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Administrative Review
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DATE: November 1, 2006

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 Certain Steel Concrete Reinforcing Bars from Turkey – April 1, 2004, through March 31, 2005

Summary

We have analyzed the comments of the interested parties in the 2004-2005 administrative review of the antidumping duty order covering certain steel concrete reinforcing bars (rebar) from Turkey. As a result of our analysis of the comments received from interested parties, we have made changes in the margin calculations as discussed in the "Margin Calculations" section of this memorandum. We recommend that you approve the positions we have developed 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:

General Issue

1. Cost of Ferro-vanadium for Colakoglu Metalurji A.S./Colakoglu Dis Ticaret A.S. (Colakoglu) and Habas Sinai Ve Tibbi Gazlar Istithsal Endustrisi A.S. (Habas)

Company-Specific Issues

2. Whether to Apply Adverse Facts Available (AFA) to Colakoglu
3. Indirect Selling Expense (ISE) Calculation for Colakoglu
4. Depreciation Expenses for Colakoglu
5. Affiliated Party Transaction for Colakoglu
6. Net Financial Expense Ratio Calculation for Colakoglu
7. Depreciation Expenses for Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve Turizm Ticaret A.S./Diler Dis Ticaret A.S (Diler)

8. Affiliated Party Transaction for Diler
9. General and Administrative (G&A) Offsets for Diler
10. Defective Bars and Edges Offset Exclusion from the G&A and Financial Expense Ratio Calculation for Diler
11. Depreciation Expenses for Ekinciler Demir ve Celik Sanayi A.S./Ekinciler Dis Ticaret A.S. (Ekinciler)
12. Allocation Methodology of G&A Expenses for Ekinciler
13. Shutdown Costs for Ekinciler
14. G&A Offsets to Costs Not Included in the Reported Costs for Ekinciler
15. G&A Offsets to Costs Related to Prior Periods for Ekinciler
16. Calculation of the G&A and Financial Expense Denominator for Ekinciler
17. Financial Expense Exclusions from Ekinciler's Reported Costs
18. Clerical Error for Habas
19. Depreciation Expenses for Habas
20. Bartered Billets for Habas
21. Habas' Financial Statements
22. Whether to Apply AFA to Kroman

Background

On May 5, 2006, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on rebar from Turkey. See Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Notice of Intent To Revoke in Part, 71 FR 26455 (May 5, 2006). The period of review (POR) is April 1, 2004, through March 31, 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 Calculations

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

- We removed certain expenses from the calculation of the home market ISE ratio for Colakoglu in order to eliminate double-counting. See Comment 3;

- We adjusted Colakoglu's G&A expense calculation to include only the offset for ISE reported in Colakoglu's February 16, 2006, Section D supplemental response. See Comment 3;

- In order to account for an affiliated party transaction, we revised the offset to Colakoglu's reported cost of manufacturing (COM) for natural gas to be only the cost of the natural gas input, rather than the cost of the input plus conversion costs. See Comment 5;

- We adjusted Diler's reported depreciation expenses to account for certain under-depreciated assets. See Comment 7;

- We allocated Diler's parent company G&A expenses to Diler using the relative cost of sales by the Diler Group companies. See Comment 8;

- We adjusted Diler's G&A expenses to exclude an offset for sales income from affiliates. See Comment 9;

- We adjusted the denominator of Diler's G&A and financial expense calculation to exclude an offset for defective bar and edges. See Comment 10;

- We adjusted our difference in merchandise calculations to account for an adjustment to fixed overhead related to transactions between Diler and an affiliated party. See the November 1, 2006, memorandum from Margaret Pusey to Neal Halper entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Final Results - Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Turizm Ticaret A.S., and Diler Dis Ticaret A.S. (collectively "Diler")" ("Diler Final Calculation Memo");

- We recalculated Ekinciler's depreciation expenses to account for assets with remaining useful lives that still have un-depreciated net book values and a major asset in the plant, machinery, and equipment category. See Comment 11;

- We adjusted Ekinciler's COM to include the unamortized portion of shutdown costs that were capitalized during the POR. See Comment 13;

- We adjusted the denominator used in the calculations of Ekinciler's G&A and financial expense ratios to exclude the fiscal year 2004 cost of goods sold (COGS) for scrap and defective billets. See Comment 16;

- We corrected a ministerial error in our margin calculations for Habas by including U.S. dollar-denominated home market gross unit prices and credit expenses in the calculation of NV. See Comment 18;

- We recalculated Habas' G&A expenses to account for: 1) certain under-depreciated assets; and 2) amortization expenses related to certain reported foreign exchange losses. See Comment 19;

- We based Habas' G&A and financial expenses on the amounts reflected in its statutory financial statements. See Comment 21.

Discussion of the Issues

General Issue

Comment 1: *Cost of Ferro-vanadium for Colakoglu and Habas*

Neither Colakoglu nor Habas included the cost of ferro-vanadium in its reported cost of production (COP) for rebar, because each respondent claimed that this material was only used to produce products which were exported to third countries. For purposes of the preliminary results, the Department accepted this claim. However, the petitioners argue that this treatment is inappropriate, given that the Department explicitly instructed: 1) both respondents to calculate and report COP regardless of the market sold; and 2) Habas to include the cost of ferro-vanadium if any merchandise under consideration contains ferro-vanadium. Therefore, as long as the products that were made with ferro-vanadium alloy fall within the scope of the merchandise under consideration, the petitioners contend that the respondents should have included the cost of the products containing this alloy in their total costs, and, thus, they should have averaged these costs with those of the reported products in determining the submitted unit COPs.

The petitioners disagree with Habas' contention (see below) that the inclusion of ferro-vanadium would generate new control numbers specific to third-country markets, and, thus, the inclusion of this alloy in Habas' production costs would have no impact on the costs reported for home market and U.S. control numbers. The petitioners contend that Habas did not provide any evidence to support this point. In addition, the petitioners assert that Colakoglu did not discuss this issue in its responses and failed to provide any evidence regarding the appropriateness of excluding the cost of ferro-vanadium from its reported costs.

According to the petitioners, under the Department's practice, when a party claims an adjustment to its reported costs, that party bears the burden of proving that the claim is justified. See Notice of Final Results of Antidumping Duty Administrative Review: Silicon Metal from Brazil, 64 FR 6305, 6314 (Feb. 9, 1999) (1999-2000 Silicon Metal from Brazil); Notice of Final Results of Antidumping Duty Administrative Review: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada, 64 FR 2173, 2185 (Jan. 13, 1999) (Steel Plate from Canada). Therefore, the petitioners argue the Department should adjust Colakoglu's and Habas' reported costs to include the cost of ferro-vanadium because they did not provide any evidence on record to support the exclusion of ferro-vanadium costs. Finally, the petitioners contend that, if the Department does not make this adjustment, the Department should exclude the cost of ferro-vanadium alloy from the denominators used to calculate their G&A and net interest expense ratios, because the denominators of these ratios and the amounts to which these ratios are applied must be on the same basis. See Notice of Final Determination of Sales at Less Than Fair Value: Live Cattle from Canada, 64 FR 56739, 56756 (Oct. 21, 1999) (Live Cattle from Canada).

Colakoglu and Habas contend that they have properly excluded the cost of ferro-vanadium alloy from their reported costs because ferro-vanadium alloy was used to manufacture products that were only sold in third country markets. Colakoglu and Habas maintain that there is ample

evidence on the record supporting their claims that the products sold in their comparison markets and the U.S. markets do not contain ferro-vanadium alloy.

According to Colakoglu, section 773(b)(3)(A) of the Tariff Act of 1930, as amended (the Act) requires that COP be calculated only for the products sold in the comparison market and that constructed value (CV) be calculated only for the products sold in the United States. Colakoglu asserts that, in accordance with this provision, the Department's section D questionnaire issued to it defined COP as "the weighted-average control number specific cost of the products sold by your company in the comparison market (i.e., the home market or third-country market)." Colakoglu argues that evidence on the record demonstrates that it did not sell rebar that contained ferro-vanadium in the home or U.S. markets during the POR. Moreover, Colakoglu asserts that the Department verified that it properly designated the cost of ferro-vanadium as a reconciling item that was not included in its COP because Colakoglu only sold products containing ferro-vanadium to third countries. See the May 1, 2006, memorandum from Sheikh Hannan to Neal Halper entitled, "Verification of the Cost Response of Colakoglu Metalurji A.S. in the Seventh Administrative Review of Certain Steel Concrete Reinforcing Bars from Turkey" at page 18 ("Colakoglu Cost Verification Report"). Thus, Colakoglu argues that ferro-vanadium costs are not relevant to its reported costs and, therefore, were appropriately excluded.

Habas also contends that it has fully explained to the Department that the grade and specification of ferro-vanadium products are different from the grade and specification of the products sold in its comparison and U.S. markets. Habas maintains that, as a result, these products would have been assigned different control numbers because grade and specification are control number product characteristics. See Habas' February 24, 2006, supplemental section D response at exhibit 37 and Habas' April 14, 2006, supplemental section D response at pages 29 and 30 and exhibit 69. Moreover, Habas notes the Department did not solicit any additional information regarding its cost reporting methodology after it provided this information. Habas asserts that the petitioners' argument that the Department should add in all ferro-vanadium expenses as a lump sum to increase direct material costs is inappropriate, given that not only has Habas broken down control number direct material costs by grade and specification, but it has also clearly articulated this methodology on the record.

Finally, Colakoglu and Habas disagree with the petitioners' argument that the cost of ferro-vanadium should be excluded from the denominator of their G&A and interest expense calculations. The respondents argue that the Department has specifically held that both the numerator and denominator of the G&A and financial expense ratios should reflect values associated with all product lines, and not just the products under consideration. In support of this position, Colakoglu cites the Notice of Final Results of Antidumping Duty Administrative Review: Certain Steel Concrete Reinforcing Bars from Turkey, 70 FR 67665 (Nov. 5, 2005), and accompanying Issues and Decision Memorandum at Comment 13 (2003-2004 Rebar from Turkey), where the Department found that all general expenses of the company are included in the numerator of the G&A expense calculation irrespective of the product line, while the denominator includes the total COGS, including the COGS of subject and non-subject merchandise and services. As an example to support its assertion, Habas states that it produces industrial gases, which is supported by the company G&A expenses, even though it is not related

to the reported rebar COP. Habas asserts that the denominator of its G&A expense ratio includes the COGS for gas production, just as it includes the COGS for rebar production, because the corporate G&A expense supports all of the activities of the company. Therefore, because Colakolgu and Habas sold products containing ferro-vanadium in third markets, they assert that the ferro-vanadium costs should be included in the denominators of their G&A and interest expense calculations.

Department's Position:

In analyzing this issue, we reviewed the record evidence to determine whether the grades and specifications of the merchandise under consideration that were produced by Colakoglu and Habas were the same as the grades and specifications of the products to which they added ferro-vanadium. We found that the there is no evidence which demonstrated that the ferro-vanadium alloy cost should be included in the COP and CV calculations. Specifically, for Colakoglu, we verified that the ferro-vanadium costs incurred in the POR related solely to products sold in third countries. See the "Colakoglu Cost Verification Report" at page 17. Thus, for purposes of final results, we have not made an adjustment to the reported costs for ferro-vanadium for Colakoglu.

Regarding Habas, in response to the Department's supplemental question about ferro-vanadium costs, Habas explained that the only products that it produced using ferro-vanadium during the POR were products that it sold in third countries. See Habas' April 14, 2006, supplemental section D response at pages 29 through 31 and exhibit SD-3. Habas provided a list of the products that contained the ferro-vanadium additive, none of which fell into the control numbers which were sold in the U.S. or home market during this review period. Because we have no reason to question Habas' response, and because the products that contained ferro-vanadium were different control numbers from those in the U.S. or home markets, we have not made an adjustment to the reported costs for ferro-vanadium for Habas.

While we agree with the petitioners that the denominators used to calculate the G&A and net financial expense ratios must be on the same basis as the amounts to which these ratios are applied, we disagree that the Department should exclude the cost of ferro-vanadium alloy from these denominators. The Department calculates the G&A expense rate based on the company-wide G&A costs incurred by the producing company allocated over the producing company's company-wide cost of sales, and not on a divisional or product-specific basis. See, e.g., 2003-2004 Rebar from Turkey at Comment 13. Colakoglu and Habas excluded the cost of ferro-vanadium alloy from the cost of products sold in the home and U.S. markets but not from the products sold in the third country markets. Therefore, for the final results, we did not exclude the cost of ferro-vanadium alloy from the denominators used to calculate the G&A and the net interest expense ratios because the rebar total cost of sales is part of each respondent's company-wide cost of sales.

Company-Specific Issues

Comment 2: *Whether to Apply AFA to Colakoglu*

The petitioners argue that the Department should assign Colakolgu a rate based on AFA in the final results because it misled the Department numerous times during the instant review. According to the petitioners, this pattern of misrepresentation casts a doubt on the integrity and accuracy of Colakoglu's reported data. Specifically, the petitioners contend that Colakoglu: 1) misled the Department regarding depreciation expenses for certain assets; 2) claimed that its audited International Accounting Standard (IAS) financial statements are consolidated, while these statements are unconsolidated; 3) maintained that its statutory financial statements are not audited, while these statements are audited; 4) misrepresented its current affiliation with Turk Ekonomi Bankasi A.S. (TEB); and 5) made false statements regarding the operation of one of its affiliates. In addition, the petitioners argue that Colakoglu made misleading statements regarding its ISE and G&A expense calculation, as discussed below in Comment 3. The petitioners argue that the Department should apply AFA to Colakoglu's submitted data because Colakoglu's repeated attempts to mislead the Department demonstrate that Colakoglu has failed to cooperate to the best of its ability.

First, regarding depreciation expenses for certain assets, the petitioners note that the accounting method for inflation was changed by Turkish authorities in 2004. The petitioners state that Colakoglu informed the Department that, due to this change in Turkish law, its 2004 fiscal year depreciation expense was calculated based on all of its assets including buildings that were restated during the 2004 fiscal year. However, according to the petitioners, although the Department found at the cost verification that fully depreciated buildings with no net book values prior to the 2004 fiscal year were restated during the 2004 fiscal year, Colakoglu did not recognize (or report) depreciation expense on these restated values. The petitioners maintain that Colakoglu withheld information regarding this change and understated its potential impact.

Second, the petitioners allege that Colakoglu purposefully claimed that its IAS financial statements are audited and consolidated, when in fact these statements are neither. Specifically, the petitioners contend that the Department addressed this very issue in a prior review and determined that Colakoglu's IAS financial statements were not audited. See 2003-2004 Rebar from Turkey. In contrast, the petitioners assert that the Department found at the cost verification that Colakoglu's statutory financial statements are audited by a tax auditor despite Colakolgu's claim to the contrary. The petitioners claim that this finding is corroborated by the statements of other respondents in this review because another respondent in this case voluntarily submitted an audit report of its Turkish financial statements issued by a tax auditor. The petitioners assert that this is an attempt by Colakoglu not only to deceive the Department with respect to the correct nature of its statutory financial statements, but also to manipulate its interest calculation.

Next, regarding Colakoglu's affiliation with TEB, the petitioners claim that Colakoglu stated in its section A response that it was affiliated with TEB for only part of the POR because Colakoglu sold its shares of TEB to BNP Paribas Group (BNP) in February 2005. However, according to the petitioners, publicly available information demonstrates that, while Colakoglu sold a portion of its TEB shares to BNP, it continued to be affiliated with TEB after February 2005. See Internet Bankruptcy Library, *Troubled Company Reporter*, Europe, Volume 6, March 21, 2005, http://www.bankrupt.com/TCRAP_Public/index.html. The petitioners maintain that the incorrect information that Colakoglu reported to the Department could have impacted the

Department's consideration of its financial expenses.

Finally, the petitioners assert that one of Colakoglu's affiliates, Colakoglu Dis Ticaret A.S. (COTAS), claims on its website that it imports some steel-making inputs, including scrap. According to the petitioners, when the Department asked Colakoglu for details regarding these imports, Colakoglu replied that COTAS does not import steel-making inputs, and the information on its website was simply for marketing purposes. The petitioners argue that because COTAS was not subject to verification, the Department did not confirm the extent of COTAS's involvement with importing scrap. The petitioners maintain that if what is indicated on the website is true, then Colakoglu provided the Department with conflicting and unreliable information regarding its main input (i.e., scrap), thus affecting the application of the "major input" rule. Further, the petitioners contend that, if according to Colakoglu's claim, the information on the website is false, this indicates a serious lack of integrity with respect to this group of companies.

According to the petitioners, pursuant to section 776(b) of the Act, the Department may apply an inference adverse to a party's interest if the party has failed to cooperate to the best of its ability with Department's request for information. The petitioners maintain that in the past the Department has applied total AFA when a respondent has provided inaccurate, misleading, and incomplete information, as Colakoglu has done in this case. See Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from Spain, 70 FR 24506 (May 10, 2005), and accompanying Issues and Decision Memorandum at Comment 3 (Chlorinated Isocyanurates from Spain); Notice of Final Results of Antidumping Duty Administrative Review: Persulfates from the People's Republic of China, 71 FR 7725 (Feb. 14, 2006), and accompanying Issues and Decision Memorandum at Comment 8 (Persulfates from the PRC). In addition, the petitioners assert that the Department has applied AFA when the respondent failed to provide complete information regarding its relationship with one of its customers. See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Taiwan, 67 FR 6682 (Feb. 13, 2002), and accompanying Issues and Decision Memorandum at Comment 24 (SSSSC from Taiwan). In the instant review, the petitioners argue that Colakoglu withheld critical information, deliberately reported incorrect information, and impeded the proceeding. The petitioners assert that the Department most likely will calculate an inaccurate antidumping margin based on the incorrect information submitted by Colakoglu. Moreover, the petitioners maintain that this inaccurate margin calculation will reward Colakoglu for its deliberate failure to provide complete and truthful information, and may result in a revocation of the antidumping duty proceeding with respect to Colakoglu in the next review. Therefore, the petitioners argue that the Department should reject Colakoglu's reported costs and apply a total AFA rate. The petitioners assert that such action will curtail Colakoglu's future efforts to mislead the Department.

Colakoglu disagrees that the Department should base its final rate on total AFA because it has acted to the best of its ability in this proceeding. Colakoglu argues that, pursuant to section 776(a)(2) of the Act, facts available can only be used when an interested party: 1) withholds information; 2) fails to provide information by the applicable deadlines; 3) impedes a proceeding; or, 4) provides information that cannot be verified. Colakoglu cites Shanghai Taoen

International Trading Co., Ltd. v. United States, 360 F.Supp.2d 1339, 1348 (CIT 2005), where the Court of International Trade (CIT) found that total AFA is not warranted unless missing information is "core, not tangential and there is little room for substitution for partial facts." Colakoglu also asserts that the Department has rejected requests for the application of total AFA, even when a respondent made numerous minor errors in questionnaire responses and provided corrected information in supplemental responses, at verification, and after verification. See Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 19 (Diamond Sawblades from the PRC). Colakoglu argues that the Department has no basis to apply facts available because it: 1) has acted to the best of its ability by submitting all requested information by the established deadlines; 2) participated in cost and sales verifications and cooperated with the Department's verifiers; 3) remedied and explained all the deficiencies in the responses detected either by Colakoglu or the Department; and, 4) ensured that the Department has accurate and complete information on the record. Therefore, Colakoglu maintains that there is no evidence to indicate that it has not acted to the best of its ability.

Regarding the petitioners' specific arguments, Colakoglu contends that it did not mislead the Department regarding its reported depreciation expenses. Specifically, Colakoglu clarifies that its 2004 fiscal year depreciation expense was calculated based on all of its restated depreciable assets including buildings that had positive net book values and remaining useful lives at the end of 2003 fiscal year. Colakoglu asserts that buildings with no net book values and no useful lives at the end of 2003 fiscal year were also restated during the 2004 fiscal year, but no depreciation expenses were recognized on these restated values. According to Colakoglu, it has explained to the Department that it did not recognize any depreciation expense because the assets at issue have been fully depreciated. Moreover, these fully depreciated buildings prior to the 2004 fiscal year were restated during the 2004 fiscal year at the direction of the Turkish tax authorities, which did not permit depreciation expenses for those same buildings. Colakoglu argues that the decision to include restated values as depreciation expense is a legal issue for the Department's consideration and not an issue of whether Colakoglu has complied with the Department's request for information. Colakoglu maintains that when this issue came to light at the cost verification, neither the company's accountants nor its legal representatives were aware of it, and therefore, the contention that Colakolgu has not acted to the best of its ability is without merit. For further discussion of this item, see Comment 4, below.

