported subject merchandise for further manufacture, and it also purchased additional SSSSC from a local distributor which it converted into stainless steel pipe. See the January 23, 2007, memorandum to the file from Brianne Riker entitled, "Placing an Excerpt from DaiYang Metal Co. Ltd.'s Section E Response from the 2000-2001 Administrative Review of Stainless Steel Sheet and Strip in Coils from the Republic of Korea on the Record of the 2004-2005 Administrative Review of Stainless Steel Sheet and Strip

in Coils from the Republic of Korea.” Thus, in that segment, we found credible its claim that a significant portion of the surface area of its building was used for manufacturing activities and, therefore, concluded that it was reasonable to allocate the costs of owning and maintaining the building to manufacturing activities using a surface area ratio. Since that time, however, although OMC has significantly reduced its manufacturing activities, it has continued to allocate the same proportion of ISE to such activities. Because DMC has failed to establish that a significant percentage of its activities in the United States are related to manufacturing, we find that DMC’s allocation misstates OMC’s production and selling costs, and, as a result, is not an accurate reflection of the expenses incurred to sell subject merchandise. As a consequence, we find that DMC’s rationale for resorting to this allocation methodology does not provide a sufficient basis for departing from the Department’s normal practice.

Finally, we note that OMC allocated its wage and salary costs equally between subject and non-subject merchandise based solely on the rationale that the company does not differentiate costs between selling and manufacturing activities in its accounting system. When considering that the vast majority of OMC’s sales are of subject merchandise, we find it unreasonable to allocate only half of the company’s labor costs to it. For the foregoing reasons, we have recalculated OMC’s ISE using the Department’s normal methodology, which is to divide total ISE by total sales value, for purposes of the final results. See the January 23, 2007, memorandum to the file from Brianne Riker entitled, “Calculations Performed for DaiYang Metal Co., Ltd. (DMC) for the Final Results in the 2004-2005 Antidumping Duty Administrative Review on Stainless Steel Sheet and Strip in Coils from the Republic of Korea” at Attachment I (“DMC Final Calculation Memorandum”).

Regarding the petitioners’ specific arguments related to returns, we disagree that returns should be included in the numerator of OMC’s ISE ratio calculation. There is no evidence on the record that the returns shown on OMC’s financial statements are related to subject merchandise. For example, there are no quantity adjustments reported in the U.S. sales listing and DMC reported that there were no billing adjustments for any sales during the POR. See DMC’s October 27, 2005, section C response at page 23. Given this, we find the returns shown on OMC’s financial statements are not necessarily related to subject merchandise. Therefore, we do not find that an adjustment to ISE is necessary for the returns in question.

Regarding interest expenses, we similarly disagree that an adjustment to OMC’s ISE is necessary in this instance. Our policy is to calculate the total amount of both imputed credit and inventory carrying costs attributable to subject merchandise, to subtract this amount from total net interest expenses, and then to add any remainder to the pool of expenses used as the numerator of the ISE ratio calculation. See, e.g., Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 68 FR 6713 (Feb. 10, 2003), and accompanying Issues and Decision Memorandum at Comment 13; Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 67 FR 11976 (Mar. 18, 2002), and accompanying Issues and Decision Memorandum at Comment 1; Stainless Steel Sheet and Strip

in Coils from Korea; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 64950 (Dec. 17, 2001), and accompanying Issues and Decision Memorandum at Comment 13; Stainless Steel Plate in Coils from Korea; Final Results of Antidumping Duty Administrative Review, 66 FR 64107 (Dec. 11, 2001), and accompanying Issues and Decision Memorandum at Comment 14; CORE from Korea at Comment 1. In this case, we calculated the total imputed credit expenses reported in the U.S. sales listing for POR sales and found that this amount exceeds the amount of interest expenses shown on OMC's financial statements. See the "DMC Final Calculation Memorandum" at Attachment II. Therefore, we find that no adjustment to the ISE numerator is warranted for interest expenses.

