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MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Holly A. Kuga
Acting Deputy Assistant Secretary
for Import Administration
Group II

DATE: April 5, 2004

SUBJECT: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Stainless Steel Wire Rod from the Republic of Korea.

Summary

We have analyzed the comments and rebuttal comments of interested parties in the 2001-2002 administrative review of the antidumping duty order covering stainless steel wire rod (SSWR) from the Republic of Korea (Korea). As a result of our analysis, we have made changes, including the correction of an inadvertent clerical error, to the margin calculations. We recommend that you approve the positions that we have developed in the "Discussion of the Issues" section of this memorandum. With the exception of the issue regarding section 201 duties (which is discussed in the Federal Register notice accompanying this memorandum), the following is a complete list of the issues in this administrative review for which we received comments and rebuttal comments by parties:

Comment 1: Whether the Respondent Properly Reported Steel Grade Codes[1]
Comment 2: Whether Changwon Improperly Classified Certain Home Market Sales as Non-Prime Sales
Comment 3: Whether the Respondent Misreported the Entered Value of Constructed Export Price (CEP) Sales
Comment 4: Whether Changwon Properly Accounted for Certain Bank Charges
Comment 5: Whether Certain Inland Freight Expenses Incurred by Dongbang are Based on Arm's-

[1] The respondent in this administrative review is a collapsed entity that consists of Changwon Specialty Steel Co., Ltd. (Changwon), Dongbang Special Steel Co., Ltd. (Dongbang), and Pohang Iron and Steel Co., Ltd. (POSCO).

Background

On October 7, 2003, the Department published its preliminary results of the administrative review of the antidumping duty order on SSWR from Korea. See 68 FR 57879. The merchandise covered by this order is stainless steel wire rod. The period of review (POR) is September 1, 2001 to August 31, 2002. We invited parties to comment on our preliminary results of review. The respondent and the petitioners, Carpenter Technology Corp. and Empire Specialty Steel, submitted case and rebuttal briefs on November 7, 2003, and November 14, 2003, respectively.

Discussion of the Issues

Comment 1: Whether the Respondent Properly Reported Steel Grade Codes

In this review, the Department identified the appropriate home market sales of SSWR to compare to U.S. sales of SSWR based on the following physical characteristics: prime/non-prime, steel grade, diameter, further processing, coating. The Department's questionnaire instructs the respondent to report a unique code in the steel grade field (the GRADEU/H field in the sales databases) for every American Iron and Steel Institute (AISI) grade of SSWR sold. In addition, the questionnaire notes that if the respondent sold a non-AISI grade of SSWR that meets all of the specifications of an AISI grade, for this sale it must report, in the GRADEU/H field, the code assigned to the corresponding AISI grade. In order to comply with the Department's instructions, in many instances the respondent assigned a single grade code to a number of AISI and non-AISI grades of SSWR that the respondent sold during the POR (i.e., the respondent created groups of steel grades that were assigned a particular steel grade code).

The petitioners argue that the respondent failed to define steel grade codes in accordance with the Department's instructions (i.e., the respondent improperly grouped identical AISI and non-AISI grades under different steel grade codes or included dissimilar steel grades within a group that was assigned a single steel grade code). The petitioners provide a number of examples of miscoded steel grades in

which they cite business proprietary information and thus, the Department has summarized these examples in a proprietary memorandum (see proprietary memorandum regarding "Comments and Departmental Positions Containing Proprietary Information" from Holly A. Kuga, Acting Deputy Assistant Secretary for Group II, to James J. Jochum, Assistant Secretary for Import Administration (Proprietary Memorandum) dated concurrently with this memorandum, which is on the official record in the Central Record Unit, room B-099 of the main Department of Commerce building). The petitioners contend that the Department must correct the miscoded steel grades and then redefine the steel grades that are most similar to those sold in the U.S. market in order to properly identify the home market sales of SSWR to compare to U.S. sales of SSWR.[2] The petitioners urge the Department to rely upon the steel grade code chart provided in their April 11, 2003, letter or explain why it is appropriate to deviate from the steel grade codes in this chart. Finally, the petitioners request that the product codes at issue be placed on the record to allow their technical staff to evaluate the respondent's claims regarding the steel grade codes used. The petitioners contend that the chemical compositions at issue are public information and there is no justification for treating them differently.