Second, Colakoglu concedes that it initially erroneously claimed that its audited IAS financial statements were consolidated. However, Colakoglu notes that it subsequently corrected this misstatement at the earliest possible time (i.e., the first supplemental section D response), and informed the Department that the audited IAS financial statements were unconsolidated. Colakoglu maintains that there was no attempt to deceive the Department as alleged by the petitioners, because at the time of the initial claim was submitted, Colakoglu also submitted its audited IAS financial statements with the independent auditors' report to the Department, which indicated that in the accompanying financial statements certain subsidiaries were not consolidated. Further, Colakoglu states that when it claimed that its statutory financial statements were unaudited, it meant that the statutory financial statements were not audited by

independent accountants that carry out extensive tests of the company's accounting procedures and detail various aspects of the statements in numerous footnotes. Colakoglu maintains that the statutory financial statements are adjusted to report information required by Turkish tax authorities and reviewed by a tax ministry representative for purposes of determining the company's tax liability. Therefore, Colakoglu argues that there was no attempt to deceive the Department because it submitted both sets of financial statements (i.e., the audited IAS financial statements and statutory financial statements) for verification. For further discussion of this item, see Comment 5, below.

Further, Colakoglu acknowledges that the petitioners correctly noted that Colakoglu initially misstated that it was not affiliated with TEB during a portion a the POR. However, Colakoglu claims that it subsequently informed the Department that Colakoglu retained shares of TEB during the entire POR in its December 13, 2005, supplemental sections A through C response at page 6. Moreover, Colakoglu argues that the Department verified the information provided regarding TEB and confirmed that bank fees charged by TEB for its export transactions were at arm's-length prices, thereby, making the issue of affiliation with TEB moot.

Finally, regarding the petitioners' argument concerning COTAS's involvement with scrap imports, Colakoglu contends that it has never relied on information on its website in responding to Department's request for information or to support its submitted data. Colakoglu maintains that the Department verified and conducted extensive tests of its reported material costs, including imported and domestic scrap, and at no point did the Department find that COTAS supplied scrap input to Colakoglu.

Department's Position:

We disagree that we should apply total AFA to Colakoglu. In this case, we find that Colakoglu submitted all necessary information and we verified the accuracy of this data in two separate verifications. See the March 28, 2006, memorandum from Irina Itkin and Brianne Riker to Irene Darzenta Tzafolias entitled, "Verification of the Sales Response of Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret A.S. (collectively "Colakoglu") in the Antidumping Administrative Review of Certain Concrete Steel Reinforcing Bars (Rebar) from Turkey" ("Colakoglu Sales Verification Report") and the "Colakoglu Cost Verification Report."

Pursuant to section 776(a)(1) of the Act, the Department can resort to facts otherwise available if the necessary information is not available on the record. Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information by the deadlines for such information or in the form and manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

In accordance with section 782(d) of the Act, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the party submitting the response the nature of the deficiency and, to the extent practicable, shall provide

that party the opportunity to remedy or explain the deficiency. If that party submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department, subject to section 782(e) of the Act, may disregard all or part of the original and subsequent responses, as appropriate.

However, we also note that section 782(e) of the Act, states that the Department will not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements, if: 1) the information is submitted by the deadline established; 2) the information can be verified; 3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; 4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements; and 5) the information can be used without undue difficulties. In addition, we note that the Department found in Notice of Final Determination of Sales at Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbon from the Peoples Republic of Korea, 69 FR 17645 (Apr. 5, 2004), and accompanying Issues and Decision Memorandum at Comment 11, that in order for the Department to apply AFA the Department must have resorted to facts available and the Department must find that the respondent did not cooperate to the best of its ability to comply with a request for information. See also, Nippon Steel Corp. v. United States, 337 F.3d 1373 (Fed. Cir. 2003).

In the instant review, we find that Colakoglu has cooperated to the best of its ability because it: 1) responded to the original questionnaire and multiple supplemental questionnaires; 2) provided all the requested information within the set deadlines; 3) participated in, and cooperated during, the sales and cost verifications; and, 4) did not impede the proceeding. Regarding the first of the petitioners' specific allegations, we find that Colakoglu reported its depreciation expense based on the amounts reflected in its fixed asset register maintained in accordance with Turkish generally accepted accounting principles (GAAP). During the cost verification, we noted that the total 2004 fiscal year-end net book value recorded in the fixed asset register differed from the total net book value of all fixed assets reported in Colakoglu's 2004 fiscal year statutory balance sheet, and we requested the company officials to reconcile the two amounts. While performing the reconciliation, company officials explained that the reconciling difference related to the 2004 fiscal year restated value of the fully depreciated buildings that had zero book values and no useful lives prior to the 2004 fiscal year. We find that we have the necessary information on the record to make an adjustment and the information is not so incomplete that it cannot serve as a reliable basis for making an adjustment to the reported depreciation expense. As such, sections 776(a)(1) and 782(e)(3) of the Act do not permit us to resort to facts otherwise available with respect to Colakoglu's reported depreciation expense. Thus, for purposes of the final results, we relied on Colakoglu's cost data, adjusted for our findings at verification. For further discussion of this item, see Comment 4, below.

Second, regarding Colakoglu's financial statements, we note that Colakoglu provided a copy of its 2004 fiscal year audited financial statements prepared in accordance with IAS and claimed that these financial statements were consolidated. See Colakoglu's October 24, 2005, section D response at page 12 and exhibit 3. However, it appeared from the independent auditor's report

that these financial statements are not consolidated. Therefore, pursuant to section 782(d) of the Act, we provided Colakoglu an opportunity to explain the apparent contradiction between its claim and the independent auditor's report. In its December 7, 2005, supplemental section D response Colakoglu clarified that the audited IAS financial statements are not consolidated. Further, the petitioners maintain that Colakoglu claimed that its statutory financial statements are unaudited, when the Department found at the cost verification that Colakoglu's statutory financial statements are, in fact, audited by a tax auditor. We agree with the petitioners that we determined that the statutory financial statements are denominated in Turkish currency, and are signed and stamped by a tax auditor, who represents Colakoglu before the Turkish tax authorities and the Ministry of Finance. However, as this item was clarified at Colakoglu's cost verification and the Turkish statutory financial statements were provided by Colakoglu, we find that Colakoglu has not misled the Department.

Next, the petitioners contend that Colakoglu provided incorrect information regarding its affiliation with TEB. However, we note that, while Colakoglu initially provided incorrect information, it subsequently informed the Department that Colakoglu retained shares of TEB during the entire POR in its December 13, 2005, supplemental sections A through C response at page 6. We fully verified Colakoglu's relationship with TEB at the sales verification and found no discrepancies with Colakoglu's reported information. We also verified that bank charges charged by TEB to Colakoglu were in the same range as those charged to unaffiliated parties. See the "Colakoglu Sales Verification Report" at pages 3 and 16 and exhibit 18. Therefore, with regard to its affiliation with TEB, we find that Colakoglu acted to the best of ability by providing pertinent information in responses, as well as at verification.

Further, we find that petitioners' allegation that COTAS may be involved in the importation of scrap used in the production of the merchandise under consideration by Colakoglu is mere speculation. We agree with Colakoglu that we verified and conducted extensive tests of its reported material costs, including imported and domestic scrap, and did not find that COTAS supplied scrap input to Colakoglu. Therefore, based on our finding at Colakoglu's cost verification, we found no evidence that would indicate that COTAS supplied scrap input to Colakoglu during the POR. Thus, we find no evidence that Colakoglu misrepresented its data with respect to this item.

Similarly, regarding ISE and G&A expenses, we disagree with the petitioners' claim that Colakoglu was not forthcoming at the sales and cost verifications regarding its ISE and G&A expense calculations. Rather, we find that the petitioners themselves have misrepresented certain statements on the record and that there is no merit to this claim. For further discussion of this item, see Comment 3, below.

After considering each of the petitioners' concerns we do not find that Colakoglu intentionally misled the Department or that the errors contained in its submissions are so pervasive that they cannot be corrected. We agree with Colakoglu that it is the Department's practice not to apply AFA to a respondent's submitted data even if the respondent makes minor errors or misstatements if the information to make the necessary adjustments to the respondent's submitted data is available on the record. See Diamond Sawblades from the PRC at Comment

19. Thus, we find that, although Colakoglu may have made minor errors in preparing its reported data, as discussed above, it acted to the best of its ability in all respects.

Finally, we find the petitioners' reliance on the cases cited in its argument to apply total AFA to Colakoglu to be misplaced. Specifically, in Chlorinated Isocyanurates from Spain, the Department applied partial AFA to the respondent's home market inland freight expense because the respondent was unable to provide documents in support of its reported data, and the Department did not have information on the record to make the necessary adjustments. In this case, Colakoglu submitted proper documents in support of its reported costs, and where errors were made, the Department has the information to make the adjustments. Next, in SSSSC from Taiwan, the Department applied total AFA because the respondent failed to disclose its affiliation with a certain U.S. customer, which made the reported sales data unusable and unreliable. The Department found that the respondent categorized the majority of its U.S. sales as EP sales when they should have been categorized as constructed export price (CEP) sales. In this case, Colakoglu's submitted information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination. Moreover, the Department has the information on the record to make the necessary adjustments. Finally, in Persulfates from the PRC, the Department did not apply total AFA to the respondent's submitted data because the Department found that the respondent "has responded to all requests for information from the Department, within the deadlines established and in the form and manner requested, has not impeded the proceeding, and has provided information that is verifiable and which, in fact, was verified by the Department."

Thus, as the circumstances for applying total AFA, in accordance with the Act and the Department's practice, do not exist in this review, for purposes of the final results, we did not apply total AFA and reject Colakoglu's cost responses. Instead, we made necessary adjustments to Colakoglu's submitted data and calculated Colakoglu's margin based on the information on the record.

Comment 3: *ISE Calculation for Colakoglu*

In the preliminary results, we accepted Colakoglu's ISE calculation, as revised at verification. The petitioners argue that the Department should reexamine this calculation, and where appropriate, it should classify certain expenses reported in ISE as G&A expenses. Specifically, the petitioners assert that Colakoglu: 1) misclassified certain G&A expenses (i.e., miscellaneous expenses, donations, and marketing, selling, and distribution expenses) as ISE; and 2) was not forthright at verification regarding its ISE calculation. The petitioners argue that, because Colakoglu did not make CEP sales to the United States, Colakoglu's export ISE will not be included in the margin calculation. Therefore, the petitioners assert that Colakolgu will benefit from moving expenses from its G&A expense calculation to its home market ISE calculation because its home market ISE will have virtually no impact on the margin calculation.

First, the petitioners maintain that there is no evidence on the record explaining the nature of the miscellaneous expenses that Colakoglu classified as home market ISE. The petitioners argue that Colakoglu was unable to demonstrate at the sales verification that these expenses did not relate to

home market sales expenses. Therefore, the petitioners contend that, because these expenses remain unidentified, they should be characterized as general expenses and removed from the home market ISE calculation. In addition, the petitioners assert that, even though the Department did not instruct Colakoglu to allocate any of its miscellaneous expenses to its export ISE calculation, Colakoglu inappropriately allocated a portion of these expenses to this calculation.

Second, the petitioners state that Colakoglu included donations in its home market ISE calculation. However, the petitioners contend that it is the Department's practice to treat donations as a part of G&A expenses. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From France, 64 FR 30820 (June 8, 1999), and accompanying Issues and Decision Memorandum at Comment 22 (SSSSC from France). Therefore, the petitioners contend that the donations reported in Colakolgu's home market ISE calculation should be moved to its G&A calculation. In addition, the petitioners argue that, while the Department instructed Colakoglu to include the total value of donations to a certain customer in its home market ISE calculation at the sales verification, Colakoglu's revised home market ISE calculation does not include this amount. Therefore, the petitioners assert that if the Department reclassifies Colakoglu's donations as G&A expenses pursuant to its practice, the amount for this customer should be properly included in the amount added to G&A expenses. Further, regarding marketing, selling, and distribution expenses, the petitioners assert that the Department must ensure that all items deducted from Colakoglu's G&A expenses were originally included in the G&A expense total. The petitioners state that it is unclear if the expenses included in Colakoglu's home market and export ISE calculations (i.e., office rent, salesmen's salaries, and cellular phone expenses), which were deducted from the G&A expense calculation, were included in the original G&A expense total. The petitioners argue that it is likely that these expenses were originally included in the "marketing, selling, and distribution expenses" account, which was excluded from Colakoglu's G&A expense calculation. Therefore, according to the petitioners, unless evidence on the record demonstrates that these expenses were originally included in G&A expenses and were not a part of the "marketing, selling, and distribution expenses" account, the Department should revise Colakoglu's G&A expense calculation to include them.

The petitioners assert that evidence on the record indicates that Colakoglu was not forthright at the sales or cost verifications regarding its ISE calculations. First, the petitioners argue that, although Colakoglu did not report an export ISE calculation in its section C response, it claimed to have done so. Therefore, the petitioners state that Colakoglu's export ISE calculation was not verified at the sales verification. In addition, the petitioners maintain that the table of contents for the cost verification exhibit regarding Colakoglu's G&A expense calculation states that this exhibit contains items obtained from Colakoglu's sales verification (i.e., "export ISE calculations" and "sales verification exhibit for ISE: VE 9"). However, regarding the first item, the petitioners argue that Colakoglu's export ISE calculation was not verified at the sales verification, and therefore could not have been obtained at the sales verification. Regarding the second item, the petitioners contend that, while the cost exhibit claims to contain the ISE documents obtained at the sales verification, the documents submitted in the cost verification exhibit are unrelated to the documents contained in the sales verification exhibit.

Based on the above arguments, the petitioners contend that the Department should: 1) review each item included in Colakoglu's home market ISE calculation to determine whether its inclusion in the ISE calculation is appropriate; and, 2) ensure that all items deducted from the G&A expense calculation were originally included in the G&A expense total. According to the petitioners, for those expenses for which Colakoglu did not provide sufficient evidence showing proper classification, the Department should classify these expenses as G&A expenses.

Colakoglu maintains that the petitioners' arguments are unsupported and, thus, should be rejected. As a threshold matter, Colakoglu disagrees with the petitioners that reclassification of home market ISE to G&A will have virtually no impact on the margin calculation. Colakoglu contends that the ISEs reported in the INDIRSH field in the home market sales listing are deducted from the net comparison market prices for the cost test and, thus, do have an impact on the margin calculation.
Regarding miscellaneous expenses, Colakoglu notes that the Department instructed it to include a portion of miscellaneous expenses in the home market ISE calculation because company officials were unable to demonstrate that the expenses were not related to home market sales. In addition, Colakoglu contends that, because it was instructed to include a portion of these expenses in its home market ISE calculation, it appropriately allocated the remainder to its export ISE calculation. Because the miscellaneous expenses in question were allocated to the export and home market ISE calculations in the same proportion, Colakoglu contends that it does not matter whether the expenses are classified as G&A expenses or ISE.

In addition, Colakoglu disagrees with the petitioners' claim that Colakoglu did not include donations made to a certain customer in its revised ISE. Colakoglu states that the sales verification exhibits demonstrate that this calculation includes the total value net of value-added tax for all donations made to that customer during the POR, rather than just the total value of the particular sale referenced by the petitioners.

Further, regarding the petitioners' arguments about marketing, selling, and distribution expenses, Colakoglu states that its original home market ISE calculation was properly limited to salesman salaries, office rent, cellular phone expenses, and maintenance expenses for company-owned vehicles. According to Colakoglu, while the petitioners assert that items included in Colakoglu's home market ISE calculation should be classified as G&A expenses, they do not discuss which of these expenses were inappropriately classified as ISE. Moreover, Colakoglu argues that the petitioners' contention that there is no evidence on the record demonstrating that these expenses were originally reported as part of Colakoglu's G&A expense calculation should also be rejected. Colakoglu states that the Department verified its sales and cost data and issued several supplemental questionnaires to Colakoglu, and therefore, could have requested more information on the matter if it were not satisfied with the information on the record regarding these items.

Finally, Colakoglu disagrees that it reported an export ISE calculation in its section C response. Rather, Colakoglu notes that it properly reported that it had not incurred ISE for U.S. sales in Turkey or the United States because all of its U.S. sales were EP sales. Colakoglu contends that, while it was not necessary to report an export ISE calculation in the sales responses or at the sales verification because it did not make CEP sales, this calculation is relevant within the context of

its cost verification because these expenses should be deducted from the G&A expense calculation.

Department's Position:

As a threshold matter, we disagree with the petitioners that the classification of miscellaneous and donation expenses as ISE or G&A will have a material impact on the calculation of the dumping margin in these final results. Because Colakoglu reported only U.S. EP sales during the POR, section 772 of the Act does not permit the Department to deduct home market (or U.S.) ISE when making price-to-price comparisons. Rather, ISE and G&A expenses are only taken into account in the cost test. Because the Department effectively includes both categories in the calculation of net home market price and total cost, it is irrelevant whether the expense is classified as ISE or G&A; the end result will be the same in absolute terms.[1]

As to the specifics of the petitioners' arguments, we disagree that Colakoglu did not include the total value of donations in its calculation. Rather, the documents examined at verification clearly show that Colakoglu's ISE calculation includes the total value of all donations to the customer in question, as well as all donations to an additional customer. See the "Colakoglu Sales Verification Report" at exhibit 9. While we agree that the Department's general practice is to classify donation expenses as part of G&A,[2] in this instance, we have not revised the classification of donation expenses because: 1) the donation expense amount on the record (for the POR) does not correspond to the time period of the reported G&A expenses (fiscal year); and 2) as noted above, a re-classification of these expenses will not have an impact on the margin calculation.

For the same reasons, we have not reclassified the miscellaneous expenses included in home market ISE as G&A. Moreover, treating certain types of miscellaneous expenses as ISE is consistent with the Department's practice in other cases. See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders, 60 FR 10900, 10919 (Feb. 28, 1995) (where the Department classified miscellaneous expenses as ISE). We disagree, however, that all of these expenses should be allocated to home market sales. At verification, we instructed Colakoglu to

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[1] We note that the actual amounts included in the calculation may vary slightly due to the facts that: 1) G&A expenses are expressed as a percentage of cost of goods sold, while ISE are expressed as a percentage of sales value; and 2) G&A expenses are calculated for the fiscal year, while ISE are calculated over the POR.

[2] See, e.g., Stainless Steel Bar From India; Final Results of Antidumping Duty Administrative Review, 68 FR 47543, 47543 (Aug. 11, 2003) (where the Department adjusted the respondent's reported G&A expense calculation to include donations); SSSSC from France at Comment 22 (where the Department stated that donations "should be included in the calculation of G&A expense because these expenses are a part of {the respondent's} overall administrative expenses attributable to all production, including production of subject merchandise").

include only the portion of these expenses that was reasonably attributable to home market sales in ISE.[3] See the "Colakoglu Sales Verification Report" at pages 24 and 25.

Nonetheless, while we have continued to treat these expenses as ISE, we have not allowed them as an offset to total G&A expenses, nor have we allowed an offset for the additional export ISE claimed by Colakoglu as a result of the sales verification. As noted above, when directly asked to provide an explanation of the expenses in question at the sales verification, company officials did not demonstrate that they were included in G&A expenses, but instead "were unable to demonstrate that these items did not relate to expenses associated with home market sales." See the "Colakoglu Sales Verification Report" at page 24. Moreover, although Colakoglu claimed at the cost verification that an additional offset to G&A expenses for ISE was necessary because of the revision made to home market ISE at the sales verification (see the "Colakoglu Cost Verification Report" at page 37), we did not examine this calculation at the sales verification, nor did we verify that the expenses in question were included in the reported G&A figure. In light of these facts, we find that it would be inappropriate to offset Colakoglu's G&A expenses for the additional home market and export ISE found at the sales verification. Therefore, we have offset Colokaglu's G&A expenses only by the amount originally reported in Colakoglu's February 16, 2006, section D supplemental questionnaire response at exhibit 64.

Regarding the petitioners' argument that the record does not demonstrate that Colakoglu's reported home market ISE were included in the G&A account, we disagree that it would be proper to disallow the reported offset because: 1) we did not require Colakoglu to prove this at verification; and, 2) with certain limited exceptions, Colakoglu was able to demonstrate the accuracy of not only its G&A expense calculation, but its response in general. For further discussion, see Comment 2 above.