Finally, we disagree with the petitioners that the sales figure used as the denominator in the calculation of OMC's ISE ratio is overstated. In their case brief, the petitioners suggest an alternate POR total sales figure using: 1) two-thirds of the total sales figure from OMC's April through December 2004 financial statements to account for sales made from July through December 2004; and, 2) the entire sales figure of OMC's partial 2005 financial statements to account for sales made from January to June 2005. We find that such a revised calculation is both unnecessary and inaccurate, given that DMC has provided documentation demonstrating that the total sales figure used as the denominator ties directly to OMC's 2004 and 2005 financial statements. See DMC's February 17, 2006, and April 14, 2006, supplemental questionnaire responses at Exhibits A-20 and A-47, respectively. According to the documentation provided, DMC's total sales figure is based on the actual sales made by OMC from July through December 2004, rather than on an estimated sales figure as suggested by the petitioners. Therefore, we have not revised the sales figure used as the denominator in the calculation of OMC's ISE ratio because the reported figure is supported by evidence on the record.

Comment 4: U.S. Date of Sale

In the preliminary results, we used the date of the commercial invoice from OMC to the unaffiliated customer as the U.S. date of sale. The petitioners argue that we should revise DMC's U.S. date of sale to be the earlier of shipment date or invoice date for the final results. The petitioners note that this methodology is consistent with the date-of-sale methodology used for DMC's home market sales.

DMC did not comment on this issue.

Department's Position:

It is the Department's general practice to use the earlier of shipment date or invoice date as the date of sale because this date best reflects the date on which the material terms of sale were established. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 76918 (Dec. 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10 (Shrimp from Thailand) (where the Department found there is "a

long-standing practice of finding that, where shipment date precedes invoice date, the shipment date better reflects the date on which the material terms of sale are established”). See also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2. Therefore, for purposes of the final results, we have revised the U.S. date of sale to be the earlier of shipment date or invoice date, in accordance with our general practice.

Comment 5: Home Market Date of Sale

In its questionnaire responses, DMC reported that its home market customers place orders by telephone, facsimile, or written purchase order and that the material terms of sale can be revised until the merchandise is shipped. Therefore, in the preliminary results, we used the earlier of invoice date or shipment date as the date of sale for DMC’s home market sales, in accordance with 19 CFR 351.401(i).

The petitioners argue that the record in this case does not contain sufficient detail to permit the Department to reach the conclusion that the appropriate home market date of sale is the earlier of invoice date or shipment date. Specifically, the petitioners argue that DMC did not properly address whether the terms of sale actually changed between the order date and invoice date in its supplemental questionnaire response and merely stated that the telephone and written orders are not formal contracts. However, the petitioners contend that order prices appear to be in effect over extended periods of time regardless of whether DMC had formal contracts because DMC’s home market prices reflect several instances in which a customer paid the same price over an extended period of time for particular grades and gauges of steel. The petitioners maintain that using invoice date as the date of sale under such a scenario would be contrary to the Department’s practice of comparing contemporaneous prices because a U.S. price could be compared to a home market price established many months earlier at the order date. Therefore, the petitioners contend that the Department should open the record to collect order date and pricing information from DMC for all transactions ordered or invoiced during the POR in order to conduct an impartial date-of-sale analysis.

DMC argues that the Department should not require further information regarding its home market date of sale because use of the invoice date, which is the presumptive date of sale pursuant to 19 CFR 351.401(i), is in accordance with the Department’s practice. See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27314 (May 19, 1997) (Preamble); Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People’s Republic of China, 70 FR 77121, 77129 (Dec. 19, 2005). DMC states that: 1) it reported that invoice date is the date of sale used in the normal course of business; and 2) the Department accepted and verified this assertion in the most recent segment of this proceeding involving DMC. Therefore, according to DMC, because the Department only abandons the use of invoice date as the presumptive date of sale in “unusual situations,” an alternate date of sale is not warranted in this case. See, e.g., Oil Country Tubular

Goods From Korea; Final Results of Antidumping Duty Administrative Review, 65 FR 13364 (Mar. 13, 2000), and accompanying Issues and Decision Memorandum at Comment 1 (OCTG from Korea). In addition, DMC contends that it is the Department's practice, in accordance with OCTG from Korea, that "the date of sale determination should not be changed from review to review without evidence of changes in a company's business or marketing practices."