The respondent claims that it followed the Department's instructions for reporting steel grade codes and employed the same reporting methodology that was used in all prior segments of this proceeding, a methodology that was fully reviewed and verified in the prior administrative review. Furthermore, the respondent claims that, in multiple submissions to the Department, it explained how the steel grade coding methodology that it followed is in accordance with the Department's instructions, it identified the factor that required it to assign a different steel grade code to each group of steel grades, it provided relevant technical materials containing all of the technical information for each steel grade, and it provided tables showing how the steel grade codes were assigned to groups of steel grades. The respondent explains why, given the Department's grade coding instructions, the petitioners' examples of miscoded steel grades fall short (see the Proprietary Memorandum). Therefore, the respondent argues that the petitioners failed to show that respondent did not follow the Department's steel grade coding instructions.

Moreover, the respondent argues that the petitioners' proposed steel grade coding methodology contains significant errors and is an entirely new methodology that is inconsistent with the practice that the Department established in prior segments of this proceeding (see the Proprietary Memorandum). Contrary to the petitioners' contention, the respondent asserts that, in the preliminary results, the Department did not correct the reported steel grade codes nor did the Department instruct the respondent to change its steel grade coding methodology.[3] The respondent contends that the Department has thoroughly considered the petitioners' proposed steel grade coding, a proposal that

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[2] The petitioners note that the Department corrected some of the respondent's steel grade coding errors for the preliminary results but failed to remedy all of the problems with the coding.

[3] However, the respondent notes that the Department did instruct it to rely upon a different steel standards manual in assigning codes to various grades of steel.

was not raised until four months into the current review, and rejected it in the preliminary results. According to the respondent, if the Department were to change the steel grade coding methodology at this point in the proceeding the petitioners would argue for revisiting this issue in every review, an approach that could lead to illogical results such as finding two products similar in one review but not similar in another review. Thus, the respondent urges the Department to reject the petitioners' untimely and unnecessary suggestion for a change in the way that codes were assigned to steel grades.

However, the respondent requests that the Department identify the steel standards reference manual that it should use to code steel grades in forthcoming administrative reviews. The respondent contends that the appropriate manual for coding steel grades is the standards manual that it actually used for the production and sale of SSWR during the POR (the 2001 edition of the Stahlschlussel (Key to Steel) and the 2000 edition of the American Society for Testing and Materials (ASTM)). The respondent, noting that steel standards change, points out that it also used current steel standards to code steel grades in the investigation and the second administrative review of this proceeding. However, in the instant review, the Department instructed the respondent to report steel grade codes using the 1999 edition of the Key to Steel rather than contemporaneous standards. Thus, the respondent requests that the Department clarify its policy in this regard.

Finally the respondent states that the petitioners' request to place product codes on the public record is, in fact, a request to release detailed technical specifications, the release of which would cause it substantial commercial and competitive harm. The respondent points out that it placed public steel grade specifications on the public record but has treated the specifications for proprietary steel grades, that it developed to meet its customers' unique needs, as proprietary information. The respondent contends that the Department has the necessary expertise to determine that the respondent's steel grade coding methodology complies with the questionnaire instructions and has already done so in the preliminary results.

Department's Position:

We disagree with the petitioners' assertion that the respondent miscoded numerous steel grades; however, we agree with the petitioners, in part, with respect to the need to change the matching hierarchy for one steel grade group. We note that we cannot address certain aspects of the petitioners' and the respondent's arguments without referencing business proprietary information. Therefore, we have addressed these aspects of their arguments in the Proprietary Memorandum.

As to the respondent's request that the Department identify the steel standards reference manual that it should use to code steel grades in forthcoming administrative reviews, we note that the Department, in its March 21, 2003, letter to the respondent[4] provided a complete explanation as to the reason why it

[4] March 21, 2003, letter from Karine Gziryan and Crystal Crittenden, re: Supplemental Questionnaire.

was necessary to revise the master grade table submitted by the respondent based on the 2001 edition of the Key to Steel. In this letter, we referred to the opinion of the Director of the Technical Committee (Director) at the ASTM, who confirmed that AISI standards are not modified from year to year, and that new editions of steel standards are published when new designations are added. In the same letter, we also explained that the Director recommended using the 9th edition of the "Metals & Alloys in the Unified Numbering System," published in 2001, as the most recent publication providing cross reference specifications and chemical compositions for all existing steel grades including steel grades Unified Numbering System (UNS), AISI, and ASTM.