Finally, we disagree with the petitioners' claim that Colakoglu was not forthcoming at the sales and cost verifications regarding the ISE and G&A expense calculations. Rather, we find that the petitioners have misrepresented certain statements on the record and that there is no merit to this claim. Contrary to the petitioners' assertions, Colakoglu did not report an export ISE calculation in its section C response. Given that export ISE was not required for the dumping calculation, this "omission" had no impact on the outcome of this proceeding.[4] Similarly, while the cost verification report does reference certain sales items (i.e., "export ISE calculations" and "sales verification exhibit for ISE: VE 9"), the petitioners have mischaracterized the nature of these

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[3] In examining the calculation of Colakoglu's ISE ratio, we noted that certain expenses had been double-counted. Thus, we have removed these expenses from the total ISE amount. See the November 1, 2006, memorandum from Brianne Riker to the file entitled, "Calculations Performed for Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret (collectively "Colakoglu") for the Preliminary Results in the 2004-2005 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey."

[4] Moreover, to the extent that certain selling expenses (e.g., salaries) were deducted from G&A, we note that these expenses were reported in Colakoglu's section D response well in advance of verification.

items. Although we agree that the export ISE calculation contained in the cost exhibit was not verified at the sales verification, the table of contents for this exhibit states that it contains the export ISE calculation which was "revised per" sales verification documents, and not "obtained" at the sales verification. Furthermore, we disagree that the documents contained in the cost exhibit do not correlate to information obtained from the sales verification. While the home market ISE calculation contained in the cost exhibit does not include the months from the entire POR like the calculation obtained at the sales verification, that is simply due to the fact that ISE is calculated on a POR-basis, while G&A expenses are calculated on a fiscal-year basis. Therefore, the difference between the two exhibits is isolated to the absence of non-POR-month figures from the cost exhibit and vice versa. The figures contained in the cost exhibit are identical to those reviewed at the sales verification for the relevant months of the fiscal year examined by the cost verifiers. Therefore, we find that the petitioners' claim that Colakoglu was not forthcoming at the sales and cost verifications is without merit.

Comment 4: *Depreciation Expenses for Colakoglu*

For purposes of the preliminary results, we increased Colakoglu's reported depreciation expenses to include the entire 2004 fiscal year restated value of certain buildings. However, Colakoglu contends that the Department should not have included these values because the buildings had previously been fully depreciated and had a zero net book value. Colakoglu asserts that the Department stated two reasons for including these values in Colakolgu's depreciation expenses at the preliminary results: 1) Colakoglu recognized current year depreciation expense based on the remaining useful lives of the assets, as recorded in its normal books; and 2) there was no useful life recorded on the books for these buildings. See the May 1, 2006, memorandum from Sheikh Hannan to Neal Halper entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Colakoglu Metalurji A.S." However, Colakoglu argues that these two reasons were not justified and requests that the Department reverse its decision for purposes of the final results.

First, Colakoglu states that it calculated the 2004 fiscal year depreciation expense based on the fiscal year-end data which included a government mandated revaluation of fixed assets for inflation. According to Colakoglu, buildings that were fully depreciated and had no net book values prior to the 2004 fiscal year were also restated during the 2004 fiscal year. However, during the 2004 fiscal year, Colakoglu did not recognize additional depreciation expenses on these buildings because the buildings were fully depreciated in prior years. Therefore, Colakoglu maintains that it does not recognize any depreciation expenses on these assets in its normal books and records, and thus, the first reason relied upon by the Department is incorrect. Colakoglu asserts that it does not and cannot recognize depreciation expense on a fully depreciated asset, regardless of whether it is revalued. Colakoglu states that to force the company to treat a fully depreciated asset as not fully depreciated solely for the purposes of a dumping calculation ignores basic accounting rules and the company's normal books and records.

Second, Colakoglu argues that the Department found that these assets were fully depreciated and there was no useful life recorded on the books. Therefore, Colakoglu advocates excluding the revaluation amounts from depreciation expense because the assets were fully depreciated prior to

the 2004 fiscal year and have no useful life recorded in the books and records of the company. However, Colakoglu contends that if the Department insists on recognizing additional depreciation expense on the basis of the government mandated revaluations, then it must also accept that the asset has a remaining useful life to be depreciated. In that event, instead of including the entire 2004 fiscal year restated value of these previously fully depreciated buildings in the reported depreciation expense, the Department may depreciate the 2004 fiscal year restated value over a period of years consistent with standard Turkish average useful life tables.

Regarding Colakoglu's depreciation expense, the petitioners state that in 2004 the Turkish tax authorities changed the accounting method for inflation, including the treatment of asset revaluations. The petitioners contend that Colakoglu stated in is section D response that, under the new inflation accounting, all of its assets were subject to depreciation. However, the petitioners assert that at Colakoglu's cost verification the Department found that fully depreciated buildings with no net book values prior to the 2004 fiscal year were also restated during the 2004 fiscal year, but recognition of the depreciation expense was not permitted by the Turkish tax authorities. The petitioners claim that based on the responses of the other respondents in this proceeding, all fully depreciated fixed assets, not just buildings, were restated and acquired new net book values during the 2004 fiscal year with no depreciation expense recorded.

Finally, the petitioners assert that, due to Colakoglu's attempts to mislead the Department regarding its depreciation expenses, as well as numerous other items, the Department should reject Colakoglu's reported costs and apply total AFA. In the event that the Department does not apply total AFA to Colakoglu, the petitioners maintain that the Department should apply AFA when calculating Colakoglu's depreciation expense. The petitioners argue that Colakoglu did not provide an electronic version of its fixed asset register and that the record contains an incomplete paper copy of Colakoglu's fixed asset schedule which does not include assets excluded from depreciation expenses. The petitioners assert that without an electronic version of the comprehensive fixed asset schedule, the Department is unable to calculate the appropriate depreciation expense of Colakoglu.

Department's Position:

In accordance with section 773(f)(1)(A) of the Act, the Department normally calculates costs based on the records of the exporter or producer of the merchandise, if those records are kept in accordance with the GAAP of the exporting country and they reasonably reflect the costs associated with the production and sale of the merchandise under consideration. In instances where a company's normal accounting practices do not reasonably reflect the production costs, the Department adjusts the respondent's costs or uses alternative calculation methodologies that more accurately reflect the costs incurred to produce the merchandise under consideration. See 2003-2004 Rebar from Turkey at Comment 2 (where the Department recalculated the depreciation expense of buildings using inflation adjusted restated values, even though in their normal books and records and in accordance with Turkish GAAP, the respondents recorded the depreciation expense of buildings using historical values).

In the instant review, in accordance with Turkish GAAP, Colakoglu restated the value of all fixed assets for inflation during the 2004 fiscal year. All fixed assets were restated by increasing the 2003 fiscal year-end net book values. The difference between the 2004 fiscal year restated value and the 2003 fiscal year-end net book value is the revaluation amount. For assets that had a zero book value at the end of fiscal year 2003 because they were fully depreciated, the 2004 fiscal year restated values equaled the revaluation amounts. The revaluation amounts were recorded as gains and included in the net inflation adjustment amount, which was in turn included in the 2004 fiscal year statutory income statement as a separate line item. The net inflation adjustment amount was included in the net financial expense ratio computation submitted to the Department. Further, Colakoglu recognized its 2004 fiscal year depreciation expense based on the restated values of all depreciable fixed assets with 2003 fiscal year-end remaining useful lives, as recorded in its normal books and records. For example, depreciable fixed assets with a one-year remaining useful life at the end of the 2003 fiscal year were restated during the 2004 fiscal year, and the entire restated values (i.e., the sum of the 2003 fiscal year-end net book value and the revaluation amount) were depreciated during the 2004 fiscal year. See Colakoglu's February 21, 2006, supplemental section D response at exhibit 76. As a result, in Colakoglu's normal books and records, these assets have no net book values and no useful lives at the end of the 2004 fiscal year. However, Colakoglu did not recognize depreciation expense on the restated values of buildings that had no remaining useful lives and were fully depreciated prior to the 2004 fiscal year.

Therefore, although the depreciation expense reported by Colakoglu was based on its accounting records prepared in accordance with Turkish GAAP, we consider it unreasonable to revalue fully depreciated buildings (i.e., these assets have no useful lives per Colakoglu's books) and to recognize a gain on such revaluation, while not recognizing depreciation expense on the revaluation. Depreciation is a systematic and a rational allocation of the cost of fixed assets over the asset's expected useful life. Fixed assets with expired useful lives should be fully depreciated and have zero net book values. See Wiley GAAP 2002: Interpretation and Application of Generally Accepted Accounting Principles 2002, Patrick R. Delaney, Barry J. Epstein, Ralph Nach, and Susan Weiss Budak: John Wiley & Sons, Inc. (2001) at page 350 (Wiley GAAP). Colakoglu's recognition of the restated values of fully depreciated buildings as gains, without depreciating the restated values, understates the reported costs. It is neither a systematic nor a rational allocation of the cost of the fixed assets over their useful lives. Thus, in Colakoglu's normal books and records, these buildings continue to have net book values but no useful lives. Moreover, we do not agree with Colakoglu's assertion that, if the Department insists on recognizing depreciation expense on these assets, the Department should depreciate the restated values over a period of years consistent with standard Turkish average useful life tables. We note that the average useful life tables are used for assets that are initially placed in service, and subsequently depreciated over their remaining useful lives. The assets in question were placed in service prior to the 2004 fiscal year and their useful lives have expired according to Colakoglu.

However, we do not agree with the petitioners that the Department is unable to calculate the appropriate depreciation expense for Colakoglu without a comprehensive fixed asset schedule. Colakoglu provided a schedule of all fixed assets that were depreciated during the 2004 fiscal year in its February 21, 2006, supplemental section D response at exhibit 76. At Colakolgu's

cost verification, we reconciled the total net book value from this schedule to the total net book value of all fixed assets reported in Colakoglu's 2004 fiscal year statutory balance sheet, and the reconciling difference was the total restated value of the buildings at issue above. See the "Colakoglu Cost Verification Report" at pages 32 and 33. As such, the record evidence in this case does not support petitioners' contention that there are other fixed assets with no remaining useful lives that were revalued and not depreciated. For further discussion regarding the petitioners' arguments regarding the application of total AFA to Colakoglu, see Comment 2, above.

Thus, for purposes of the final results, we have continued to allow the gain on the revaluation of buildings with no remaining useful lives. However, we note that, as was done in the preliminary results, we also included the entire restated value of the buildings with no remaining useful lives in the reported depreciation expense,[5] thereby giving these assets a net book value of zero that corresponds with their expired useful lives.

Comment 5: *Affiliated Party Transaction for Colakoglu*

During the POR, Colakoglu produced electricity and another product using natural gas input. Colakoglu subsequently sold the other product to an affiliated party, Ova Electrik A.S. (OVA), and the company claimed an offset to its reported production costs associated with these transactions. OVA used this purchased product to produce electricity. To value the claimed offset, Colakoglu allocated its natural gas and conversion costs in proportion to its own electricity production and OVA's electricity production from the use of the purchased product. This calculation methodology assumes that Colakoglu could have produced additional electricity equal to what was produced by OVA from the use of this purchased product at no extra cost, if this product were not sold to OVA by Colakoglu. However, this purchased product does not become electricity by itself, (i.e., OVA has to incur conversion costs to process the product into electricity). For purposes of the preliminary results, the Department adjusted Colakoglu's reported COM to revalue the claimed offset related to these transactions by allocating the POR conversion costs incurred by OVA to process the purchased product into electricity, in the same manner as Colakoglu allocated its natural gas and conversion costs to its own electricity production and OVA's electricity production from the use of this purchased product.

The petitioners agree with the Department's adjustment for purposes of the preliminary results, but contend that the Department should include additional cost components in the adjustment calculation. According to the petitioners, OVA cannot process the purchased product into electricity without incurring G&A, selling, and interest expenses. Therefore, the petitioners assert that, in addition to the adjustment made in the preliminary results for conversion costs, the Department should reduce the claimed offset by OVA's G&A, selling, and interest expenses.

Colakoglu disagrees with the Department's methodology for calculating the adjustment made in the preliminary results and contends that even if the adjustment continues to be made for

[5] We note that alternatively we could have adjusted the interest expense computation by excluding the revaluation gain associated with the buildings with no remaining useful lives.

purposes of the final results, it is inappropriate to reduce the claimed offset by OVA's G&A, selling, and interest expenses because the costs incurred by OVA to produce electricity from the purchased product have no relevance to the value of the product transferred from Colakoglu to OVA. Colakoglu argues that if the Department accepts the petitioners' contention, the Department should also include the profit earned by OVA from the use of this product.

However, Colakoglu acknowledges that its claimed offset amount calculation methodology was not appropriate and has proposed an alternate methodology. The alternate methodology proposes an allocation of only the cost of the input natural gas instead of the natural gas and conversion costs incurred by Colakoglu to value the claimed offset amount. According to Colakoglu, it purchased a certain amount of energy in the form of natural gas and used it to produce electricity and another product. OVA used this other product as an energy source to produce electricity. Therefore, Colakoglu transferred energy to OVA from its purchased energy (i.e., natural gas). As such, it is appropriate to allocate only the natural gas input cost to value the claimed offset amount.

Department's Position:

For purposes of the final results, we have accepted the alternate methodology proposed by Colakoglu and have allocated only the cost of the input natural gas instead of the natural gas and conversion costs incurred by Colakoglu to value the claimed offset amount. Natural gas and conversion costs are incurred by Colakoglu to produce electricity and another product. While the conversion costs relate directly to the electricity production, the natural gas cost relates both to the electricity and the production of the other product. That is, this other product contains energy, originating from the input natural gas, which can be transformed into electricity. The electricity produced by Colakoglu from the use of natural gas and the electricity produced by OVA from the use of this product are in essence all generated from the natural gas input purchased by Colakoglu. As such, we agree with Colakoglu that the input natural gas cost relates proportionately to its own electricity production and OVA's electricity production from the use of the other product. Finally, we note that, because we are not including OVA's conversion costs in the claimed offset calculation for purposes of the final results, the petitioners' argument to include OVA's G&A, selling, and interest expenses is moot.

Due to the proprietary nature of certain items regarding this issue, we have also addressed this issue in a separate business proprietary memo. For further details, see the November 1, 2006, memorandum from Sheikh Hannan, to Neal Halper entitled, "Affiliated Party Transaction for the Final Results - Colakoglu Metalurji A.S./Colakoglu Dis Ticaret A.S. (Collectively "Colakoglu")."

Comment 6: *Net Financial Expense Calculation for Colakoglu*

For purposes of the preliminary results, we based Colakoglu's financial expense ratio on the amounts reflected in the company's 2004 fiscal year statutory financial statements, which were prepared in accordance with Turkish GAAP. However, Colakoglu maintains that the Department should use the amounts reported in its 2004 fiscal year audited unconsolidated financial statements prepared in accordance with IAS.

Colakoglu argues that the Department's longstanding practice is to calculate the net financing expense ratio on the full-year net interest expense and cost of sales from the audited fiscal year financial statements at the highest level of consolidation which corresponds most closely to the POR. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from France, 64 FR 73143, 73152 (Dec. 29, 1999) (Steel Plate Products from France). According to Colakoglu, this practice has been upheld by the Court of International Trade. See Gulf States Tube Div. Of Quanex Corp. v. United States, 981 F. Supp. 630, 647-648 (CIT 1997) (Gulf States v. United States). Colakoglu asserts that, where consolidated audited financial statements do not exist and are not easily prepared, the Department deems it appropriate to base the net financial expense ratio calculation on the audited financial statements of the respondent. See Notice of Final Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from India, 68 FR 41303 (July 11, 2003), and accompanying Issues and Decision Memorandum at Comment 15 (Mushrooms from India); Notice of Final Results of Antidumping Duty Administrative Review: Frozen Concentrated Orange Juice from Brazil, 65 FR 60406 (Oct. 11, 2000), and accompanying Issues and Decision Memorandum at Comment 2 (FCOJ from Brazil). According to Colakoglu, these cases demonstrate that the Department's clear practice is to prefer audited unconsolidated financial statements over unaudited financial statements. Moreover, Colakoglu maintains that in past segments of this same proceeding, the Department used the audited IAS financial statements to calculate its net financing expense. See 2003-2004 Rebar from Turkey at Comment 9; Notice of Final Results of Antidumping Duty Administrative Review: Certain Steel Concrete Reinforcing Bars from Turkey, 66 FR 56274 (Nov. 7, 2001), and accompanying Issues and Decision Memorandum at Comment 13 (1999-2000 Rebar from Turkey).

Colakoglu disagrees with the Department's conclusion in the preliminary results that the statutory financial statements most clearly reflect the data recorded in Colakoglu's normal books and records. Specifically, Colakoglu contends that there is no information on the record to suggest that the statutory financial statements more accurately reflect information in Colakoglu's books and records. In addition, Colakoglu maintains that, although the statutory financial statements are stamped by a tax auditor who is a tax ministry representative, the tax auditor neither issues an opinion nor validates the reported information. Colakoglu asserts that these statements are specifically adjusted to report information required by the Turkish tax authorities. Moreover, Colakoglu claims that it has identified, in its responses and at verification, the differences between the company's audited and statutory financial statements, and it argues that these differences highlight the fact that the statutory statements are prepared for the tax authorities and contain methodological adjustments that are not reported in the company's normal books and records.

The petitioners contend that the Department should apply total AFA to Colakoglu because it misled the Department with respect to numerous items, including the nature of its IAS and statutory financial statements. In addition to the petitioners' comments regarding AFA (see Comment 2, above), the petitioners made the following arguments regarding Colakoglu's net financial expense ratio. First, the petitioners argue that, while Colakolgu claims that its statutory financial statements do not represent audited financial statements, this is a misrepresentation. The petitioners assert that at Colakoglu's cost verification, it was demonstrated that Turkish statutory financial statements are audited by tax auditors who issue audit reports. In addition, the

petitioners note that another respondent in this case voluntarily submitted an audit report of its Turkish financial statements issued by a tax auditor. See Ekinciler's November 8, 2005, supplemental section D response at exhibit 20.

Further, the petitioners note that, while Colakoglu has argued that its IAS financial statements should be used for the calculation of the net financial expense ratio, Colakoglu's reported manufacturing costs, selling expenses, and G&A expenses are all based on the amounts reported in its statutory financial statements. The petitioners contend that Colakoglu's use of two different sets of unconsolidated financial statements for the COP and CV calculations affects the accuracy of Colakoglu's reported costs due to differences between the Turkish accounting standards and the IAS. The petitioners contend that relying on Colakoglu's IAS financial statements for its interest expense ratio only will result in inconsistent treatment of costs. To ensure the consistency of the expense calculations, the petitioners argue that Colakoglu's costs must be based on the same source (i.e., its Turkish statutory financial statements). Moreover, because the statutory financial statements are prepared in accordance with Turkish GAAP, the petitioners maintain that their use is appropriate under section 773(f)(1)(A) of the Act, which requires that costs shall normally be calculated based 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. Finally, the petitioners assert that use of these financial statements would be consistent with the Department's practice in this proceeding because the Department has accepted Turkish statutory financial statements as the basis for cost reporting in previous segments of this proceeding.[6]

Department's Position:

For purposes of the finals results, we have continued to base Colakoglu's financial expense ratio on the amounts reflected in its 2004 fiscal year statutory financial statements, which were prepared in accordance with Turkish GAAP. It is the Department's longstanding practice to rely on the amounts reported in the consolidated financial statements of the highest level available to calculate the financial expense ratio. See Steel Plate Products from France, 64 FR at 73152. See also Gulf States v. United States, 981 F. Supp. 630 at 647-648. Where audited consolidated financial statements do not exist, we deem it appropriate to base the net financial expense calculation on the audited financial statements of the respondent (i.e., the unconsolidated financial statements). See Notice of Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea, 58 FR 15467, 15475 (Mar. 23, 1993).

While we agree with Colakoglu that in Mushrooms from India and FCOJ from Brazil the Department used the audited unconsolidated financial statements of the respondents to calculate the net financial expense ratio, we note that these audited unconsolidated financial statements

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[6] The petitioners argue that, in the past segments of this proceeding, the Department has accepted expenses that are based on the respondents' normal books and records prepared in accordance with Turkish GAAP. However, the petitioners note that the Department has accepted expenses based on financial statements prepared in accordance with IAS from Colakoglu. See 2003-2004 Rebar from Turkey at Comment 9.

were prepared in accordance with the corresponding GAAP of the home country (i.e., Indian and Brazilian GAAP, respectively). Moreover, the unconsolidated financial statements used to calculate the net financial expense ratio were also used by the respondents to calculate the reported manufacturing costs and the G&A expense ratio. See the October 4, 2000, memorandum from Peter Scholl to Neal Halper entitled, "Final Cost of Production and Constructed Value Adjustments: Frozen Concentrated Orange Juice from Brazil, Administrative Review of 5/1/1998 to 4/30/1999"; the July 7, 2003, memorandum from Mark Todd to Neal Halper entitled, "Final Cost of Production and Constructed Value Adjustments: Preserved Mushrooms from India, Administrative Review of 2/1/2001 to 1/31/2002."