DMC contends that if a party establishes that invoice date is the date of sale recognized in its ordinary course of business, then the party requesting an alternate date-of-sale methodology bears the burden of providing sufficient evidence that the material terms of sale were set on a different date. See Allied Tube and Conduit Corp. v. United States, 25 CIT 23, 132 F.Supp.2d 1087, 1090 (CIT 2001). Therefore, DMC maintains that, while it satisfied its burden of establishing that invoice date is the date of sale for its home market sales, the petitioners did not meet their burden of providing substantial evidence to support an alternate date-of-sale methodology. DMC asserts that the only evidence provided by the petitioners was their assertion that there were several instances in which a customer paid the same price over an extended period for particular grades and gauges of steel. DMC states that the Department found in Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews, 64 FR 12927, 12935 (Mar. 16, 1999), that even if sample documentation "suggests that the essential terms of sale did not change after the initial contract date, this does not demonstrate that the essential terms of sale were not subject to change after the initial contract date, or that the essential terms of sale did not in fact change after the initial contract date for significant numbers of sales." DMC asserts that, as stated in its questionnaire responses, the material terms of sale for its home market sales remain subject to change until the merchandise is shipped. Thus, according to DMC, the petitioners have provided insufficient reason to depart from the presumptive date of sale in this case.

Finally, DMC contends that, according to the Department's own Antidumping Manual, the determination regarding the appropriate date of sale is made at the outset of an antidumping proceeding after receiving a respondent's response to Section A of the antidumping questionnaire. See Antidumping Manual at Chapter 8. DMC asserts that the petitioners raised this issue in previous comments submitted for the Department's consideration after DMC submitted its questionnaire response. Therefore, DMC maintains that the petitioners' request in their case brief that the Department solicit additional information for the final results is untimely.

Department's Position:

We have examined the facts on the record with respect to this issue and continue to find that the earlier of invoice date or shipment date is the appropriate home market date of sale for the final results. As a result, we disagree that it is necessary to collect order date and pricing information from DMC for all transactions during the POR. As noted by DMC, the Department's regulations at 19 CFR 351.401(i) define the "date of sale" as follows:

In identifying the date of sale of the subject merchandise or the foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.

Therefore, it is the Department's practice to treat the invoice date as the presumptive date of sale. According to the preamble to the Department's regulations, the Department may choose a date other than invoice date if there is evidence that another date better reflects when the material terms of sale are established:

If the Department is presented with satisfactory evidence that the material terms of sale are finally established on a date other than the date of invoice, the Department will use that alternative date as the date of sale. For example, in situations involving large custom-made merchandise in which the parties engage in formal negotiation and contracting procedures, the Department usually will use a date other than the date of invoice. However, the Department emphasizes that in these situations, the terms of sale must be firmly established and not merely proposed. A preliminary agreement on terms, even if reduced to writing, in an industry where renegotiation is common does not provide any reliable indication that the terms are truly "established" in the minds of the buyer and seller. This holds even if, for a particular sale, the terms were not renegotiated.

See Preamble, 62 FR at 27349.

DMC stated in its questionnaire responses that its home market orders are placed by telephone or facsimile, or via a written purchase order. DMC further stated that the material terms of sale may be revised with respect to both quantity and price until the time that the merchandise is shipped and, therefore, the only final sales agreement is the invoice. See DMC's October 27, 2005, questionnaire response at pages A-16 and A-17. In addition, DMC stated that it was not a party to any short-term or long-term contracts during the POR and that the final sales agreement is made when the invoice is issued. See DMC's February 17, 2006, supplemental response at page 4.

We find that the petitioners have provided insufficient reason for the Department to depart in this case from its normal date-of-sale practice. The fact that a customer paid similar prices for merchandise over time does not conclusively demonstrate that the material terms of sale were "'truly established' in the minds of the buyer and seller" at the time the customer placed the order. See Preamble, 62 FR at 27349. We also find that this scenario does not constitute an "unusual situation" that would warrant the abandonment of invoice date as the presumptive date of sale pursuant to the Department's practice. See OCTG from Korea at Comment 1.