We also explained in the letter that, because the 2001 edition of the Key to Steel does not agree with the 9th edition of the "Metals & Alloys in the Unified Numbering System," but the 1999 publication of the Key to Steel does, the respondent should use the 1999 publication of the Key to Steel to group Changwon's and Dongbang's steel grades. Moreover, we contacted the publisher of the 2001 edition of the Key to Steel, which acknowledged that the 2001 edition identifies incorrect nickel and silicon contents for certain AISI steel grades (see memorandum to the File from Karine Gziryan dated April 24, 2003). Therefore, the Department requested that the respondent use the 1999 publication of the Key to Steel to group its steel grades for the preliminary results of review, and has continued to rely upon the steel groups formed using this publication in the final results of this review. Whether the continued use of this publication will be appropriate in future administrative reviews will depend, at least in part, on the facts in future review period.

Comment 2: **Whether Changwon Improperly Classified Certain Home Market Sales as Non-Prime Sales**

The petitioners contend that documents provided for one of Changwon's home market sales indicate that a certain class of SSWR sold by Changwon was incorrectly reported as non-prime merchandise. Specifically, the petitioners note that the sample documentation for the sale includes a mill certificate. According to the petitioners, the issuance of a mill certificate indicates that Changwon guarantees this class of SSWR and thus it should not be classified as non-prime merchandise. Although, according to the petitioners, the respondent claimed that the document at issue was used to provide the customer with the chemical properties of the merchandise, and only resembled a mill certificate, the petitioners maintain that record evidence indicates that this document is a mill certificate and that it was used to guarantee the merchandise. Therefore, the petitioners request that the Department ignore the prime/non-prime designation for Changwon's home market sales and consider all home market sales to be sales of prime merchandise. See the Proprietary Memorandum for additional information.

The respondent maintains that although the document at issue may have certain data that normally appears on a mill certificate, other information is required in order to guarantee merchandise. Also, the respondent notes that Changwon reported that it does not guarantee the class of merchandise at issue. Therefore, the respondent urges the Department to accept the non-prime designation for certain home market sales by Changwon. See the Proprietary Memorandum for additional information.

Department's Position:

After considering the record evidence, the Department cannot conclude, based on one inconclusive document, that Changwon guarantees the class of SSWR at issue. Thus, the Department has continued to accept Changwon's coding of non-prime merchandise in the final results of review.

We cannot address certain aspects of the petitioners' and the respondent's arguments without referencing business proprietary information. Therefore, we have addressed these aspects of their arguments in the Proprietary Memorandum.

Comment 3: **Whether the Respondent Misreported the Entered Value of Constructed Export Price (CEP) Sales**

The petitioners contend that the respondent misreported the per-unit entered value of CEP sales based on their comparison of the reported entered value to the ex-factory price, specifically the net per-unit U.S. price, and a per-unit entered value which the petitioners constructed.[5] The petitioners note that they calculated the net per-unit U.S. price that they used in the comparison as it was calculated for purposes of determining the dumping margin (with CEP profit considered to be zero), while they calculated a constructed entered value by subtracting U.S. movement expenses from the U.S. gross unit price. The petitioners request that the Department reduce the reported CEPs by the difference between the ex-factory price and the reported entered value of each CEP transaction. See the Proprietary Memorandum for additional information.

According to the respondent, the Department should reject the petitioners' claim because both of their comparisons are flawed. First, the respondent notes that entered value is based on the value of an arm's length sale to a U.S. customer, not an ex-factory price. Here, Changwon sold SSWR to its Korean affiliate, POSCO Steel Sales & Service Co., Ltd. (POSTEEL), which in turn sold the merchandise to Changwon's U.S. affiliate, Pohang Steel America Corporation (POSAM). The respondent notes that it has reconciled the reported entered value with the appropriate sales documentation. Regardless of the fact that the ex-factory price is not the starting point for determining entered value, the respondent points out that the petitioners failed to correctly calculate the ex-factory price used in their comparison. See the Proprietary Memorandum for details. Second, the respondent notes that the petitioners should have subtracted the following additional items from the reported U.S. gross unit price in order to properly calculate a constructed entered value: international freight expense, marine insurance expense, U.S. duties. U.S. credit expense, U.S. warranty expense, U.S. indirect selling expenses, antidumping duties, and a proprietary expense. The respondent notes that a constructed entered value derived without making these additional adjustments may not be compared to the reported entered value.

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[5] The petitioners argue that the entered value that the respondent reported to both the Department and U.S. Customs and Border Protection (CBP) is incorrect.

Furthermore, the respondent states that the petitioners' proposal to reduce the CEP by the difference between the ex-factory price and the reported entered value would distort the margin calculation because CEP is calculated by subtracting actual expenses associated with a sale from the sales price and the difference between the ex-factory price and the reported entered value is not an actual expense. In addition, the respondent notes that entered value is used by the Department to assess antidumping duties and by using the actual entered value, which is available in this case, the correct amount of antidumping duties will be collected. For the foregoing reasons, the respondent contends that the petitioners' argument must be rejected.