Based on these cases, it is clear that, when the Department uses the unconsolidated financial statements to calculate the respondent's net financial expense ratio, the Department prefers the unconsolidated financial statements that are prepared in accordance with the home country GAAP, because section 773(f)(1)(A) of the Act requires that costs "shall normally be calculated based 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 and sale of the merchandise under consideration." Moreover, the same unconsolidated financial statements used to calculate the reported manufacturing costs and the G&A expense ratio should also be used to calculate the financial expense ratio.

In the instant case, we found that Colakoglu does not prepare consolidated financial statements, either in accordance with Turkish GAAP or IAS. Colakoglu submitted two sets of its 2004 fiscal year unconsolidated financial statements. One set is the statutory financial statements prepared in accordance with Turkish GAAP. The statutory financial statements are denominated in Turkish currency, and are signed and stamped by a tax auditor, who represents Colakoglu before the Turkish tax authorities and the Ministry of Finance. In addition, the tax auditor performs detailed testing on the amounts reported in the statutory financial statements because the tax auditor is held liable for the accuracy of the signed financial statements. See the "Colakoglu Cost Verification Report" at page 7. In addition, Colakoglu reported its manufacturing costs and G&A expenses based on the amounts reported in the statutory financial statements. The other set of financial statements submitted by Colakoglu was prepared in accordance with IAS with the amounts denominated in U.S. dollars. The IAS financial statements are audited by independent accountants.

While we agree with Colakoglu that the statutory financial statements are prepared for the Turkish tax authorities, we disagree with Colakoglu that the amounts reflected in the statutory financial statements are not reported in the company's normal books and records. Colakoglu, in its normal books and records, follows the tax regulations set forth by the Turkish Ministry of Finance, which represent the GAAP of Turkey. The statutory financial statements are prepared in accordance with Turkish GAAP and are used by the Turkish tax authority to calculate Colakoglu's tax liability. See Colakoglu's October 24, 2005, section D response at page 12; Colakoglu's August 15, 2005, section A response at page 27. There are no differences between the statutory financial statements prepared in accordance with Turkish GAAP and the financial statements prepared for the Turkish tax authorities. See Colakoglu's December 7, 2005, supplemental section D response at page 5 and exhibit 35. As stated earlier, Colakoglu reported its manufacturing costs and its G&A expenses based on the amounts reported in the statutory

financial statements. At the cost verification, we confirmed this by conducting sample tests and tracing the manufacturing costs, G&A expenses, and interest expenses used to calculate the COP and CV for the final results to Colakoglu's source documents, journal entries, general ledgers, and trial balances which reconcile to the amounts reported in the statutory financial statements. See the "Colakoglu Cost Verification Report."[7]

Finally, we find Colakoglu's reliance on past segments of this proceeding to be misplaced as the facts patterns in 1999-2000 Rebar from Turkey and 2003-2004 Rebar from Turkey are different from the instant review. Specifically, we note that in 1999-2000 Rebar from Turkey, the Department used the audited consolidated financial statements to calculate Colakoglu's net interest expense ratio, while in the instant review Colakoglu has argued that the Department should use its 2004 fiscal year audited unconsolidated financial statements prepared in accordance with IAS. Further, in 2003-2004 Rebar from Turkey, unlike here, the issue was whether the net interest expense ratio can be calculated based on the amounts reported in the respondent's unconsolidated financial statements when the respondent does not prepare consolidated financial statements in its normal course of business. In contrast, in the instant case, the issue is whether the net financial expense ratio should be calculated based on the amounts reported in the respondent's unconsolidated financial statements prepared in accordance with home country GAAP or IAS. In any event, although we relied on IAS financial statements in the 2003-2004 review we now find that it is more appropriate to use the statutory statements in accordance with the Department's regulations because they are: 1) prepared in accordance with Turkish GAAP; 2) denominated in Turkish currency; and, 3) prepared in accordance with Colakoglu's normal books and records. Therefore, for purposes of the final results, we have continued to base Colakoglu's financial expense ratio on the amounts reflected in its 2004 fiscal year statutory financial statements, which were prepared in accordance with Turkish GAAP.

Comment 7: *Depreciation Expenses for Diler*

For purposes of the preliminary results, we accepted the depreciation expenses reported by Diler. However, the petitioners contend that there are discrepancies related to Diler's depreciation expenses that should be addressed for purposes of the final results. Specifically, the petitioners assert that Diler: 1) provided incomplete fixed asset information regarding land improvement assets; 2) excluded certain assets from its reported depreciation without justification; and, 3) under-depreciated certain assets.

Regarding Diler's fixed asset information, the petitioners argue that Diler deliberately omitted information in its June 7, 2006, supplemental section D response relating to the cost or purchase price of items within asset group 251 (i.e., land improvement assets) for both of its rebar

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[7] See November 1, 2006, memoranda from Brianne Riker to the File entitled: 1)"Placing Final Cost Calculation Memorandum from the 1989-1999 Administrative Review of Frozen Concentrated Orange Juice from Brazil on the Record of the 2004-2005 Administrative Review of Certain Steel Concrete Reinforcing Bars from Turkey;" and, 2) "Placing Final Cost Calculation Memorandum from the 2001-2002 Administrative Review of Preserved Mushrooms from India on the Record of the 2004-2005 Administrative Review of Certain Steel Concrete Reinforcing Bars from Turkey."

producing entities, Diler Demir Celik Endustrisi ve Ticaret A.S. (Diler Demir) and Yazici Demir Celik Sanayi ve Turizm Ticaret A.S. (Yazici Demir). The petitioners claim that the missing information is necessary to determine the net book values of these assets, if any. In addition, the petitioners contend that, because the Department lacks this information, it cannot determine whether Diler used the stated depreciation rates for these assets or a lower rate, which is permitted under Turkish law. The petitioners argue that Diler did not cooperate to the best of its ability in providing information to the Department and, thus, the Department should: 1) assume these assets have positive net book values; 2) estimate these net book values based on information available; and, 3) include the estimated total in Diler Demir's and Yazici Demir's costs.

Second, the petitioners argue that Diler excluded certain assets from Diler Demir's reported depreciation expenses without justification. Specifically, the petitioners contend that Diler Demir's fixed asset schedules contain assets that have a value in the purchase price column, but no value in any of the other columns. The petitioners state that most of these assets contain the words *kur farki* within their description. In addition, the petitioners assert there are four similar items within asset group 251 with the words *kur farki* in the description that have no value in the depreciation field. According to the petitioners, there is no evidence on the record that explains what these *kur farki* assets are or confirms whether their costs were expensed either directly or though depreciation. Moreover, the petitioners state that there are no *kur farki* assets within Yazici Demir's fixed asset schedules and, therefore, its schedules do not provide any additional information about these assets. The petitioners assert that it is too late in this review for Diler to provide any new factual information for the record to explain the *kur farki* assets or the treatment of these assets in Diler's normal books and records. The petitioners argue that, because there is no information regarding these assets, the Department should consider that: 1) the *kur farki* assets are depreciable and have useful lives; and, 2) their costs were originally capitalized and not expensed. To account for the non-depreciated *kur farki* assets, the petitioners suggest that the Department calculate an overall adjustment to Diler Demir's total manufacturing cost based on the asset purchase price (i.e., historical cost) listed in Diler Demir's fixed assets schedules for the *kur farki* assets, revalued for inflation. In addition, for the four assets from asset group 251, because there is no information regarding their cost or purchase price, the petitioners argue that the Department should use facts otherwise available to adjust Diler's costs to include these assets.

Finally, the petitioners note that another respondent, Ekinciler, stated in its June 7, 2006, supplemental section D response that: 1) "Turkish tax law does not require that depreciation expense be taken each year;" and, 2) the "depreciation period cannot be extended due to not booking depreciation in a given year or booking depreciation with a lower rate than the first rate that is applied." The petitioners argue that, while Diler did not discuss this aspect of Turkish tax law in its submission, the record indicates that Diler under-depreciated certain assets for fiscal year 2004 by taking advantage of this law. Therefore, the petitioners contend that the Department should recalculate Diler Demir's and Yazici Demir's depreciation expenses for all assets, based on the depreciation rate reflected in Diler's normal books and records and adjust for any under-depreciated assets by adding the additional depreciation expenses to each company's reported costs for the final results.

Diler disagrees that the Department should adjust its reported depreciation expenses using AFA for purposes of the final results. Diler notes that the basis for its reported depreciation expenses was its audited financial statements and accounts for Diler Demir and Yazici Demir. Diler points out that, for the Department to apply AFA at this time, it would require a specific finding in the record demonstrating that Diler failed to cooperate to the best of its ability. Diler maintains that there is no basis for the use of AFA because it has been fully cooperative and responsive to the Department's numerous questionnaires and requests at verification. Specifically, Diler argues that the petitioners have not claimed that Diler has failed to respond to the Department's requests for information, but rather merely claimed that the record lacks information about certain assets. Diler contends that it provided all of information regarding depreciation and its fixed assets as requested by the Department and that if the petitioners had doubts about the information on the record, the issue should have been raised prior to the briefing stage of the proceeding.

In addition, Diler argues that it provided complete information regarding asset group 251 (i.e., land improvement assets), and thus there is no basis for making an adverse adjustment. Specifically, Diler asserts that the focus of the Department's supplemental section D questionnaire, issued to Diler on May 31, 2006, was to determine if Diler: 1) had any fully depreciated assets that acquired a new net book value after revaluation for inflation for fiscal year 2004; and 2) had calculated depreciation on those assets. Diler states that the Department requested information on specific general ledger accounts (i.e., 252, 253, 254, 255, 257, and 268) and it fully complied with this request for information. Thus, Diler maintains that, because the Department did not request information regarding asset group 251, it was not uncooperative by not providing such information. Diler states that had information regarding this account been requested, it would have fully complied with the Department's request to provide it.

Regarding its *kur farki* assets, Diler disagrees that an overall adjustment is warranted for Diler Demir's costs because of these assets. Diler notes that the Turkish term *kur farki* translates to foreign exchange gains and losses. Diler notes that all of the *kur farki* assets listed in Diler Demir's fixed asset schedule are foreign exchange losses on assets that were purchased in 2001 and asserts that the remaining cost of these *kur farki* assets was expensed in 2004 through the inflation adjustment correction within the "'previous years' losses inflation adjustment" account. Diler argues that, pursuant to the new Turkish tax law 5024 and official gazette number 25332, dated December 30, 2003, and official gazette number 25387, dated February 28, 2004, which took effect in 2004, Turkish companies were required to split foreign exchange gains and losses that had been capitalized between real finance costs and non-real finance costs (NRFC). Diler states that NRFCs are calculated using the formula shown in official gazette number 25387 of Section VI.2.2.1, which is contained in Diler's February 14, 2006, supplemental section D response at exhibit D-56A and B. Diler points out that the NRFCs calculated for the assets placed in service during 2001 was required to be expensed in fiscal year 2004 in accordance with Turkish tax law. Diler states that the calculated NRFCs for assets placed in service during 2001 were then included in the inflation adjustment for 2004. Further, Diler notes that the reason Yazici Demir does not have any *kur farki* assets in its fixed assets schedules is because Yazici Demir did not capitalize any foreign exchange gains or losses in 2001.

Finally, Diler maintains that it properly depreciated its assets and did not take advantage of the Turkish tax law as suggested by the petitioners. Diler states that it described its practices

concerning depreciation in its initial responses to sections A and D of the questionnaire, and thus the petitioners should have raised any concern about this issue at an earlier stage of this segment of the proceeding. According to Diler, because the petitioners did not raise this issue earlier, it is inappropriate for them to argue that the Department should make adverse adjustments to Diler's costs. Further, Diler argues that the necessary information regarding its depreciation expenses is on the record. Specifically, Diler contends that, while Turkish tax law does not require that depreciation expenses be taken each year, Diler Demir and Yazici Demir did not follow this practice during the POR. Diler maintains that the financial statements contained in its August 12, 2005, section A response indicate that it depreciated its fixed assets principally on a straight-line basis during the POR. In addition, Diler refutes the petitioners' argument that it must have applied a lower depreciation rate than the rate reflected in its normal books and records. Diler argues that it stated in its August 12, 2005, section D response that "neither the depreciation methodologies nor the useful lives of any asset class has changed since April 2000." Finally, Diler asserts that the Department verified its reported depreciation expenses and confirmed that they were correctly reported. Therefore, Diler maintains that an adjustment to its reported depreciation expenses is not warranted.

Department's Position:

For purposes of the final results, we have continued to accept the depreciation expenses reported by Diler. We disagree with the petitioners that there are discrepancies in Diler's reported depreciation expenses that warrant adjustments. Specifically, we find the petitioners' argument that Diler deliberately omitted cost or purchase price information of items within asset group 251 to be unfounded. In the supplemental section D questionnaire issued to Diler on May 31, 2006, we requested information on several specific general ledger accounts, but did not request information regarding account 251. Thus, Diler did not deliberately omit information, but rather submitted information that pertained to the Department's specific questions. Further, regarding the petitioners' claim that, due to the missing information, the Department cannot determine whether Diler used the stated depreciation rates for asset group 251 or a lower rate, we reviewed all the information on the record obtained through verification and supplemental questionnaires pertaining to asset groups 252-255. We found no evidence that any asset groups as a whole had been depreciated using rates other than the stated depreciation rates in Diler's fixed asset schedules. In addition, we note that our practice does not require us to review the entire universe of Diler's assets in making determinations pertaining to its costs. The Department found in Notice of Final Results of Antidumping Duty Administrative Review: Siliconmanganese from Brazil, 69 FR 13813 (Mar. 24, 2004) and accompanying Issues and Decision memorandum at Comment 10 (Siliconmanganese from Brazil) that "verification is more like an audit, which normally entails selective examination rather than testing of an entire universe." Thus, because no evidence on the record indicates that Diler used a depreciation rate other than the one stated in its in normal books and records, we have made no adjustment to the depreciation expenses reported for asset group 251 for purposes of the final results.

Second, we disagree with petitioners' claim that Diler did not provide information regarding its *kur farki* assets. In its February 14, 2006, supplemental section D response, Diler provided information pertaining to Turkish tax law 5024 and official gazette number 25332, dated December 30, 2003, and official gazette number 25387, dated February 28, 2004, which took

effect in 2004 and changed the manner in which Turkish companies account for inflation. Official gazette number 25387 states that NRFC is, with respect to all kinds of borrowing, the amount which results from applying the amount of debt to the rate of increase in the wholesale price index (WPI) during the period in which the debt has been utilized. In addition, for borrowing in foreign currency, official gazette number 25837 states that the rate of increase in the WPI during the period in which the debt has been utilized will be applied to the countervalues of the debt in Turkish lira during the accounting period in which the borrowing has been closed. For example, if a company purchased a piece of equipment for use in its production facility and the equipment invoice was in a foreign currency, then the fixed asset value of the equipment on the books of the company would have included the exchange rate difference from the time the invoice was received until the time time of payment. The new Turkish tax law required that the company remove the NRFC from the equipment to arrive at the equipment amount to be considered for the new inflationary adjustment. Therefore, the new Turkish tax law required Diler to remove the NRFC from the purchase price of assets in the last five accounting periods, including 2003, prior to applying the inflation adjustment.

We examined the information on the record to test Diler's claim that the NRFC was not capitalized. As an example, we selected a construction-in-progress project that was started in May of 2001 and placed into service in December of 2004. See the May 1, 2006, memorandum from Margaret Pusey to Neal Halper entitled, "Verification of the Cost Response of Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Turizm Ticaret A.S., and Diler Dis Ticaret A.S. (collectively "Diler") in the Review of Steel Concrete Reinforcing Bars from Turkey" ("Diler Cost Verification Report") at exhibit 25. This project included costs for materials, finance, and NRFC. We recalculated the asset cost after revaluation and traced it to Diler Demir's fixed asset schedule, noting that the asset includes only the materials adjusted for inflation. Thus, we determined that financing costs and NRFC were not included in the purchase price of the asset, but were expensed in fiscal year 2004. As such, record evidence does not support the petitioners' contention that Diler has not properly accounted for its *kur farki* assets. Therefore, based on our analysis of the information on the record, we find no basis to adjust Diler's costs for the *kur farki* assets for purposes of the final results.

Finally, due to the business proprietary nature of the petitioners' allegation regarding the under-depreciated assets, we are unable to discuss it here. However, after reviewing the record with respect to these assets, we found that an adjustment to Yazici's reported depreciation expenses was necessary to account for certain under-depreciated assets. For further details, see the "Diler Final Calculation Memo" at page 2.

Therefore, we agree with Diler that it fully complied with all the Department's requests for information in a timely manner and was fully cooperative during this administrative review. We also agree with Diler that the information on the record is sufficient to satisfy the Department that no adjustments are warranted for its depreciation expense calculation and, thus, the application of AFA to its depreciation expenses is not warranted.

Comment 8: *Affiliated Party Purchases for Diler*

For purposes of the preliminary results, we accepted the actual amounts charged by Diler Holding to Diler Demir and Yazici Demir for services included in the reported G&A expenses. The petitioners assert that the G&A services provided by Diler Holding to Diler Demir and Yazici Demir during the POR are transactions between affiliated parties and, as a result, the Department must apply section 773(f)(2) of the Act (i.e., the transactions disregarded rule) to these services for purposes of the final results.

The petitioners argue that the Department, in applying the transactions disregarded rule, cannot accept the transfer price between affiliated parties without first comparing it to a market value. The petitioners note that the Department has on record Diler's allocation of Diler Holding's G&A expenses to Diler Demir and Yazici Demir based on the sales values of all companies within the Diler Group. In addition, the petitioners point out that the Department has an invoice from Diler Holding to Diler Demir for one month of G&A expenses, as well as an invoice from Diler Holding to Yazici Demir for one month of G&A expenses. The petitioners suggest that the Department use the G&A amounts derived from Diler Holding's G&A expense rate allocation as a surrogate for market value.

The petitioners calculated an annual G&A transfer price for Diler Demir and Yazici Demir from Diler Holding's invoices based on the assumption that the sample invoices for each company represented one twelfth of the annual billed amount for G&A services. The petitioners conclude that, when comparing this calculated transfer price to the suggested surrogate market value for Diler, an increase to Diler Demir's reported G&A expenses is required, while no adjustment is necessary for Yazici Demir.

Diler contends that the Department should calculate Diler Demir's and Yazici Demir's G&A expenses using the actual amounts (i.e., transfer prices) Diler Holding charges to its affiliates as recorded in its normal books and records. Diler points out that there is no evidence on the record to suggest that the Diler Holding's G&A charges are inconsistent with the market price of such services in Turkey. Diler explains that, in its section D response, the company provided a sales-based allocation of Diler Holding's G&A expenses to all Diler Group companies because Diler's counsel and consultants were unaware that Diler Holding invoiced the Diler Group companies for G&A expenses.

Diler disagrees with petitioners that the Department is required to make an adjustment according to the transactions disregarded rule under section 773(f)(2) of the Act. Diler notes that section 773(f)(2) of the Act states that "transactions ... between affiliated persons may be disregarded." Diler argues that the petitioners did not point to a market price that invalidates Diler Holding's actual costs and transfer prices in this administrative review. Therefore, Diler argues that the Department should continue to use Diler Holding's actual G&A charges to both Diler Demir and Yazici Demir for purposes of the final results.

Department's Position:

At verification we reviewed the transactions between Diler Holding and Diler Demir and Yazici

Demir and found that the transactions related to a building lease and related services. We also found that Diler Holding's sole activity appears to be related to servicing group companies. In addition, we noted that, while a portion of Diler Holding's expenses is invoiced to its affiliate, a significant amount is not.

Regarding the invoiced portion, we attempted to compare the affiliated transactions to those between unaffiliated parties; however, we found that there were no such comparable transactions between unaffiliated companies. Thus, we deemed it reasonable to rely on Diler Holding's actual cost of providing the inputs/services to its affiliates as a proxy for a market price. We compared Diler Holding's building leasing and related services income (i.e., the transfer prices charged to affiliates) for 2004 to Diler Holding's expenses for 2004 and found that Diler Holding's building leasing and related services income exceeded Diler Holding's associated expenses for 2004. Therefore, because Diler Holding's building leasing and related services income exceeded the related expenses for 2004, it appears that the amounts invoiced by Diler Holding to Diler Demir and Yazici Demir are reflective of arms-length prices. Thus, for purposes of the final results, we have relied on the transfer prices between Diler Holding and Diler Demir and Yazici Demir for the affiliated-party transactions at issue.

Regarding the portion of Diler Holding's costs which are not billed to the Diler Group companies, we find that it is appropriate to allocate these expenses to the Group companies. Thus, for the final results we have allocated Diler Holding's residual G&A expenses to Diler Demir and Yazici Demir based on the relative cost of sales of the Diler Group companies.