The Department is generally cautious about changing a long-standing date-of-sale determination for a respondent, given that such a change may give rise to manipulation, double-counting, or the omission of sales from the Department's analysis. The Department articulated this practice in

OCTG from Korea at Comment 1, where it stated that “the date of sale determination should not be changed from review to review without evidence of changes in a company’s business or marketing practices.” In this case, we note that the Department has previously used invoice date as DMC’s home market date of sale in prior segments of this proceeding. See SSSSC from Korea Prelim 00-01, 67 FR at 51219, unchanged in the final results (where the Department stated “consistent with the prior review, for home market sales, we use the reported date of invoice.”) In addition, we note that evidence on the record demonstrates that DMC’s selling practices have not changed in the home market since the prior review. See the June 30, 2006, memorandum from Brianne Riker to the file entitled, “Placing Information from the 2000-2001 Administrative Review on the Record of the 2004-2005 Administrative Review on Stainless Steel Sheet and Strip in Coils from the Republic of Korea.” Therefore, pursuant to the Department’s regulations and practice, we continue to find that the terms of sale for DMC’s home market sales were generally set at the invoice date. However, we note that the Department has also found that there is “a long-standing practice of finding that, where shipment date precedes invoice date, the shipment date better reflects the date on which the material terms of sale are established.” See Shrimp from Thailand at Comment 10. Accordingly, we find that the earlier of invoice date or shipment date continues to be the appropriate home market date of sale for the final results.

Comment 6: *Home Market Early Payment and Quantity Discounts*

In its questionnaire response, DMC reported both early payment and quantity discounts in the home market on a customer-specific basis because it claimed that the company does not associate these amounts with individual transactions in its normal books and records. We accepted these discounts as reported for purposes of the preliminary results. The petitioners disagree with this decision, and argue that DMC’s reporting methodology is distortive and/or DMC provided inadequate support for the amount of the adjustment.

Specifically, regarding DMC’s early payment discounts, the petitioners assert that DMC stated that these discounts were not granted on a sales-specific basis and that, as a result, they were subjectively credited to sales. According to the petitioners, selectively assigning discounts to particular sales for the purposes of an antidumping questionnaire response can serve as a device for manipulating prices. The petitioners maintain that the early payment discounts could be credited to sales that will likely serve as identical or most similar matches to products sold in the United States. Regarding DMC’s quantity discounts, the petitioners contend that the supporting documentation provided by DMC in its supplemental questionnaire response for a particular customer code was merely a summary and, as such, it did not serve as substantial evidence to support granting quantity discounts. Therefore, the petitioners argue that DMC’s early payment and quantity discounts should be either disallowed or reclassified as general expenses for purposes of the final results.

DMC contends that the Department should reject the petitioners’ arguments because they ignore the explanation on the topic provided by DMC in its responses. Regarding its early payment discounts, DMC states that it explained that it grants early payment discounts to certain customers, but because of its open account system it cannot assign these discounts to specific

sales. DMC states that it calculated an early payment discount ratio by dividing the total customer discount by the total value of the sales made to that customer during the POR. Therefore, DMC disagrees that this methodology can be used to manipulate prices, given that all sales to a particular customer are treated equally in terms of the discount applied. In addition, DMC points out that the methodology used to calculate an average early payment discount is in line with DMC's home market payment date reporting methodology of calculating an average turnover period for each customer, which was also necessitated by the limitations of its open account system.

Regarding the petitioners' assertion that DMC subjectively credited early payment discounts to sales, DMC concedes that it does exercise discretion in determining whether or not to grant a customer an early payment discount. However, DMC maintains that, as it explained in its questionnaire response, it determines whether a customer is eligible for an early payment discount based on the customer's balance at the end of each month and the amount of each payment by that customer. DMC states that if a customer maintains a reasonable balance, DMC may decide to grant it an early payment discount. DMC argues that, as a consequence, the relevant fact is that DMC did grant early payment discounts during the POR, representing actual reductions to the prices charged to its customers which must be accounted for in the margin calculations in the final results.