Comment 9: *G&A Offsets for Diler*

For purposes of the preliminary results, the Department accepted Diler's claimed offsets to its G&A expenses with the exception of rental income from vehicles. The petitioners assert that Diler's claimed offsets to G&A expenses are not related to the POR and, thus, should be excluded from Diler's reported G&A expenses for purposes of the final results.

Specifically, the petitioners object to the offsets for "provisions no longer required," "other income and profit," and "other extraordinary revenues and profits." The petitioners contend that if the costs corresponding to incomes and gains are not included in the reported costs, then the offsets for these same incomes and gains cannot be allowed. Further, the petitioners argue that the claimed offset for provisions no longer required contains entries for the reversal of provisions for severance pay relating to employees that have left the company and are no longer eligible for severance pay. The petitioners claim that the provisions being reversed were booked in a prior year and, thus, distort the current year G&A expenses.

With respect to Diler's claimed offset for other income and profit, the petitioners assert that this amount is comprised of various income items and that the corresponding costs are included in "other costs of sales" rather than in COGS, which is the basis for Diler's reported costs. The petitioners note that at verification the Department examined the account for rental income from vehicles for purposes of testing other income and profits. The petitioners argue that for the preliminary results, the Department was incorrect to limit its adjustment only to rental income from vehicles. Rather, the petitioners assert that the Department should have disallowed the

entire offset of other income and profit based on its examination of this item. The petitioners also note that the Department examined at verification two items for Yazici Demir relating to "other incomes related to hotel activities" and "fine incomes." The petitioners note that while the Department's verification report indicated that costs associated with the other incomes related to hotel activities were included in Yazici Demir's G&A expenses, it provided no explanation for fine incomes. The petitioners cite to 1999-2000 Silicon Metal from Brazil, FR at 6314, noting that the "burden of proof to substantiate" an offset lies with the respondent. The petitioners also cite to Steel Plate from Canada, 64 FR at 2185, where the Department stated that "that the burden lies with respondents to place necessary information on the record." The petitioners claim that only the offset for the hotel expenses should be allowed in Yazici Demir's G&A expense ratio calculation.

Regarding other extraordinary revenues and profits, the petitioners claim that the majority of the items within this offset have no relation to the company's operations as a manufacturer of rebar. The petitioners state that the largest item in the account appears to be "sales income from affiliate" which has nothing to do with Diler's manufacturing operations. The petitioners contend that Diler has claimed offsets for "sales incomes of vehicle" within the extraordinary revenues and profits offset, and that if the rental income from vehicles is disallowed as an offset, then the Department should also disallow any offsets of sales incomes relating to the same vehicles.

Diler argues that the petitioners' arguments are misplaced and contends that no additional adjustments to the Department's preliminary results are necessary with respect to its reported G&A expenses. First, Diler refutes the petitioners' assertion that the offset for provisions no longer required is related to provisions booked in a prior year. Diler notes that the Department stated in its verification report that the "severance indemnity is accrued monthly."[8]

Additionally, Diler notes that the remaining adjustments requested by the petitioners are based on the premise that costs associated with incomes and gains claimed as offsets were not included in the reported costs and, as such, the income and gains cannot be included. According to Diler, this is contrary to the Department's finding in prior reviews. As support of its assertion, Diler cites to 2003-2004 Rebar from Turkey at Comment 13, where the Department determined that the claimed offsets to G&A expenses do not necessarily have to be linked to the production of subject merchandise.

Diler maintains that it provided the Department information related to these offsets multiple times throughout this administrative review. Specifically, Diler notes that it provided detailed offset account information in its section D response, first supplemental D submission, and at verification. Diler maintains that the Department, after analyzing the information on the record, determined in the preliminary results that Diler's G&A offsets were valid with the exception of rental income from vehicles. Therefore, Diler asserts that no additional adjustments are necessary in the calculation of its G&A expense rate for purposes of the final results.

Department's Position:

[8] See the "Diler Cost Verification Report" at page 9.

We disagree with the petitioners that all the offsets claimed by Diler to its G&A expenses should be disallowed because they are not related to the production of the subject merchandise. It is the Department's established practice to calculate a respondent's G&A expenses on a company-wide basis, and not on a divisional or product-specific basis. See Siliconmanganese from Brazil at Comment 10. To determine whether it is appropriate to include or exclude a particular income or expense item, the Department reviews the nature of each item, its relationship to the general operations of the company, and how such items are recorded in the normal books and records of the respondent (i.e., whether they are included in the overall G&A account or within a COGS account).

In order to determine which income items from Diler Demir's and Yazici Demir's financial statements were appropriately treated as offsets to Diler's G&A expenses, the Department requested that Diler provide further information related to these offsets. Diler provided itemized details related to its claimed offsets (i.e., other income and profit, other extraordinary revenues and profits, and provisions no longer required), as well as a description of each claimed offset account and the related expense accounts for Diler Demir. At verification, we examined and tested the following accounts within the other income and profit account: rental income from vehicles; other income related to hotel activities; fine income; and sale income from affiliates account within other extraordinary revenues. Further, we examined the "provisions no longer required" account and found that all items within it were reversals of severance accruals. Regarding the minor amounts not tested at verification, we relied on Diler's characterization of the income items and included them as offsets to Diler's G&A expenses.

Based on the Department's testing of significant items within the other income and profit account at verification, we determined that the income offset for rental income from vehicles should be disallowed because the related expenses were not included in the submitted G&A expenses. We allowed the income related to hotel activities because the related hotel expenses are included in Yazici's Demir's G&A expenses. Regarding "fine income," we disagree with the petitioners that Diler's offset for this item should be disallowed. Based on the record, fine income relates to compensation which Diler received from scrap suppliers for low quality scrap and late delivery.[9] Thus, given that scrap costs are included in Yazici Dermir's reported costs, we find it reasonable to offset G&A expenses for this income amount.

With respect to amounts within the other extraordinary revenues and profits account, we agree with the petitioners, in part. Based on information obtained at verification, we determined that it is not appropriate to treat "sale income from affiliates" as an offset to Diler's G&A expenses because it relates to the sale of stock and is considered an investment activity by the Department. It is the Department's practice not to allow gains and losses from investment activity in the reported cost calculations. See Final Results of Antidumping Administrative Review: Certain Cold-Rolled Carbon Steel Flat Products from Korea, 63 FR 781, 783 (Jan. 7, 1998) and Final Determination of Sales at Not Less Than Fair Value: Saccharin from Korea, 59 FR 58826, 58828 (Nov. 15, 1994). Therefore, we have adjusted Diler's G&A expenses to exclude the offset for sales income from affiliates. Further, with regard to sales income from vehicles, we find that there is no evidence on the record to conclude that this income relates to anything other than the

[9] See the "Diler Cost Verification Report" at exhibit 21, pages 11-12.

routine disposition of fixed assets. It is the Department's practice to include in the G&A expense rate calculation any income or expense incurred associated with the routine disposition of fixed assets, regardless of whether they are used purely for the production of subject merchandise. See Final Determination of Sales at Less Than Fair Value: New Minivans from Japan, 57 FR 21937, 21943 (May 26, 1992). Therefore, we have continued to allow the offset for sales income from vehicles to Diler's reported G&A expenses.

Finally, we agree with Diler that all activity in the severance provision account should be included in the G&A expense rate calculation. The severance provision is a normal, recurring accrual-based accounting entry made by the company each month which includes both debit and credit entries. The provision is increased for current workers and decreased for those who leave the company. Overall, the company recognized a net expense associated with this accrual. Therefore, we find it appropriate to offset Diler's G&A expenses by the amount for provisions no longer required.

Comment 10: *Defective Bar and Edges Offset Exclusion from the G&A and Financial Expense Ratio Calculation for Diler*

For purposes of the preliminary results, we accepted Diler's reported G&A and interest expense calculations, inclusive of the cost of by-products. The petitioners argue that the COGS used in the denominator of Diler's G&A and financial expense rate calculations should be on the same basis as Diler's reported COM, in accordance with the Department's practice. See Live Cattle from Canada, 64 FR at 56756. The petitioners assert that, while Diler includes the cost of by-products (i.e., defective bars and edges) within COGS in its normal books and records, it excluded the cost of these by-products from its reported COM.[10] Therefore, the petitioners claim that the COGS figure used as the denominator of both the G&A and financial expense rate calculations should be reduced by the cost of by-products to ensure that the COGS and COM are on the same basis.

Diler argues that the Department should continue to include its cost of by-products in its calculation of the G&A and financial expense ratios for purposes of the final results. Diler notes that the petitioners raised the same argument in the 2003-2004 administrative review, where the Department determined that all COGS activities should be burdened with a proportional amount of G&A and financial expenses. See 2003-2004 Rebar from Turkey at Comment 14.

Department's Position:

We agree with the petitioners that the value assigned to defective bars and edges should be applied as an offset to Diler's COGS. In its August 12, 2005, Section D response, Diler defines defective bars as product that is produced in irregular shapes and sizes and cannot be used as rebar. Further, Diler indicates that the defective rebar is either reused in its production process as scrap or sold to smaller rolling mills that re-roll the defective rebar into prime rebar. During verification the Department found that the edges are reintroduced as scrap in Diler's production

[10] The petitioners refer to the "Diler Cost Verification Report" at exhibit 7, page 2.

process; however, no edges were sold during the POR.[11] For cost reporting purposes, Diler reported the value assigned to defective bars and edges as an offset to the CONNUM-specific COMs.

In accordance with the Department's practice, when calculating a company's G&A and financial expense rates, the denominator of these rates should be on an equivalent basis as the COM values to which the rates will be applied. See Live Cattle from Canada, 64 FR at 56756 and 2003-2004 Rebar from Turkey at Comment 14. Calculating a ratio which does not include scrap recovery as an offset in the denominator and applying it to a base COM which includes scrap recovery as an offset is incorrect. In order to correctly reflect the G&A and interest expenses incurred by a company, the ratios must be calculated using a COGS figure that includes the scrap recovery offset, which is consistent with the COM to which it is applied. Therefore, for the final results, the Department has offset Diler's total COGS used as the denominator of its G&A and financial expense rate calculations by the value of the defective bars and edges.

Comment 11: *Depreciation Expenses for Ekinciler*

For purposes of the preliminary results, we accepted Ekinciler's reported depreciation expenses. However, the petitioners argue that Ekinciler understated its depreciation expenses by improperly excluding the following items: 1) depreciation expenses for expired assets that still have un-depreciated net book values; and, 2) a major asset from the plant, machinery, and equipment category. According to the petitioners, because Ekinciler failed to disclose these exclusions, the Department should deem Ekinciler uncooperative and apply AFA to its depreciation calculation. Alternatively, the petitioners assert that, should the Department determine that AFA is not warranted for Ekinciler, then it should adjust Ekinciler's COM to include the unreported depreciation expenses.

The petitioners argue that AFA should be applied to Ekinciler's depreciation expenses because it has failed to be forthright with the Department numerous times and impeded the Department's ability to calculate an accurate margin. Specifically, the petitioners assert that it would be insufficient for the Department to only apply an offsetting adjustment to Ekinciler's depreciation expenses and that AFA is warranted because: 1) Ekinciler failed to provide any support or justification for certain assets excluded from its depreciation calculations in a timely manner; 2) the value of these exclusions constitutes a significant portion of Ekinciler's depreciation expenses; and, 3) Ekinciler failed to reconcile its fixed asset schedule to its financial records. The petitioners contend that, even though evidence on the record indicates that Ekinciler was aware that there was a potential issue with its treatment of these expenses, and the Department requested detailed information related to depreciation policies in its original section A and D questionnaires, Ekinciler did not disclose the fact that it had excluded a significant amount of depreciable assets from its reported costs until June 2006, which impeded the Department's ability to fully analyze the issue.

Regarding Ekinciler's depreciation expenses for expired assets, the petitioners contend that Ekinciler's fixed asset schedule shows that it excluded expired assets from its depreciation

[11] See the "Diler Cost Verification Report" at exhibit 20.

expense calculation. Specifically, they argue that, while the schedule shows that the depreciation period for these assets has expired, the assets still have substantial undepreciated net book values. The petitioners maintain that Ekinciler excluded these assets from its reported depreciation expenses because Turkish tax law does not require that depreciation expenses be taken each year and, therefore, Ekinciler elected not to take depreciation expense on these assets in certain years for tax purposes. According to the petitioners, Ekinciler should not be permitted to choose whether to report depreciation on fixed assets with limited useful lives for antidumping calculation purposes because the Department would be unable to ensure that this methodology would reasonably reflect and accurately capture all of the actual costs incurred in producing and selling merchandise.

The petitioners argue that Ekinciler's sole support for its exclusion of these assets from its reported depreciation expenses is its reference to Turkish tax law. However, the petitioners contend that the Department has a long-standing practice of rejecting costs calculated for tax purposes. See Final Determination of Sales at Less than Fair Value: IQF Raspberries from Chile, 67 FR 35790 (May 21, 2002), and accompanying Issues and Decision Memorandum at Comment 4. In addition, the petitioners assert that costs should be reported in accordance with home country GAAP, except in instances where the use of home country GAAP distorts costs. See section 773(f)(1)(A) of the Act. See also, "Statement of Administrative Action on the Agreement on Implementation of Article VI" (SAA) at 834-835, accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316 vol. 1, at 834-835 (1994). As support for their position, the petitioners cite the Final Determination of Sales at Less than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Korea, 64 FR 73,196 (Dec. 29, 1999), and accompanying Issues and Decision Memorandum at Comment 9 (Steel Plate from Korea), where the Department found that, although the respondent's treatment of foreign exchange gains and losses was in accordance with Korean GAAP, the treatment of these gains and losses was distortive for purposes of the Department's cost calculations. The petitioners also cite the Final Results of the Administrative Review of the Antidumping Order on Silicon Metal from Brazil, 71 FR 7517 (Feb. 13, 2006), and accompanying Issues and Decision Memorandum at Comment 6 (2003-2004 Silicon Metal from Brazil), where the respondent argued that its treatment of certain depreciation expenses was in accordance with IAS, but the Department found that this treatment did not reasonably reflect the cost associated with the production of merchandise. Finally, the petitioners cite Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 66 FR 52097 (Oct. 12, 2001), and accompanying Issues and Decision Memorandum at Comment 2 (DRAMS from Korea), where the Department agreed that the respondent's treatment of certain research and development costs was in accordance with Korean GAAP, but found that this treatment was distortive to the respondent's cost calculation.

The petitioners also contend that Ekinciler excluded a major asset included in the plant, machinery, and equipment category of assets from its reported depreciation expenses. The petitioners assert that Ekinciler failed to provide any explanation for excluding this asset or details regarding the nature of the asset. Further, the petitioners argue that the Department faced a similar situation in the 1999-2000 administrative review of this proceeding for Ekinciler. The petitioners state that, in that review, the Department "increased the reported depreciation to account for the amortization of certain expenses related to capitalized financing expenses that

Ekinciler would have recorded during the POR, had it not been prevented from doing so under Turkish tax law." See 1999-2000 Rebar from Turkey at Comment 24. Therefore, the petitioners contend that, at a minimum, the Department should make the same adjustment in the instant review, consistent with prior practice.

Finally, the petitioners argue that the limited information that Ekinciler has provided regarding depreciation expenses contains inconsistencies The petitioners assert that Ekinciler's calculation errors and inability to reconcile its fixed asset schedule to its financial records cast doubt on the accuracy and reliability of Ekinciler's asset schedule and raise the question of whether the schedule was actually generated in the normal course of business. In support of their position, the petitioners cite to SSSSC from Taiwan at Comment 24, where the Department determined that AFA was warranted because the respondent repeatedly failed to provide complete and accurate responses despite having numerous opportunities to do so. Thus, the petitioners contend that the Department should base Ekinciler's depreciation costs on total AFA.

However, according to the petitioners, if the Department determines that the use of AFA is not warranted for Ekinciler's depreciation expenses, the Department should adjust Ekinciler's reported COM to include undepreciated net book values. The petitioners assert that in the preliminary results, the Department made a similar adjustment for another respondent, Colakoglu, by including the entire amount of the undepreciated net book value in the reported costs. In the event that the Department does not make this adjustment, the petitioners argue that Ekinciler's costs should be adjusted to include the depreciable portion of the excluded assets. Furthermore, the petitioners contend that the major excluded asset should be inflated using the same approach as in the 1999-2000 review and depreciated based on Ekinciler's average depreciation rate for plant, machinery, and equipment. Finally, the petitioners contend that Ekinciler inappropriately used a lower depreciation rate for some of its assets. They assert that if the stated depreciation rate is applied to each depreciated asset's 2004 book value and compared to the reported depreciation expenses, the calculation reveals that the reported depreciation expenses should be higher. The petitioners argue that Ekinciler's depreciation expenses should be increased by this difference.

Ekinciler argues that its reported depreciation expenses are consistent with its normal books and records and Turkish GAAP. As support for its position, Ekinciler cites the Final Determination of Sales at Less than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from France, 67 FR 62114 (Oct. 3, 2002), and accompanying Issues and Decision Memorandum at Comment 29 (Cold-Rolled Steel from France), where the Department found the respondent's use of an accelerated depreciation methodology that was used in its normal books and records and in accordance with French GAAP to be reasonable. Specifically, Ekinciler asserts that the depreciation expenses for expired assets that still have undepreciated net book values relate to the period covered by the useful lives of the assets involved, which is not included in the POR. Ekinciler maintains that, while Turkish tax law permits it to elect whether to take depreciation during a particular period, this does not change the fact that these assets were subject to depreciation during that period. Therefore, Ekinciler contends that the petitioners' suggested methodology would have the Department apply depreciation expenses for periods prior to the current period.

Further, Ekinciler argues that the major asset excluded from its plant, machinery, and equipment category consisted of other financial expenses, including interest expenses from previous periods. Ekinciler contends that for its own internal reasons, it decided in the previous period not to take depreciation on these expenses. Ekinciler maintains that the expenses at issue are not depreciation on plant and machinery that should be included in the COP because they are from a prior period and were not included on Ekinciler's financial statement. Therefore, Ekinciler asserts that, in accordance with the Department's practice, no adjustment should be made. See Mushrooms From India at Comment 13, where the Department stated that it would only recognize gains and losses from debt restructuring that were current to the POR; Certain Preserved Mushrooms From India: Preliminary Results of Antidumping Duty Administrative Review, 68 FR 11045, 11048 (Mar. 7, 2003), and accompanying Issues and Decision Memorandum at Comment 13, where the Department stated that it would only include in financial expenses those gains or losses reported on the same financial statement used to compute the net interest expense rate. See also, 2003-2004 Rebar from Turkey at Comment 27.

Moreover, Ekinciler argues that the record of this review does not support the application of AFA as suggested by the petitioners. Ekinciler maintains that: 1) it supplied information in a timely fashion by fully responding to the Department's questionnaire and supplemental questionnaires; and, 2) other information was readily available to the Department and the petitioners. Therefore, Ekinciler contends that the Department is required to use the information it supplied in accordance with section 776(a) of the Act, which states that the Department should not decline information that was submitted in a timely manner, can be verified, is not so incomplete that it is not reliable, and can be used without undue difficulty. In addition, Ekinciler asserts that total AFA is not warranted in accordance with United States - Antidumping and Countervailing Measures on Steel Plate from India, WT/DS206/R (Jun. 28, 2002), where the World Trade Organization Appellate Body found that total AFA is not appropriate when only portions of the information were found to be unverifiable. See also, Shandong Huarong General Group Corp. v. United States, Slip Op. 2003-135, 2003 WL 22757937, at 9 (CIT 2003). Finally, Ekinciler asserts that the fixed asset reconciliation difference raised by the petitioners is a minor amount. Ekinciler argues that the petitioners raised this issue in the current review and in past segments of this review in order to argue that the Department cannot rely on the fixed asset ledger at all. See Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 66110 (Oct. 30, 2002), and accompanying Issues and Decision Memorandum at Comment 5. However, Ekinciler contends that the petitioners' argument is baseless because the reconciliation difference in its fixed asset schedule is insignificant.

Department's Position:

The petitioners argue that Ekinciler understated its reported depreciation expenses by excluding: 1) depreciation expenses for expired assets that still have un-depreciated net book values; and, 2) a major asset from the plant, machinery, and equipment category. First, regarding Ekinciler's exclusion of depreciation expenses for expired assets that still have undepreciated net book values, we agree with the petitioners that these expenses were improperly excluded. We note that, in accordance with section 773(f)(1)(A) of the Act, the Department will normally calculate costs based on the records of the producer, if such records are kept in accordance with the GAAP

of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise. In the instant case, Ekinciler maintains and depreciates its fixed assets in accordance with Turkish tax law, which is equivalent to Turkish GAAP, and this law permits a company to elect whether to take depreciation during a particular period. See Ekinciler's June 7, 2006, section D supplemental response at exhibit 82. However, we note that depreciation is defined as a systematic and rational allocation of the cost of the fixed asset over the asset's expected useful life. See Wiley GAAP at page 350. Therefore, while we agree with Ekinciler that its depreciation methodology is used in its normal books and records, it does not recognize the cost every year, making it neither a systematic nor a rational allocation of the asset's costs. Thus, we find Ekinciler's reliance on Cold-Rolled Steel from France to be misplaced, because while the respondent's depreciation methodology was used in its normal books and records in that case, the Department stated that "we do not find the use of an accelerated depreciation methodology to be unreasonable." See Cold-Rolled Steel from France at Comment 29. In accordance with our practice, because we have determined that Ekinciler's treatment of these depreciation expenses in its normal books and records does not reasonably reflect the costs associated with the production and sale of the merchandise, we find that it is appropriate to adjust Ekinciler's depreciation expenses. See Steel Plate from Korea at Comment 9; 2003-2004 Silicon Metal from Brazil at Comment 6; DRAMS from Korea at Comment 2.

We disagree with the petitioners' argument that, for those fixed assets that have a net book value and expired useful lives as of the beginning of the POR, the reported costs should be adjusted to include the entire net book values, or some arbitrary portion of these values. As noted above, we find that Ekinciler's depreciation methodology is not reasonable. Specifically, this includes the current period as well as the historical net book values reported in its fixed asset ledger. As indicated in the Wiley GAAP Guide, assets with expired useful lives should also be fully depreciated and have zero net book values. That is, an asset's entire cost should be depreciated over its expected useful life. See Accounting (2nd ed.), Charles T. Horngren and Walter T. Harrison, Jr., New Jersey: Prentice Hall (1992) at page 459 (Horngren Accounting Text Book). Therefore, for those fixed assets that have a net book value and expired useful lives as of the beginning of the POR, the remaining net book values of the assets should have been depreciated in prior periods and, therefore, do not relate to the current POR.

We note that Turkish tax law requires companies to prepare their financial statements on an inflation-corrected basis. In fiscal year 2004, Ekinciler made an inflation correction adjustment in its official financial statements by restating its fixed asset and equity accounts and calculating depreciation expenses for the entire year based on these revalued assets. This revaluation resulted in an inflation adjustment gain that was included in Ekinciler's income statement and, thus, in its reported financial expenses. Ekinciler's restatement of fixed assets included a restatement of certain assets with expired useful lives, but which had remaining net book values. The gain derived from the restatement of these assets was included in the inflation adjustment gain. As discussed above, assets with expired useful lives should also be fully depreciated. Moreover, Turkish GAAP states that the balance should be written off at the end of the asset's useful life. See Ekinciler's June 7, 2006, section D supplemental response at exhibit 82. It appears that Ekinciler, in accordance with Turkish GAAP, should have written these assets off at the time that the useful lives expired. Thus, it is not a reasonable methodology to revalue the net book values of the assets with expired useful lives and recognize an inflation adjustment gain on

these assets. Therefore, for the final results, we have excluded the inflation adjustment gains recognized on assets with expired useful lives from the reported financial expenses.[12]

Additionally, Ekinciler revalued certain assets with remaining useful lives. However, Ekinciler depreciated the revalued amounts for certain assets over the original number of useful years for these assets instead of over the remaining useful years. As discussed above, an asset should be fully depreciated over its expected useful life. Moreover, Turkish GAAP states that the depreciation period cannot be extended due to not booking depreciation. See Ekinciler's June 7, 2006, section D supplemental response at exhibit 82. It appears that Ekinciler, in accordance with Turkish GAAP, should have depreciated the revalued amounts over the remaining useful years of those assets. Thus, for the final results, we have recalculated the fiscal year 2004 depreciation expenses for certain assets by depreciating the revalued amount over the remaining useful years of the assets. Finally, Ekinciler reported depreciation rates for each asset in its fixed asset ledger. See Ekinciler's June 7, 2006, section D supplemental response at exhibit 80. However, for certain assets it calculated the fiscal year 2004 depreciation expense based on other unreported rates. Because depreciation should be a systematic and rational allocation of the cost of the asset over the asset's expected useful life, Ekinciler's reported depreciation figures calculated by applying inconsistent depreciation rates are not systematic and do not reasonably reflect the cost associated with the production and sale of the merchandise. Therefore, for the final results, we recalculated the fiscal year 2004 depreciation expenses for certain assets by applying the depreciation rate reported in Ekinciler's fixed asset ledger.

We agree with the petitioners that the major asset in the plant, machinery, and equipment category that was excluded from Ekinciler's depreciation expense calculation should be depreciated. Ekinciler's fixed asset ledger segregates assets by the typical categories for land, fixtures, vehicles, plant and machinery, buildings, fixed general, and construction in-progress. Ekinciler further distinguishes assets between plant and headquarters. As discussed above, an asset's entire cost is depreciated over its expected useful life. The cost of a plant asset is the purchase price, applicable taxes, purchase commissions, and all other amounts paid to acquire the asset and prepare it for its intended use. See Horngren Accounting Text Book at page 456. Based on Ekinciler's normal books and records, it is inherent that an asset recorded in the plant, machinery, and equipment category is related to those types of fixed assets and accordingly should be depreciated. Therefore, for the final results, we have calculated a depreciation expense for the major plant asset and included this expense in the reported COM. For a detailed discussion of the proprietary plant asset and how the Department calculated the depreciation expense related to the POR, see the November 1, 2006, memorandum from Mark Todd to Neal Halper entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Final Results."

Finally, we disagree with the petitioners that AFA should be applied in calculating Ekinciler's depreciation expenses. We find the petitioners' reliance on SSSSC from Taiwan misplaced. In that case, the Department found that the respondent not only "did not supply {the Department}

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[12] We note that alternatively we could have adjusted the reported costs by fully depreciating the revaluation gain associated with the assets with no useful lives.

with accurate and complete information, but rather reported inaccurate and misleading information." See SSSSC from Taiwan at Comment 24. We find that Ekinciler has reported its costs in accordance with its normal books and records which are in accordance with its home country GAAP. Although in this case the Department has found that certain aspects of Turkish GAAP do not reasonably reflect the costs associated with production of the merchandise, this is not a basis to apply AFA. With regard to the Department's original section D questionnaire, we note that there is no evidence on the record to dispute the accuracy of Ekinciler's response. Specifically, the Department's section D questions at II.B.3.b and II.B.3.i relate to financial accounting practices and policies for the instant POR and the year preceding the POR. Thus, for the periods covered by this response, there is no evidence on the record to dispute its accuracy. Although it is true that Ekinciler did not initially provide information regarding treatment of older assets with expired useful lives, we note that it did respond fully and in a timely manner when the Department requested information about these assets. Moreover, Ekinciler has been responsive to all of the Department's questionnaires in a timely manner. Thus, for the final results, applying AFA to Ekinciler's reported costs in not warranted because Ekinciler has cooperated to the best of its ability with regard to this issue.

Comment 12: *Allocation Methodology of G&A Expenses for Ekinciler*

For purposes of the preliminary results, the Department allocated a portion of Ekinciler's parent company G&A expenses to each company in the Ekinciler group first assigning all specifically-identified direct service charges from Ekinciler Holding to its subsidiary companies based on the normal books and records, and then allocating Ekinciler Holding's residual G&A expenses based on the proportion of each subsidiary's cost of sales. The petitioners contend that this allocation is inappropriate because the methodology to allocate each portion of the G&A expenses is not consistent. Specifically, the petitioners argue that the residual G&A expenses should be allocated to the subsidiary companies based on the proportion of the direct charges instead of the cost of sales. The petitioners assert that if the Department determined that the direct charges are reasonable and relied on such amounts, then it would also be reasonable to allocate the residual expenses based on them.

Ekinciler maintains that no change should be made to the approach used by the Department in the preliminary results. Ekinciler argues that the Department's approach is consistent with the Department's practice of allocating G&A expenses over the cost of sales. Specifically, Ekinciler contends that if the direct service charges are considered reasonable, then the direct services should absorb an amount of the G&A expenses consistent with the amounts charged. Therefore, according to Ekinciler, the remaining G&A expenses above the amount of the direct service charges should be considered to be related to the general operations of Ekinciler Holding, and thus, should be allocated over the cost of sales of the subsidiaries.

Department's Position:

We agree with Ekinciler that allocating Ekinciler Holding's residual G&A expenses based on the cost of sales is consistent with the Department's normal practice. Because G&A costs are general in nature and do not relate to specific products or divisions, we normally allocate such costs over the cost of sales for the company as a whole. This methodology also avoids any

distortions that may result if, for business reasons, greater amounts of company-wide general expenses are allocated disproportionally between divisions. See Final Determination of Sales at Not Less Than Fair Value: Certain Color Television Receivers from Malaysia, 69 FR 20592 (Apr. 16, 2004), and accompanying Issues and Decision Memorandum at Comment 22. Moreover, we disagree with the petitioners that the residual G&A expenses should be allocated based on the proportion of the direct charges. The direct service charges are minimal in relation to the total administrative charges incurred by Ekinciler Holding on behalf of all of the subsidiaries. It would be unreasonable to assume that these minimal direct service charges bear a relation to the proportion of support provided by Ekinciler Holding to each subsidiary. Thus, for purposes of the final results, we have continued to allocate Ekinciler Holding's residual G&A expenses based on the cost of sales.

Comment 13: *Shutdown Costs for Ekinciler*

The petitioners note that Ekinciler capitalized its shutdown costs during the POR, and it amortized these costs over a period extending beyond the POR. The petitioners contend that the unamortized portion of the shutdown costs should be included in Ekinciler's reported costs. The petitioners assert that this treatment would be consistent with the Department's normal practice to include such expenses. See Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review, 62 FR 17148 (Apr. 9, 1997), and accompanying Issues and Decision Memorandum at Comment 9 (Cement from Mexico).

Ekinciler did not comment on this issue.

Department's Position:

We agree with the petitioners that the unamortized portion of the shutdown costs reported as of March 2005 should be included in Ekinciler's COM. It is the Department's normal practice to include routine shutdown expenses in a respondent's reported costs. See Cement from Mexico at Comment 9, where the Department found that shutdown costs related to one of the respondent's facilities were properly included in the COM. In the instant case, Ekinciler stated that the melt shop and rolling mill were shut down for short periods of time during the POR. Furthermore, Ekinciler stated that the expenses incurred by each cost center while these facilities were shut down were recorded in a separate account. This separate account was then amortized over the remaining months of the 2005 fiscal year. Thus, the balance in the separate account as of the end of March 2005 is related to unamortized shut down expenses attributable to January through March 2005 (i.e., the last three months of the POR) and should be included in the reported COM. Therefore, for purposes of the final results, we have included the unamortized shutdown costs in Ekinciler's COM.

Comment 14: *G&A Offsets Related to Costs Not Included in the Reported Costs for Ekinciler*

For purposes of the preliminary results, we accepted the items related to rent income on land and income for services rendered included in Ekinciler's reported G&A expense calculation. The petitioners argue that there is no evidence on the record that shows that the costs related to these income items were included in Ekinciler's reported COP. The petitioners assert that, pursuant to

the Department's practice, if the costs that correspond to the incomes and gains that a respondent has claimed as offsets have not been reported by the respondent, then the actual incomes and gains cannot be included in the calculations. See Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the Republic of Korea, 66 FR 33526 (June 22, 2001), and accompanying Issues and Decision Memorandum at Comment 7. Moreover, the petitioners contend that the test that the Department applies in these situations is to determine whether the costs corresponding to the income item in question are included in the reported costs. According to the petitioners, if an item is included in the G&A expense calculation because it relates to the general operations of a company, then it is clearly appropriate for the related offset to be included as well. However, the petitioners argue that the COGS, which forms the denominator of the G&A expense calculation, is not relevant to this principle.

In the instant case, the petitioners contend that there is no evidence on the record to indicate that the costs related to rent income on land and income for services rendered were part of Ekinciler's reported COP. Rather, the petitioners assert that it is more likely that the corresponding costs were accounted for in the company's other cost of sales accounts, which were not included in Ekinciler's reported COP. The petitioners maintain that it is a fundamental tenet in antidumping cases that the party seeking a favorable adjustment bears the burden of proof in justifying the claim. See 1999-2000 Silicon Metal from Brazil, 64 FR at 6314; Carbon Steel Flat Products from Canada, and accompanying Issues and Decision Memorandum at Comment 3; 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 6. The petitioners maintain that there is no evidence on the record that shows that the costs related to these incomes were part of Ekinciler's reported COP. Therefore, the petitioners argue that the Department should revise Ekinciler's G&A expense calculation to exclude them, pursuant to the Department's practice.

Ekinciler argues that a review of the cost of sales accounts that were included in its reported COP contradicts the petitioners' assertion. Specifically, Ekinciler maintains that the cost of sales accounts which were not included in Ekinciler's reported COP are shown in Ekinciler's August 15, 2005, section D response at exhibits D-14 and D-15. Ekinciler states that the income items that were included in its reported COP are related to revenues booked to the corresponding sales revenue accounts or are specific items that are excluded for reasons explained in these exhibits. Therefore, Ekinciler contends that there is no basis to conclude that the income items are related to any of the these excluded cost of sales accounts because they are narrowly defined and have been explained on the record.

Department's Position:

We disagree with the petitioners that reported offsets for rent income on land and income for services rendered should be excluded from Ekinciler's reported G&A expense calculation. In calculating the G&A expense ratio, it is the Department's normal practice to include revenues and expenses that relate to the general operations of the company. See Certain Hot-Rolled Carbon Steel Flat Products From Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 69 FR 19388 (Apr. 13, 2004), and accompanying Issues and Decision Memorandum at Comment 5. We note that Ekinciler submitted information that

describes the income for services rendered as relating to services included in G&A expenses and that there is no evidence on the record that contradicts this claim. See Ekinciler's August 15, 2005, section D response at exhibit 12. Moreover, we have reviewed Ekinciler's excluded expenses and have noted no excluded expenses related to these revenue items. Thus, there is no evidence on the record to conclude that the reported revenue items do not relate to expenses that are included in the reported costs.

We find the petitioners' reliance on the three cases cited to be misplaced. The petitioners cite Silicon Metal from Brazil, which relates to classifying interest expenses between short term and long term, and Carbon Steel Flat Products from Canada, which relates to sales-price adjustments for specific transactions. In both of these cases, the Department requested further information from the respondent in order to substantiate an adjustment. However, the Department determined that the respondents in both cases failed to provide sufficient evidence to support the claimed adjustments. The instant case differs from these cases because during this proceeding the Department has not requested further information from Ekinciler substantiating these specific revenue items.

We note that Ekinciler's reported G&A expenses included numerous accounts. Throughout this proceeding the Department has requested and received supplemental information on several G&A income related items included in these accounts that were either significant in value or related to major activities. The rental income on land and other income items at issue are of a very minor value and appear to relate to routine activities. Therefore, we did not request further documentation or explanation from the respondent with regard to these items. Thus, for these specific items, the Department has relied on Ekinciler's claim that they relate to the general operations of the company and the associated costs are included in the reported cost information. In addition, we note that Carbon Steel Flat Products neither relates to the issue at hand nor addresses the burden of proof. Therefore, for the final results, we have continued to include the rent income on land and income for services rendered, and the related expenses, in Ekinciler's reported G&A expense calculation.

Comment 15: *G&A Offsets Related to Costs from Prior Periods for Ekinciler*

For purposes of the preliminary results, we included in Ekinciler's reported G&A expense calculation income items related to: 1) other extraordinary income; and, 2) the trial balance account for reconciliation differences in Ekinciler's reported G&A expense calculation. The petitioners argue that these income items are related to transactions incurred prior to the POR. Specifically, the petitioners argue that, according to evidence on the record, the former item appears to be related to a prior period supplier transaction, while the latter appears to be related to prior period scrap purchases. Therefore, the petitioners contend that these offsets should be excluded because they are not related to the costs incurred during the POR.

Ekinciler did not comment on this issue.

Department's Position:

We disagree with the petitioners that income from the extraordinary income account and the reconciliation differences account should be excluded from the G&A expense calculation because they are related to prior period transactions. Regarding the first item, there is no evidence on the record to support a conclusion that the extraordinary income account includes income from prior period transactions. Although the Department has requested and received supplemental information on several G&A income-related items during this proceeding for this specific item the Department has relied on Ekinciler's classification in its normal books and records as income related to transactions in the fiscal year in which it was reported.

Second, regarding the reconciliation differences account, Ekinciler excluded a portion of these income items based on the fact that it related to transactions from prior periods. Ekinciler submitted information that describes the portion of the income items included in the reported G&A expense calculation as being related to price adjustments on scrap purchases which were also included in the reported G&A expense calculation. See Ekinciler's August 15, 2005, section D response at exhibit 12. The Department requested supplemental information regarding the income items contained in the reconciliation differences account included in the reported costs. Ekinciler supplied accounting entries and sample invoices showing that a portion of these items related to the period of review. See Ekinciler's November 8, 2005, section D supplemental response at page 16 and exhibits 37 and 38. Moreover, the reconciliation differences accounts, as described by Ekinciler, relate to minor differences between amounts booked as payable to vendors versus amounts actually paid. This minor difference is not known or quantifiable until the discrepancy is settled, and it is at that point that the amount of the difference is recorded by the company. Even though the related account payable may have been established in a prior year, the minor discrepancy was not known or quantifiable until the current year. See Notice of Final Results of the Sixth Antidumping Administrative Review: Certain Pasta from Italy, 69 FR 6255 (Feb. 10, 2004), and accompanying Issues and Decision Memorandum at Comment 24 (Pasta from Italy). Therefore, for purposes of the final results, we have continued to include these income items in Ekinciler's reported G&A expense calculation.

Comment 16: *Calculation of the G&A and Financial Expense Denominator for Ekinciler*

The petitioners note that, according to Ekinciler's cost reconciliation, in the normal course of business Ekinciler's COGS includes the following items: 1) the cost of by-products; 2) an inflation adjustment; and, 3) certain selling expenses. However, the petitioners argue that for purposes of its G&A expense and interest expense calculations, Ekinciler only reduced its COGS by the amount of the selling expenses. The petitioners assert that it is the Department's practice that the COGS used as the denominator of these calculations should be on the same basis as the reported COM. The petitioners argue that the COGS used as the denominator in the G&A and financial ratio calculations should be reduced by the cost of by-products (i.e., cost of sales of subcontracted rebar, cost of billet sales, cost of scrap sales, cost of sales of gases, and other costs for sales of defective billets) and the inflation adjustment.

Ekinciler disagrees that it excluded the cost of subcontracted rebar and an inflation adjustment from its reported COM. Specifically, Ekinciler asserts that information on the record

demonstrates that the inflation adjustments to raw materials and depreciation expenses and the cost for subcontracted rebar were included in its COM. Further, Ekinciler contends that the billets and gases discussed by the petitioners are not by-products because they do not differ from the billets and gases produced by Ekinciler for its own production and sold in the normal course of operations. Therefore, Ekinciler maintains that these items should absorb G&A and financial expenses. Ekinciler did not comment on the treatment of scrap and defective billet sales.

Department's Position:

We disagree with the petitioners that the COGS used as the denominator in the G&A and financial expense calculations should be reduced by the inflation adjustment, the cost of subcontracted rebar, the cost of billet sales, or the cost of gases sales. The G&A and financial expense ratios must have a COGS denominator which is calculated in the same manner as the COM to which it is applied. See Pasta from Italy at Comment 24. We agree with Ekinciler that the inflation adjustments and costs related to subcontracted rebar are included in its reported costs. See Ekinciler's June 7, 2006, section D supplemental response at exhibit D-68. Thus, these costs should appropriately absorb their share of G&A and financial expenses. Regarding externally-sold billets and gases, Ekinciler's normal books and records value the inventory and apply costs to these items in the same manner as internally-consumed billets and gases. See Ekinciler's November 8, 2005, section D supplemental response at page 10. As the externally sold billets and gases are part of the COGS of the company as a whole in its normal operations, they should appropriately absorb their share of G&A and financial expenses. Thus, for the final results, the Department has continued to include the reported inflation adjustment, cost of subcontracted rebar, the cost of billet sales, and the cost of sales of gases in the COGS used as the denominator of the G&A and financial ratio calculations.