Finally, regarding the petitioners' argument that DMC did not provide evidence to support the granting of quantity discounts, DMC argues that there is no factual basis for this allegation. DMC asserts that the fact that the petitioners are not satisfied with the supporting documents provided by DMC does not mean that the documents are false or should be disallowed. Therefore, DMC maintains that early payment and quantity discounts should continue to be allowed in the final results.

Department's Position:

For purposes of the final results, we have continued to accept DMC's reported home market early payment and quantity discounts and have deducted them from the reported gross unit price, where applicable, pursuant to the Department's regulations. Specifically, 19 CFR 351.401(c) states:

In calculating export price, constructed export price, and normal value (where normal value is based on price), the Secretary will use a price that is net of any price adjustment, as defined in 351.102(b), that is reasonably attributed to the subject merchandise or foreign like product (whichever is applicable).

In addition, 19 CFR 351.401(g)(1) and (2) states:

The Secretary may consider allocated expenses and price adjustments when transaction-specific reporting is not feasible, provided that the Secretary is satisfied that the allocation method used does not cause inaccuracies or distortions...Any party seeking to report an

expense or a price adjustment on an allocated basis must demonstrate to the Secretary's satisfaction that the allocation is calculated on as specific a basis as is feasible, and must explain why the allocation methodology does not cause inaccuracies or distortions.

In this case, we find that DMC has: 1) reasonably attributed its early payment and quantity discounts to the foreign like product using a customer-specific allocation; and 2) provided a sufficient explanation regarding its allocation methodology.

DMC stated in its questionnaire response that it uses a revolving account system, which precludes tracing payments on a transaction-specific basis. See DMC's October 27, 2005, questionnaire response at page A-16. Thus, DMC calculated an average turnover period by customer, as well as customer-specific early payment and quantity discounts. In its February 17, 2006, supplemental questionnaire response, DMC reiterated that its normal financial accounting system does not maintain links between specific transactions and specific early payment or quantity discounts and, therefore, it is not possible to calculate these price adjustments on a transaction-specific basis. DMC stated that its reporting methodology used the average calculation rate between transactions and discounts by particular customer codes. See DMC's February 17, 2006, supplemental response at page 8. Therefore, according to DMC, all of the transactions for a particular customer are treated equally in terms of the amount of the discount applied.

Further, regarding its early payment discounts, DMC stated that, although it uses a monthly revolving account basis for home market customers, it was able to determine which customers were eligible for early payment discounts by reviewing the payment details for each customer at the end of each month. DMC explained that early payment discounts are given on a case-by-case basis because it can exercise discretion by crediting a customer's payment to a recent transaction and, then, granting an early payment discount. However, DMC stated that, if a customer is carrying a large accounts receivable balance at the end of the month, it will generally not exercise this discretion. See DMC's February 17, 2006, supplemental response at page 10. We find this explanation to be reasonable. Moreover, we find that DMC provided sufficient evidence, including worksheets showing the allocations of discounts to particular customers, where applicable, and sample source documentation for early payment and quantity discounts allocated to transactions, to support its allocation methodology. See DMC's February 17, 2006, supplemental response at Exhibits B-19 through B-23.

Regarding the petitioners' arguments, we find no evidence on the record to support the petitioners' contention that DMC intended to selectively assign discounts to particular sales or to manipulate prices because: 1) DMC's records do not permit it to report discounts on a transaction-specific basis; and, 2) DMC correlated the discounts in question as closely as possible with the underlying sales. As noted above, pursuant to 19 CFR 351.401(g)(1)-(2), as well as the Department's practice, respondents may report expenses and price adjustments using an allocation methodology which does not cause inaccuracies or distortions. See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part, 69 FR 64731 (Nov. 8,

2004), and accompanying Issues and Decision Memorandum at Comment 12 (where the Department accepted the respondent's reported customer-specific credit periods for calculating imputed credit expenses because the respondent adequately demonstrated that it was unable to report invoice-specific credit periods using information from its financial accounting system). We find that DMC did not merely assign discounts to particular sales as suggested by the petitioners, but did employ a reasonable customer-specific allocation methodology which is not inaccurate or distortive.