However, we agree with the petitioners that the G&A and financial expense denominators should be reduced by the by-product sales revenue for scrap and defective billets. Ekinciler's reported direct material cost is net of scrap and defective billet revenue. Thus, the COGS used as the denominator to calculate the G&A and financial expense ratios should also be net of these offsets. Therefore, for the final results, the Department has reduced the denominator of the G&A and financial expense ratios by the fiscal year 2004 COGS for scrap and defective billets.

Comment 17: *Financial Expense Exclusions from Ekinciler's Reported Costs*

For purposes of the preliminary results, we excluded interest expenses related to prior periods from Ekinciler's financial expense calculation. The petitioners contend that, according to evidence on the record, these expenses are related to restructuring charges and, therefore, they should be included in Ekinciler's reported expenses. According to the petitioners, it is the Department's practice to treat these types of expenses as G&A expense items. See Final Results of Antidumping Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Mexico, 65 FR 8338 (Feb. 18, 2005), and accompanying Issues and Decision Memorandum at Comment 5 (Plate from Mexico) (where the Department added restructuring charges to G&A expenses because these costs relate to the general operations of the company as a whole). Furthermore, the petitioners assert that Ekinciler's restructuring charges were quantified and booked in 2004 in accordance with Turkish GAAP and, thus, should be included in the reported

POR costs in accordance with the Department's practice. See Final Determination in the Antidumping Duty Investigation of Live Swine from Canada, 70 FR 12181 (Mar. 11, 2005), and accompanying Issues and Decision Memorandum at Comment 60 (Swine from Canada) (where the Department recognized costs during the period in which they were first quantified and recorded).

Ekinciler disagrees that the interest expenses in question are restructuring charges that were booked in fiscal year 2004. First, while Ekinciler agrees with the petitioners that restructuring charges are normally treated as G&A expenses, it argues that the expenses in question are not the types of general expenses that the Department has treated as restructuring expenses, nor are they properly classified as G&A expenses. Ekinciler contends that the record in this proceeding clearly indicates that the prior period interest expenses are financial expenses and not restructuring charges. Ekinciler maintains that all of the prior period interest expense amounts have been shown to be financial expenses originating from loan balances outstanding in periods predating the POR. Ekinciler argues that prior period costs should be excluded from the current period because to do otherwise would not properly match the correct costs with current period production. Moreover, Ekinciler contends that the Department has recognized that debt restructuring gains and losses can cover multiple periods and, thus, it does not apply the entire impact during the period in question.[13] Further, Ekinciler argues that a portion of the expenses at issue relates to the effects of converting some of the loans to U.S. dollars and, accordingly, these expenses should not be included in the current period costs. Ekinciler asserts that in Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Ecuador, 69 FR 76913 (Dec. 23, 2004), and accompanying Issues and Decision Memorandum at Comment 20, the Department excluded the amortized exchange rate loss that originated in a prior period from the calculation of the financial expense ratio.

Second, Ekinciler contends that the petitioners' characterization of the interest expenses as 2004 period costs is incorrect. Ekinciler maintains that the prior-period interest amounts were initially booked in its accounting system in November 2003, when the amounts were definitively established. Therefore, according to Ekinciler, under U.S. GAAP Statement of Financial Accounting Standards No. 5 or international GAAP, these amounts would have been recognized

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[13] See Notice of Final Results of Antidumping Duty Administrative Review: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Brazil, 70 FR 7243 (Feb. 11, 2005), and accompanying Issues and Decision Memorandum at Comment 8 (where the Department found that including the reversal of depreciation expenses in the G&A expense calculation would distort the reported POR production cost); 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 20 (where the Department did not include prior-period items in the G&A expense calculation) (2002-2003 Rebar from Turkey); Final Determination in the Antidumping Duty Investigation of Certain Preserved Mushrooms from Chile, 63 FR 56613, 56615 (Oct. 22, 1998) (where the Department excluded several financial income and expense items related to prior periods). See also, Swine from Canada at Comments 33 and 49 (where the Department did not impute interest on a loan that was forgiven in a prior period and excluded fines relating to a prior period from the costs).

as expenses prior to 2004. However, Ekinciler asserts that these amounts were not expensed in tax years prior to 2004 due the treatment of accrued interest under Turkish tax law. Ekinciler contends that under Turkish tax law, accrued interest amounts are not included in the calculation of taxable income until they are paid. In addition, Ekinciler states that in 2004, Turkish tax law was changed to authorize the recognition of accrued interest in the calculation of taxable income. Thus, Ekinciler argues that these expenses do not relate to the cost of producing merchandise during 2004, and it would be improper to include them in its reported COP.

Finally, Ekinciler asserts that the facts in the cases cited by the petitioners are not similar to the facts of this case. Specifically, Ekinciler contends that the issue discussed in Swine from Canada at Comment 60 related to the payment of taxes and the inclusion of penalties and interest on unpaid taxes in the G&A expense calculation, and that the Department rejected the argument that those expenses did not relate to a prior period.

Department's Position:

We agree with Ekinciler that the expenses in question are appropriately excluded from the reported financial expense calculation. While we agree with the petitioners that it is the Department's practice to include restructuring charges in the G&A expense calculation, we disagree that the nature of the excluded expenses in question was restructuring charges. Ekinciler has demonstrated on the record that the excluded financial expenses were either interest on banks loans or proprietary expenses related to the outstanding principal and interest on bank loans. See Ekinciler's November 8, 2005, response at pages 21 through 24 and exhibits 46, 48, and 49. Therefore, we find the petitioners' reliance on Plate from Mexico to be misplaced.

Moreover, we agree with Ekinciler that these expenses are related to prior periods. Ekinciler has demonstrated on the record that the excluded interest expenses were incurred in, and related to, periods prior to the POR. Thus, the prior-period interest expenses were appropriately excluded from the financial expense ratio calculation. See 2002-2003 Rebar from Turkey at Comment 20.

We disagree with the petitioners that the amounts should be included in the reported costs because they were quantified and booked in 2004 in accordance with Turkish GAAP. In accordance with section 773(f)(1)(A) of the Act, the Department will normally calculate costs based on the records of the producer, if such records are kept in accordance with the GAAP of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise. In the instant case, the interest amounts related to prior periods were recognized by Ekinciler in its normal books and records in fiscal year 2003. See Ekinciler's November 8, 2005, response at pages 21 through 24. However, these interest amounts were not expensed until fiscal year 2004 due to the requirements of Turkish GAAP at the time. Prior to the change in Turkish tax law in 2004, accrued interest amounts were not expensed until they were actually paid. Effective July 31, 2004, Tax Procedure Law clause 285 authorized the recognition of accrued interest income and expense amounts in the year incurred. See Ekinciler's November 8, 2005, section D response at exhibit 47. Due to the previous Turkish tax law rules, we have determined that Ekinciler's normal books and records do not reasonably reflect the COP in fiscal year 2004 due to the inclusion of prior-period expenses. Under U.S. GAAP and in accordance with accrual-based accounting, these prior-period interest expenses would have been

recognized on the company's normal books and records in years prior to fiscal year 2004. See Statement of Financial Accounting Standards No.5. As we do not consider it reasonable to attribute these prior years' interest expenses to current year activity, for the purposes of the final results, we have continued to exclude interest expenses related to prior periods from the financial expense calculation.

Comment 18: *Clerical Error for Habas*

The petitioners contend that the Department made a ministerial error in the preliminary results calculations for Habas. Specifically, the petitioners contend that the Department inappropriately failed to include U.S. dollar-denominated home market gross unit prices and credit expenses in its margin calculations for Habas.

Habas did not comment on this issue.

Department's Position:

We agree with the petitioners that we incorrectly excluded Habas' U.S. dollar-denominated home market gross unit prices and credit expenses from its margin calculations for the preliminary results. Consequently, we have included such prices and expenses in the margin calculations for Habas for purposes of the final results. See the November 1, 2006, memorandum from Alice Gibbons to the File entitled, "Calculations Performed for Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas) for the Final Results in the 2004-2005 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey."

Comment 19: *Depreciation Expenses for Habas*

For purposes of the preliminary results, we accepted Habas' reported depreciation expenses. The petitioners argue that the Department cannot use these expenses for the final results because Habas failed to submit certain cost information requested by the Department and, thus, impeded the Department's analysis of Habas' response. The petitioners assert that Habas failed to act to the best of its ability to comply with the Department's requests for information, thus warranting the use of total AFA for Habas' costs, or at a minimum, for its reported depreciation expenses, in accordance with the Department's practice. As AFA for Habas' depreciation expenses, the petitioners request that the Department use the highest depreciation rate of any company participating in this review.

The petitioners assert that Habas' June 13 and June 26, 2006, supplemental section D responses demonstrate that Habas and its outside auditors misled the Department when providing an explanation for certain discrepancies identified by the Department, and that these discrepancies cast significant doubt on the overall reliability of Habas' financial statements. Specifically, the petitioners argue that in Habas' June 13, 2006, submission, Habas explained that these discrepancies were methodological in nature; however, in response to the Department's request for further explanation, Habas conceded that these discrepancies were actually a result of errors made by auditors to the cash flow statement. Further, the petitioners argue that the auditors' adjustments to Habas' statutory accounts used to arrive at the audited financial statement

amounts could not be tied to Habas' general ledger because they were derived from the auditors' working papers. The petitioners contend that these mistakes prove that Habas' financial statements are unreliable and, thus, cannot be used.

For this reason, the petitioners assert that the Department should apply AFA to Habas' reported costs. Moreover, the petitioners contend that: 1) there are errors in Habas' depreciation expenses (see below), and these expenses represent the most significant part of the financial statements; 2) the errors show that there may be other uncovered errors; and, 3) when confronted with further questioning by the Department, Habas admitted that its earlier responses were false. As support for its AFA argument, the petitioners cite to China Steel Corp. v. United States, 306 F. Supp. 2d 1291, 1306 (CIT 2004) noting that: 1) it is the respondent's burden to create an accurate and complete record; and 2) incomplete or internally inconsistent responses support the use of AFA. Further, the petitioners cite to SSSSC from Taiwan at Comment 24 and Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From the United Kingdom, 67 FR 3146, 3147 (Jan. 23, 2002), citing to section 776(a)(2) of the Act which states that unreliable and misleading information from the respondent warrants the use of adverse facts available and adverse inferences.

The petitioners argue that, if the Department does not apply total AFA, it should, at a minimum, use AFA for Habas' depreciation costs. Specifically, the petitioners assert that Habas failed to submit detailed fixed asset ledgers as requested by the Department because the submitted schedules did not include the useful life of each asset. The petitioners claim that this omission prohibits the recalculation of depreciation and the determination of whether Habas used a lower rate to calculate depreciation, as allowed by Turkish tax law. The petitioners claim that this omission represents Habas' refusal to comply with the Department's request for information and impeded the Department's analysis of Habas' reported depreciation expenses.

Additionally, the petitioners point out that Habas excluded a building, five vehicles, and one additional asset from its depreciation calculations. The petitioners allege that Habas failed to provide documentary evidence to support its claims that: 1) the vehicles were held as part of a collection and were not for general use; and, 2) the building in question was about to be demolished. In any event, the petitioners maintain that it is the Department's practice to calculate depreciation on all depreciable assets including idled assets.[14] Regarding the excluded asset, the petitioners claim that this asset had an acquisition value, but no other costs or depreciation values. The petitioners assert that this asset should be adjusted for inflation and included in the reported costs.

Habas concedes that the depreciation amounts shown in its financial statements are not correct in two instances, but it maintains that it fully disclosed these errors in its June 13 and 26, 2006, responses. Specifically, Habas notes that the company's outside auditors made an error in

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[14] As support for its assertion, the petitioners cite to Silicomanganese from India: Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination, 67 FR 15531 (Apr. 2, 2002), and accompanying Issues and Decision Memorandum at Comment 12, where the Department included depreciation on idled assets in G&A expenses.

footnote 8 of the company's 2004 audited financial statements, which occurred as a result of double counting. Habas contends that this error: 1) overstated total asset values by a minuscule amount; 2) was confined to footnote 8 of the financial statements; and, 3) did not affect the income statement, balance sheet, or cash flow statement in any way. According to Habas, the second error related to the fact that Habas' outside auditors understated depreciation in Habas' 2004 cash flow statement. Habas maintains that the income statement depreciation and balance sheet asset values were both based on Habas' statutory books, while the error regarding depreciation in the cash flow statement was: 1) the result of a specific calculation error made by Habas' auditors; 2) confined to the cash flow statement; and, 3) had no impact on the costs reported in its income statement or on the costs reported to the Department. According to Habas, the source of Habas' reported depreciation expenses was its general ledger, which was reconciled to its statutory financial statements and to the audited financial statements. Habas maintains that there is no evidence on the record that any depreciation expenses were excluded from its reported costs.

In addition, Habas maintains that it provided a complete explanation of other apparent discrepancies related to depreciation in its June 13, 2006, response. Specifically, Habas asserts that it provided a detailed explanation for the inconsistency between the fixed asset ledger and the buildings amount contained in an earlier submission, which resulted from a correction to the recording of depreciation on a building that was purchased for the sole purpose of being demolished. Habas claimed that the cost of the building will be capitalized as part of the cost of a replacement building. Habas explained that it did not recognize any depreciation on five high-value cars with net book values because they were: 1) purchased as collectors items; 2) being held for resale; and, 3) not used. Finally, Habas notes that the other asset related to a negligible bookkeeping error in the company's normal books and records (i.e., fixed asset register) which Habas contends was properly absorbed in its reported costs given that it fully reconciled its books and records with its financial statements.

Habas contends that the petitioners point to only five assets of the almost 10,000 in its fixed asset ledger where the depreciation amount was abnormal. Habas asserts that the treatment of each of these assets in its fixed asset ledger was appropriate because: 1) two assets were fully depreciated, but still showed a net book value, and, therefore, were written down to a zero value; 2) two assets erroneously contained values in the "revaluation reserve" fields after they were reclassified from construction in progress to capitalized assets (i.e., buildings); and 3) one asset was actually a foreign exchange loss on the purchase of a piece of machinery, and because it was not an operating asset it was appropriately neither revalued nor depreciated.

Finally, regarding the petitioners' assertion that Habas excluded the useful lives of the assets from the fixed asset ledger, Habas maintains that it submitted the entire 2004 fixed asset ledger to the Department in its June 13, 2006, submission, and it subsequently provided an electronic version of the ledger on June 26, 2006. In sum, Habas asserts that it has provided all information requested by the Department, that this information ties to the company's general ledger and financial statements, and that the Department should, therefore, continue to use Habas' reported costs for purposes of the final results.

Department's Position:

While we agree with the petitioners that the depreciation expenses reported in Habas' cash flow statement do not match the depreciation expenses shown in its income statement, we disagree that this fact warrants the application of AFA. We note that the total value of the assets contained in Habas' fixed asset ledger reconciles to the balance sheet, while the total depreciation expenses reconcile to the income statement. Further, we found that the discrepancy in the reported depreciation expenses between the income statement and the cash flow statement was the result of classification errors in the cash flow statement between the net fixed asset purchases/disposals line item and the depreciation expense line item. We note that depreciation expenses included on the cash flow statement are a source of funds, while the net fixed asset purchases/disposals are a use of funds. The source of funds and use of funds were both mis-stated by the same amount and, therefore, we note that there is no error to the bottom line of the cash flow statement. Given that the discrepancy was minor and the correct depreciation expense amount was attainable from the detailed fixed asset ledger, we disagree that the use of AFA is warranted for the final results.

We disagree with the petitioners that anomalous depreciation expenses for five assets out of approximately 10,000 in Habas' fixed asset schedule warrants the use of AFA for either Habas' entire cost calculation or its reported depreciation expenses. We note that for the two assets pointed out by the petitioners that had book values prior to revaluation but no current year depreciation expenses, the revalued acquisition values of the assets equaled the revalued accumulated depreciation, which resulted in zero net book value after revaluation. For the two assets with unexpected values in the "revaluation reserve" column, we note that this column does not affect the calculation of current year depreciation and, thus, does not affect the reported costs. Although we agree with the petitioners that the asset claimed to be a foreign exchange loss by Habas should be inflated, amortized and included in the reported costs because this amount is included as a capitalized cost of purchasing equipment, we find that the fixed asset schedule, as a whole, is reliable.

We also disagree with the petitioners that the exclusion of the useful lives of assets from the submitted fixed asset ledger renders this ledger useless. Although the submitted electronic fixed asset schedule did not contain the useful lives of each asset, we were able to determine the useful life of each asset using the information that was included in Habas' submitted fixed asset schedule. For each asset on the fixed asset schedule we divided the current year depreciation expense by the post- revaluation cost in order to determine the percentage of depreciation taken on each asset for the year 2004. We then converted this percentage to the useful life of the asset by dividing one by the depreciation percentage. This calculation resulted in the useful life of each asset. For the assets contained within each depreciable asset category (i.e., buildings, machinery, vehicles, and furniture and fixtures), we compared the useful lives that we calculated to the useful lives described in footnote 2 of Habas' 2004 audited financial statements. We found that the useful lives used to calculate current year depreciation were included within the useful lives noted for each category of assets in the footnote. Therefore, we conclude that Habas' fixed asset ledger is reliable for purposes of calculating depreciation expenses.

Finally, we agree with the petitioners that Habas should not have excluded depreciation on a

building and five vehicles from the reported costs. The revalued costs of the building and vehicles were, in fact, included in the fixed assets on the balance sheet of Habas' 2004 audited financial statements and, therefore, these assets should be depreciated. Absent further documentation, we disagree with Habas' position that depreciation on the building should be withheld because of its possible future demolition. Moreover, we find that the vehicles should be treated as depreciable assets, rather than as assets held for investment; if these assets were investments, they would have been shown as such in the financial statements because they would have been classified as investments on the balance sheet. Therefore, we have included an appropriate amount of depreciation expenses on these assets in Habas' COP. For further discussion, see the November 1, 2006, memorandum from James Balog to Theresa Caherty, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final Results - Habas Sinai Ve Tibbi Gazlar Istihsal Endustri A.S."

Comment 20: *Bartered Billets for Habas*

During the POR, Habas had a payment arrangement with a subcontractor in which Habas paid the subcontractor with billets rather than cash for rolling billets into rebar. Habas valued these transactions using the cost of producing these billets, rather than the Turkish Lira amount assigned them by the subcontractor and reflected on the subcontractor's invoice to Habas. In the preliminary results, we did not accept Habas' calculations but, instead, we valued the rolling services using the invoiced price.

Habas argues that the Department's use of the invoice price to value the rolling services was incorrect because the amount that was originally recorded for the processing costs was a notional amount, while the true amount of processing costs should be the cost of producing the billets that Habas gave its subcontractor in exchange for processing services. Habas alleges that the Department wrongly rejected its adjustment on the grounds that Habas had not demonstrated any double counting of costs. Habas contends that the adjustment was not predicated on double counting but, rather, on the premise that the value of the subcontractor's invoice for processing services was notional since there was no actual transfer of money between Habas and the subcontractors. Therefore, Habas argues that it was correct to reduce its reported costs by the difference between the cost to produce the payment billets and the invoice value shown on the processor's invoices. Habas claims that this methodology was accepted by the Department in the previous review.

Habas contends that the Department treats payments in kind on the basis of the cost of the payment to the provider of the payment and not the invoice value of the payment in kind. Habas cites to Swine from Canada, where the Department treated pigs given to a farmer as remuneration and deducted the cost of the consumed pigs from the overall labor costs imputed for the farm to avoid double counting. Habas argues that, by the same logic, the appropriate value of the billets transferred as payment in kind to the subcontractor is the COM of the billets and not the invoiced amount.

The petitioners assert that the Department was correct to disallow Habas' offset related to

bartered billets in the preliminary results. The petitioners argue that the proper cost of the rolling services that Habas received from its subcontractor was the value of the transferred billets and not the cost to produce those billets.

The petitioners contend that Swine from Canada actually supports the Department's decision to include the value of the rolling services in Habas' reported costs. The petitioners assert that, in Swine from Canada, the compensation of pigs to the farmer was valued at cost, and this amount was then subtracted from the imputed labor costs to avoid double counting, which resulted in the value portion of this compensation remaining in the reported costs. See Swine from Canada at Comment 16. Thus, the petitioners maintain that the Department should continue to include the value of the rolling services, and not the cost of the payment billets, in Habas' reported costs for purposes of the final results.