Finally, we disagree with the petitioners that DMC did not provide adequate documentation for its quantity discounts. We note that DMC provided all of the information as requested by the Department in its original and supplemental questionnaire responses including worksheets and source documentation (e.g., journal entries) for sample customers. Therefore, in accordance with the Department's regulations and practice, we have continued to accept DMC's reported home market early payment and quantity discounts.

Comment 7: *Home Market Credit Expenses*

In the preliminary results, we accepted the majority of DMC's reported home market credit expenses as reported (with certain sales-specific exceptions). See SSSSC from Korea Prelim 04-05, 71 FR at 18080. The petitioners disagree with this decision, contending that the Department should disallow all of DMC's home market credit expenses for purposes of the final results because DMC did not adequately support the calculation of its home market interest rate. Specifically, the petitioners assert that the documentation provided by DMC does not show the calculation of the home market interest rate.

DMC asserts that the petitioners' argument ignores the evidence on the record and, thus, should be disregarded. Specifically, DMC notes that it provided a worksheet in its October 27, 2006, questionnaire response at Exhibit B-24 that detailed the amount, term, and interest paid for each loan taken out during the year. According to DMC, it calculated the reported short-term interest rate by dividing the total actual interest paid by the accumulated loan balance. DMC states that this calculation was further supported in its supplemental response by documents regarding the loan amounts and interest. Therefore, DMC maintains that there is no justification to disregard its reported home market credit expenses.

Department's Position:

We have examined the evidence on the record and find that DMC provided sufficient documentation regarding the calculation of its home market interest rate. We note that DMC provided a worksheet detailing the amount, term, interest rate, and interest paid for each loan during the POR, as well as the calculation of the home market interest rate. See DMC's October 27, 2006, questionnaire response at Exhibit B-10. In addition, DMC provided source documentation in its February 17, 2006, supplemental questionnaire response at Exhibit B-24, including information from its interest expense sub-ledger, to support the figures shown on the

calculation worksheet. Accordingly, we have continued to rely on the home market interest rate reported by DMC for purposes of calculating home market credit expenses for the final results.

Comment 8: *Whether to Apply an Adverse Inference to DMC's Reported Yield Information*

In calculating the cost of production for purposes of the preliminary results, the Department relied on the grade-specific yield information reported by DMC. DMC indicated that this data was recorded in the company's normal books and records. The petitioners argue that the Department should reject this information for the final results because: 1) it is not both grade- and dimension-specific as required by the Department's questionnaire; and, 2) DMC should have been able to provide this information, given both in-depth production information provided by DMC in other contexts and the fact that the only additional information needed by DMC to calculate dimension-specific yields is the input weight of the coil. Therefore, the petitioners contend that the Department should apply an adverse inference and adjust the reported costs to reflect the lowest yield for any product for purposes of the final results.

DMC disagrees that this approach is warranted, stating that it explained in its questionnaire responses that the information provided in its production and cost accounting systems does not permit it to recalculate yields on a dimension-specific basis. DMC pointed out that its books and records do allow it to associate the grade-specific input coils to the grade-specific finished products and, therefore, it reported yields by grade. However, DMC states that it can produce several different dimensions of finished product from input coils of a particular dimension and, thus, its books and records do not allow it to match reliably the input coil to the output quantity on a dimension-specific basis, which would be necessary to calculate a yield loss by dimension, as requested by the petitioners. DMC argues that, because it fully explained the production process in its questionnaire responses and the Department did not request additional information on this topic, the Department should not make any adjustments to the reported yield figures.

Department's Position:

We have examined the evidence on the record and find that there is no basis to apply an adverse inference to DMC's reported yield information. DMC indicated that, in its normal books and records, it tracked product-specific costs and calculated yield losses by grade, but not by dimension, and there is no evidence on the record to contradict this assertion. Rather, the information on the record shows that DMC could have used different sized input coils to produce the finished product. See DMC's February 2, 2006, supplemental response at exhibit D-26.

It is the Department's practice, pursuant to section 773(f)(1)(A) of the Act, to rely on the records of the exporter or producer of the merchandise if such records are kept in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise. See Notice of Final Results of Antidumping Duty Administrative Review: Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil, 70 FR 60282 (Oct. 17, 2005), and accompanying Issues and Decision Memorandum at Comment 4. Also, the SAA states that the Department will consider whether the producer historically used its submitted cost allocation methods to compute

the cost of the subject merchandise prior to the investigation, or administrative review, and in the normal course of business. See SAA at 834.

Further, pursuant section 782(i)(3) of the Act, the Department was not required to conduct on-site verification in this review and did not elect to do so. Where the Department elects not to verify, it will rely on timely submitted information, unless there is evidence that the information is unreliable. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1997- 1998 Antidumping Duty Administrative Review and Final Results of New Shipper Review, 67 FR 61837 (Nov. 15, 1999), and accompanying Issues and Decision Memorandum at Comment 19. In the current segment of this proceeding, the information submitted by DMC was timely, and we found no reason to believe that the allocation methods DMC used in the ordinary course of business unreasonably allocated costs between subject and non-subject merchandise. Therefore, we have continued to use the data provided by DMC for purposes of the final results, in accordance with our practice. See Antidumping Duty Investigation of Diamond Sawblades and Parts Thereof from the Republic of Korea, 71 FR 29310 (May 15, 2006), and accompanying Issues and Decision Memorandum at Comment 40.

Comment 9: *DMC's Hot Coil Purchases*

Prior to the preliminary results, the petitioners requested that the Department collect certain data on DMC's purchases from its suppliers of hot-rolled coil in order to examine DMC's relationships with its suppliers. However, after examining the evidence on the record, the Department determined that there was no evidence to demonstrate that DMC reported its purchases of hot coils inappropriately and, thus, we did not pursue the issue for purposes of the preliminary results. In their case brief, the petitioners again requested that the Department collect additional information regarding DMC's purchases of hot-rolled coil from unaffiliated suppliers because one of these companies is a major steel manufacturer that is subject to the antidumping duty order on SSSSC, as well as antidumping duty orders on other products. The petitioners speculate that, because this supplier did not have any shipments of SSSSC to the United States during the POR, this company could be supplying hot-rolled coil to DMC at below-market prices, thereby allowing DMC to lower the price on its SSSSC due to unreasonably low raw material (*i.e.* hot-rolled coil) costs. Specifically, the petitioners maintain that the Department should request detailed, product-specific information on a monthly basis from DMC's unaffiliated hot-coil suppliers for use in the final results.

DMC argues that the petitioners' request is based on speculation and is not supported by evidence on the record. DMC notes that in the preliminary results the Department found no evidence to suggest that DMC reported its data inappropriately. Therefore, according to DMC, because no new evidence has been placed on the record, the Department should adhere to its preliminary determination not to request additional information.

Department's Position:

We continue to find that there is no evidence on the record to support the petitioners' claim that DMC's purchases of hot-rolled coils were not at arm's-length prices. Typically, transactions between two unaffiliated parties are deemed to be arm's-length transactions unless there are specific facts that lead us to conclude otherwise. See Notice of Final Determination of Sales At Less Than Fair Value: Pure Magnesium from Israel, 66 FR 49349 (Sept. 27, 2001), and accompanying Issues and Decision Memorandum at Comment 7. In the current case, the petitioners have provided no facts in support of their argument, but merely speculated that DMC's suppliers were selling to DMC at below-cost prices, given the past pricing behavior of one of these companies with respect to subject merchandise. Therefore, for purposes of the final results, we have not requested further information regarding purchases from DMC's unaffiliated suppliers.

Recommendation:

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

Agree _____

Disagree _____

David M. Spooner
Assistant Secretary
for Import Administration

(Date)