Department's Position:

After considering this issue, we continue to find that the invoiced amount is the appropriate value for the rolling services in question. Habas has a payment arrangement with a subcontractor in which Habas pays the subcontractor with billets rather than cash for rolling billets into rebar for Habas. Under this arrangement, Habas sends the subcontractor a certain number of billets, the subcontractor rolls only a portion of these billets into rebar, and the subcontractor sends the rebar it rolled back to Habas. The subcontractor keeps the remaining billets as payment for the services it performed. The subcontractor sends Habas an invoice for the rolling services while Habas simultaneously sends the subcontractor a sales invoice for the same amount for the billets the subcontractor kept as payment. In its accounting records, Habas records the cost of the rolling services as the invoiced amount from the subcontractor. The cost of the processing services to Habas is the amount invoiced by the subcontractor which represents the value of the payment billets. Had Habas not given the billets to the subcontractor, it could have sold the billets on the open market, and the sales price would have included some profit. Therefore, the economic value that Habas gave up for processing services included the COP of the payment billets, as well as profit associated with these billets.

We find Habas' reliance on Swine from Canada to be misplaced. In that case, the situation involved measuring an affiliated-party transaction against an imputed benchmark. In this case, the transaction involves the receipt of services from an unaffiliated party for barter payment. In Swine from Canada the cost of pigs given to a related party as remuneration was subtracted from an imputed amount for labor to be included in the COM. See Swine from Canada at Comment 16. The purpose of subtracting the cost of the pigs was to avoid double counting the pigs that were given as compensation, while including the full imputed affiliated labor expenses. Therefore, we have continued to disallow Habas' claimed offset to COM for subcontractor processing costs for purposes of the final results.

While we note that the Department has allowed Habas' claimed treatment of bartered billets in the past, we have reexamined this issue in the current proceeding and have found that Habas' treatment (i.e., using the cost of producing the billets) does not reflect the actual economic reality of these transactions. Therefore, in order to appropriately capture the costs related to the economic reality of the bartered billets between Habas and its subcontractors, we find it appropriate to change our treatment of these transactions to value them using the amount

reflected on the subcontractor's invoice.

Comment 21: *Habas' Financial Statements*

In accordance with Turkish GAAP, statutory financial statements are signed and stamped by a tax auditor who represents the company before the Turkish tax authorities and the Ministry of Finance. The tax auditor performs detailed testing on the amounts reported in the financial statements because the he is held liable for the accuracy of the signed financial statements. See the "Colakoglu Cost Verification Report" at page 7. In contrast, audited financial statements are based on the same set of books and records but they are audited by independent accountants and may or may not be in the home currency. Furthermore, audited financial statements are not a statutory requirement in Turkey.

In the preliminary results, we relied on Habas' reported: 1) COM which was based on its statutory financial statements submitted to the Department; and, 2) G&A and financial expense ratios which were based on its 2004 audited unconsolidated and 2004 audited consolidated income statements, respectively. The petitioners argue that the Department should recalculate Habas' G&A and interest expenses to also use its statutory financial statements, rather that its audited financial statements.

First, the petitioners contend that, while Habas maintains both audited and statutory financial statements, it based its reported COM on its statutory statements, of which an incomplete set was submitted to the Department. According to the petitioners, Habas' statutory financial statements, which are prepared in nominal currency, report a lower COGS than Habas' audited financial statements, which are prepared in constant currency. Further, the petitioners state that Habas relied on its statutory financial statements for the calculation of COM, but used its unconsolidated and consolidated audited financial statements (with a higher COGS figure reported) to calculate its G&A and interest expense ratios, respectively. The petitioners contend that the Department should revise Habas' costs, including its G&A and interest expense ratios, to be based on Habas' statutory financial statements because these were audited and certified by tax auditors, making them credible as its audited financial statements. Moreover, the petitioners assert that the other respondents in this review used statutory financial statements to report all of their costs, including G&A and interest expenses, with no constant currency adjustment. Alternatively, the petitioners argue that, if the Department finds Habas' audited financial statement figures in constant currency more representative of Habas' actual costs, the Department should revise Habas' reported COM to reflect constant currency.

Second, the petitioners assert that, in the event the Department does not make the above revisions, it should at a minimum reject Habas' calculation of the financial expense ratio which uses the consolidated audited financial statements. The petitioners contend that Habas' financial statements are not actually consolidated, but rather combined. According to the petitioners, the auditors' report from Habas' 2004 audited consolidated financial statements omits the activities of an affiliated company and, as such, the petitioners argue that these statements cannot properly be identified as consolidated under Turkish GAAP. Moreover, the petitioners contend that this omission also decreases the accuracy of these statements. Consequently, the petitioners maintain that the Department should recalculate Habas' financial expense ratio based on its statutory financial statements, in accordance with its practice. As support for their position, the petitioners

cite to Mushrooms From India at Comment 15, where the Department based the respondent's financial expense ratio on the its audited financial statements because it did not maintain consolidated financial statements. The petitioners further note that in 2003-2004 Rebar from Turkey,[15] the Department recalculated a respondent's financial expense ratio based on the respondent-specific financial statements because the company did not have consolidated financial statements.

Habas disagrees that the Department should base G&A and interest costs on the amounts reflected in its statutory financial statements. Habas argues that the petitioners have confused the record with respect to its reported costs and financial statements. First, Habas contends that, while the petitioners claim that it did not fully disclose its financial statements, its August 15, 2005, section A response contains: 1) complete audited financial statements; 2) complete consolidated financial statements with an explanation regarding the omission of Habas' affiliated company; and, 3) Habas' statutory profit and loss statement. In addition, Habas states that its August 15, 2005, section D response contains: 1) statutory-format financial statements that tie to its general ledger and trial balance; 2) statutory-format financial statements for its steel and gas divisions; 3) reconciliations of its statutory financial statements to its audited financial statements; and, 4) auditors' worksheets for the 2004 audited and consolidated financial statements.

In addition, regarding its G&A and interest expense calculations, Habas contends that, in past segments of this proceeding, the Department has consistently based G&A and financial expense ratios on the respondent's audited financial statements. Specifically, in instances where there are statements audited by statutory (tax) auditors, as well as statements audited by auditors from international accounting firms, Habas states that the Department's practice has been to calculate the G&A and financial expense ratios from the financial statements audited by the international accounting firm. See 2003-2004 Rebar from Turkey at Comment 9 where the Department stated that the audited consolidated fiscal year financial statements at the highest level of consolidation which correspond most closely to the POR should be used to calculate financial expenses. Moreover, Habas argues that the Department's section D questionnaire states that: 1) the G&A ratio should be calculated using the audited fiscal year financial statements; and, 2) the financial expense ratio should be calculated using the consolidated financial statements of the highest consolidated level available. Habas maintains that, in this review and in the previous segments of this proceeding, it has always calculated its expenses based on its financial statements consolidated to the highest level and audited by an international accounting firm in order to comply with the Department's instructions and practice. See e.g., Steel Plate Products from France, 64 FR at 73152. Habas argues that, because it does not have consolidated statutory financial statements that could be used to calculate both G&A and interest expenses, it would be inconsistent to use its audited financial statements for interest expense purposes, while using its statutory financial statements for G&A expenses. Habas further notes that it was never instructed

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[15] See the May 1, 2006, Memorandum from Margaret Pusey to Neal Halper entitled, "Cost of Production and Constructed Value Adjustments for the Preliminary Results - Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Ticaret A.S., and Diler Dis Ticaret A.S. (collectively "Diler")" at page 2 which discusses the treatment of this issue in the 2003-2004 administrative review.

by the Department to recalculate its G&A and interest expenses based on its statutory financial statements.

Regarding the petitioners' assertion that the other respondents in this review used statutory financial statements to report all of their costs, including G&A and interest expenses with no constant currency adjustment, Habas contends that each company in this review uses different calculations that are determined by the facts specific to each company. Habas contends that the facts on the record pertaining to its calculations may warrant it being treated differently from the other companies. According to Habas, the key issue is not whether each company is treated consistently, but rather whether each one is treated properly according to the underlying facts regarding each company's specific information.

Nevertheless, Habas asserts that if the Department chooses to recalculate Habas' costs, it should not apply the petitioners' proposed adjustment. According to Habas, the proposed adjustment would increase Habas' reported costs by the difference between the cost of sales figures on the audited financial statements and statutory financial statements, which resulted from an adjustment to index the COM values on the statutory financial statements to December 31, 2004, price levels. Habas notes that Turkey's economy was not hyper-inflationary during the POR and, therefore, no inflationary indexing adjustments to reported sales or costs should be made.

Department's Position:

We agree with the petitioners that the we should revise Habas' G&A and interest expenses to be based on the unconsolidated statutory financial statements prepared in the nominal currency. We note that it is the Department's practice and preference to calculate the G&A and financial expense ratios using the respondent's audited unconsolidated and audited consolidated[16] income statements if maintained in accordance with home country GAAP, respectively. In the instant case, we find that Habas' unconsolidated statutory financial statements are audited, and the only difference between the statutory and the audited financial statements is the constant currency adjustment. Because the Department did not find that Turkey's economy experienced high inflation during the POR, the COM was not indexed for inflation and was based on the nominal currency financial statements. Therefore, we calculated the G&A expense ratio using the nominal currency statutory income statement which is consistent with the calculation of Habas' COM.

We also agree with the petitioners that we should reject Habas' calculation of its financial expense ratio. We note that Habas' 2004 audited consolidated financial statements contain a qualified opinion with respect to the presentation of a member of the Habas group of companies, as required by Turkish GAAP. Because the impact of this qualification cannot be quantified, it is

[16] We disagree with the petitioners' argument that the auditors' opinion renders Habas' financial statements combined rather than consolidated. The consolidated financial statements do not reflect the results of one of the Habas group of companies. The only company not consolidated with the group was this one affiliated company. We find that the omission of one entity's financial position from the consolidated statements does not change the fact that these financial statements are consolidated with respect to the companies included in the consolidation.

inappropriate to use that income statement for the financial expense ratio calculation. Therefore, because an audited consolidated financial statement without a qualified opinion was not available, we recalculated the financial expense ratio using Habas' 2004 statutory unconsolidated income statement.

We note that in the 2003-2004 administrative review of rebar from Turkey, we relied on audited financial statements with a qualified opinion for another respondent, Colakoglu. However, the qualification in that case pertained to the fact that the company's financial statements were not consolidated at all. Consequently, the financial statements did not reflect the experience of the Colakoglu group as a whole, but rather accurately reflected the experience of Colakoglu only. Because we relied on Colakoglu's unconsolidated financial statements in that review, the auditors' qualification did not affect the accuracy of Colakoglu's financial position. See 2003-2004 Rebar from Turkey at Comment 9. In contrast, in this case, the qualification in Habas' financial statements relates to the results of one of Habas' companies not being consolidated with the rest of the group of companies. Therefore, because this omission cannot be quantified, we are not able to rely on Habas' consolidated financial statements for purposes of calculating the financial expense ratio.

Further, in 2003-2004 Rebar from Turkey, unlike here, the issue was whether the net interest expense ratio can be calculated based on the amounts reported in the respondent's unconsolidated financial statements when the respondent does not prepare consolidated financial statements in its normal course of business; in that segment, none of the parties raised the issue of whether IAS financial statements were prepared in accordance with home country GAAP, and thus we did not consider this aspect of the issue. However, we note that although we relied on unconsolidated audited financial statements in the 2003-2004 review for Colakoglu, we find that the statutory financial statements are more appropriate in accordance with the Department's regulations because they are: 1) prepared in accordance with Turkish GAAP; 2) denominated in Turkish currency; and, 3) prepared in accordance with the Habas' normal books and records. See Comment 6, above, for further discussion.

We find Habas' reliance on Steel Plate Products from France to be misplaced because in that case, the Department did not use the consolidated financial statements contained in the response to calculate the financial expense ratio, given that the statement did not contain the operating results of the respondent. In the instant case, it is not appropriate to use the consolidated financial statement because the effect of the omitted bank's financial results from the statements could not be quantified in the calculation of the financial expense ratio.

Comment 22: *Whether to Apply AFA for Kroman*

In the preliminary results, we assigned a margin to Kroman based on AFA because this company failed to respond to the Department's questionnaire. Kroman contends that the use of AFA is not appropriate in this case, given that: 1) it did not receive the questionnaire, and thus, it was unaware that it had to respond; 2) it did not ship subject merchandise to the United States during the POR; and, 3) the Department has a practice with respect to the rebar order of not assigning AFA to companies who do not respond to the questionnaire, so long as it can confirm with U.S. Customs and Border Protection (CBP) that they had no shipments during the POR.

Regarding the first point, Kroman asserts that the Department improperly addressed the questionnaire, and as a result Federal Express (FedEx) was unable to deliver it to Kroman's place of business. While Kroman acknowledges that the address on the FedEx package was on the same street as one of Kroman's affiliates, it notes that the FedEx tracking slip does not show that it delivered the package to that company, but merely indicates "incorrect address." In any event, Kroman contends that it does not have any record of receiving this package directly or through this affiliate.

Moreover, Kroman notes that its first shipment of rebar to the United States was in November 2005 (i.e., seven months after the end of the 2004-2005 review period), and this shipment is currently the subject of a new shipper review. As evidence of this fact, Kroman placed the certification submitted in the new shipper review on the record of this segment of the proceeding. See the letter from Kroman to the Department dated May 23, 2006. Thus, Kroman contends that it had no shipments of rebar during the POR.

Finally, Kroman maintains that the Department's application of AFA to Kroman is contrary to its practice in previous segments of this proceeding (including the administrative review immediately preceding this one) with respect to companies with no shipments to the United States. Specifically, Kroman notes that in the previous review the Department did not penalize companies that did not respond to the questionnaire in instances where it could confirm with CBP that the companies had no shipments of subject merchandise during the POR. Rather, Kroman notes that the Department relied on the CBP data as the basis for rescinding the review with respect to those companies. See 2003-2004 Rebar from Turkey, 70 FR at 67666. Kroman asserts that the Department has not articulated any reasons for changing this practice, even though this change resulted in inconsistent treatment of the company under an identical fact pattern. Therefore, Kroman argues that the Department should reverse its preliminary AFA finding and, instead, rescind the review with respect to it, consistent with its prior practice.

According to the petitioners, Kroman's arguments are without merit. As a threshold matter, the petitioners disagree that Kroman failed to receive the questionnaire, given that: 1) FedEx did not return the questionnaire to the Department because of an undeliverable address; and, 2) the Department placed documentation on the record confirming that the questionnaire was, in fact, delivered. Moreover, the petitioners claim that Kroman participated in previous segments of this proceeding and it described this participation in its case brief. According to the petitioners, this fact demonstrates that Kroman clearly was aware of the possibility that it would be identified as a potential respondent in this review and, thus, it should have taken the proper steps to alert the Department of any discrepancies with its address. Finally, the petitioners claim that Kroman's retention of counsel for briefing purposes in this review provides further evidence that it was aware of these proceedings.

The petitioners argue that, because record evidence clearly demonstrates that Kroman missed the deadline to respond to the Department's questionnaire, the Department's preliminary determination to apply facts available to Kroman is in accordance section 776(a) of the Act. Moreover, the petitioners contend that the Department's decision to deem Kroman uncooperative and apply AFA in accordance with section 776(b) of the Act is similarly appropriate, given that it is reasonable to assume that Kroman had in its possession the information necessary to respond to the Department's questionnaire -- particularly if Kroman needed only to report that it had no

shipments of subject merchandise during the POR.

The petitioners maintain that Kroman's arguments that it had no shipments and that the Department has treated it inconsistently in previous segments are moot. According to the petitioners, the Department's prior decision not to apply AFA to companies that did not respond to the questionnaire was not only not required, but such an "across-the-board" policy of checking with CBP to determine which companies made shipments to the United States during the POR would impose a burden on the Department which would be impossible to administer. For this reason, the petitioners argue that the Department has an established practice of applying AFA to exporters and manufacturers who do not respond to the initial questionnaire. See, e.g., Steel Concrete Reinforcing Bar From The Republic of Korea: Notice of Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review, 69 FR 31961 (June 8, 2004), unchanged in Steel Concrete Reinforcing Bars From the Republic of Korea: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 69 FR 54642 (Sept. 9, 2004); Top-of-the-Stove Stainless Steel Cooking Ware From Korea: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review, 66 FR 11259 (Feb. 23, 2001), unchanged in Top-of-the-Stove Stainless Steel Cooking Ware From the Republic of Korea: Final Results and Rescission, in Part, of Antidumping Duty Administrative Review, 66 FR 45664 (Aug. 29, 2001). The petitioners assert that, in those cases, rather than soliciting CBP data, the Department applied AFA to non-responsive companies in order to ensure than none of the potential respondents would benefit from their refusal to respond to the Department's requests for information. According to the petitioners, if the Department grants "special compensation" to Kroman in this case, it would effectively undermine the deterrent value of AFA.

Department's Position:

After considering the comments on the record with respect to this issue, we agree with Kroman that it would be inappropriate to apply AFA to it for the final results. Rather, in accordance with our practice, we have rescinded the review with respect to Kroman because it provided sufficient evidence on the record that it did not receive the questionnaire. See Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Dity Administrative Review and Partial Rescission of Antidumping Duty Administrative Review, 64 FR 17995 (Apr. 13, 1999), and accompanying Issues and Decision Memorandum at Comment 2.

In our preliminary results, we relied on the FedEx delivery slip as evidence that the package had been delivered to Kroman. After reexamining this delivery slip, however, we agree with Kroman that this document does not, in fact, demonstrate that the company received the questionnaire, but rather merely demonstrates that the package was accepted at an unspecified company and, thus, was not returned to the Department. Specifically, in its letter to the Department dated May 19, 2006, Kroman stated:

> Upon review of the Federal Express documents concerning the Department's effort to serve the questionnaire upon Kroman, it appears the questionnaire was never properly served on Kroman. Kroman's address is not in Istanbul at all, but in Gebze, a different city altogether. Moreover, while an affiliated company, Yucelboru Ihracat Ithalat ve Pazarlama A.S. ("YIIP"), has an address on Rihtim Caddesi (Rihtim Street) in Istanbul,

> the street number for YIIP is number 44, and not the number 16 shown on the FedEx label. In fact, the 16 Rihtim Caddesi address is marked "incorrect address" on the FedEx tracking record. In any event, the tracking record does not show the address to which the questionnaire was eventually delivered, but the package clearly did not go to Kroman's location in Gebze, and Kroman has no record of receiving the package directly or through its affiliate in Istanbul.

We have examined the relevant FedEx documentation and confirmed that we sent the questionnaire to the address "Rihtim Caddesi 16," not "Rihtim Caddesi 44," as referenced in Kroman's letter. Further, the tracking record indicated that FedEx twice attempted to deliver the questionnaire to an "incorrect address." Although the documentation indicates that the questionnaire was finally delivered, it does not indicate to which address, other than the one it had indicated was "incorrect." See the October 31, 2005, memorandum from Brianne Riker to the File entitled, "Placing Information on the Record in the 2004-2005 Antidumping Duty Administrative Review of Certain Concrete Reinforcing Bars (Rebar) from Turkey." As a result, we find Kroman's explanation as to why it did not respond to the questionnaire to be sufficient and we have rescinded the review with respect to Kroman.

We disagree with the petitioners that Kroman not only should have known about the Department's inquiry because of prior involvement in previous administrative reviews, but that it also described this prior involvement in its case brief. Each segment of the proceeding stands on its own, and the fact that a company may be required to respond to the Department's questionnaire in one segment in no way implies that it will be required to respond in others. Moreover, Kroman's description at pages 2 and 3 of its case brief specifically details the facts that: 1) Kroman was one of five companies that did not respond to the questionnaire in the 2003-2004 review; 2) the Department used CBP data to confirm that Kroman did not have shipments during the 2003-2004 review period; and, 3) the Department determined that it was appropriate to rescind the review for Kroman on that basis (i.e., without Kroman's participation). Therefore, we find the petitioners' arguments regarding this issue to be without merit.

Finally, we agree with Kroman that the Department has had a practice in prior segments of this proceeding of rescinding the review where CBP data showed no U.S. shipments of subject merchandise from a company even without a response from that company. However, the Department has reevaluated this practice in the context of other proceedings, and it is now our position that CBP data alone is not sufficient to determine whether a company had exports during the POR, because it may not conclusively demonstrate that the company in question had no relevant sales or shipments. For example, CBP data does not include information on entries which were not made electronically. The Department recently explained its position in Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review, 70 FR 69937 (Nov. 18, 2005), and accompanying Issues and Decision Memorandum at Comment 8, where we stated that the Department will not rely on CBP data as a "dispositive source of data on company exports" and that "it is the responsibility of the respondent to report to the Department that it has not made any U.S. shipments." Therefore, the Department has changed its practice in this proceeding. For this reason, we find that our preliminary decision to apply AFA to all companies which did not respond to the questionnaire, and for which sufficient evidence exists to show that the companies received it, is appropriate.

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 margins for the reviewed firms in the Federal Register.

Agree____ Disagree____

_____

David M. Spooner
Assistant Secretary
for Import Administration

_____

(Date)