Department's Position:

The petitioners have requested that the Department determine whether the respondent properly reported entered value to CBP. However, the Department is not in a position to make such a determination because a determination as to whether any laws or regulations were violated by the respondent in reporting entered value to CBP can only rightfully be made by the agency charged with enforcing those laws, namely CBP. Nevertheless, the Department can refer this matter to the appropriate authorities if the facts warrant such a referral. However, here, the facts do not warrant such a referral.

The starting point for determining entered value is the price between POSTEEL and POSAM. The respondent demonstrated that the sales price charged to POSAM by POSTEEL reconciles to the entered value reported to CBP on the entry summary form. Moreover, the petitioners' calculations contain a number of errors. Once these errors are corrected, the petitioners' analysis no longer supports their contention that the respondent misreported entered value. See the Proprietary Memorandum for details. Accordingly, for the final results, we have not adjusted the CEP as suggested by the petitioners.

Comment 4: **Whether Changwon Properly Accounted for Certain Bank Charges**

During the POR, Changwon sold SSWR to U.S. customers through a distribution chain that includes Changwon's Korean affiliate, POSTEEL and its U.S. affiliate, POSAM. The petitioners claim that documents for one sale of SSWR through POSTEEL and POSAM identify a bank charge that Changwon failed to report. Given this reporting failure, and the lack of record information regarding bank charges on other sales of SSWR through POSTEEL and POSAM, the petitioners contend that, as facts available, the Department should assign bank charges to all of Changwon's U.S. sales based on the bank charge for this one sale. The petitioners note that these bank charges should be subtracted from the U.S. gross unit price in order to calculate the net U.S. price.

According to the respondent, including the bank charge at issue in the calculation of net U.S. price would amount to double counting interest expenses. Specifically, the respondent notes that the bank charge is an interest charge. The respondent claims that the Department consistently avoids deducting

both bank fees for actual credit expenses and imputed credit expense from the gross U.S. price. See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China, 61 FR 19026, 19044 (April 30, 1996) (in which the Department stated that "deducting both the actual fees {letter of credit fees} and the imputed costs (which included these fees) would be double counting"). Thus, the respondent claims that it properly reported the imputed credit expense without also reporting the bank charge at issue.

However, the petitioners claim that the bank charge has nothing to do with the reported imputed credit expense because the imputed expense only reflects the cost of extending credit from the date on which POSAM shipped the subject merchandise until the date of the U.S. customer's payment. Furthermore, the petitioners maintain that the bank charge should have been reported as a direct selling expense because it is directly tied to the U.S. sale.

The respondent disagrees. The respondent notes that the bank charge is an interest charge covering the period between the time when POSTEEL presented payment documentation to the bank (i.e., received funds from the bank) and the time when the bank received payment from POSAM. It maintains that the reported imputed credit expense reflects the cost of extending credit from the date on which the subject merchandise was shipped from Korea until the date on which POSAM received payment from the U.S. customer, which includes the period covered by the bank charge. Therefore, the respondent states that the Department should continue to determine that all direct U.S. selling expenses were properly reported and reject the adjustment proposed by the petitioners.

Department's Position:

The petitioners correctly noted that sample sales documentation provided by Changwon identifies a bank charge that the respondent did not report. However, this document indicates that the charge in question is interest, charged to POSTEEL by the bank, for advancing POSTEEL the money it will collect from POSAM on one U.S. sale of SSWR. The interest charge covers the time period from when POSTEEL presented payment documentation to the bank until the bank was paid the money it advanced to POSTEEL. The U.S. credit expenses calculated by the respondent cover the period between the time the subject merchandise is shipped from the factory (Changwon) in Korea (see Changwon's December 12, 2002, section C response at 15) and the time that the U.S. customer pays POSAM, which includes the time period covered by the interest charge identified on the sample sales documents. Thus, deducting both imputed credit expenses and the bank fee at issue will result in double counting expenses, and is contrary to the Department's practice. See Silicon Metal from Brazil: Notice of Final Results of Sales at Less Than Fair Value, 63 Fed. Reg. 6908 (Feb.11, 1998) (Silicon Metal from Brazil) (in which the Department indicated that it "will not treat bank charges as part of direct selling expenses as these interest payments have been captured in Minasligas's interest expense account."); see, also, Bicycles from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value, 61 Fed. Reg. 19026, 19044 (April 30, 1996) (Bicycles from the People's Republic) (in which the Department declared that "deducting both the actual {letter of credit}

fees and the imputed costs (which include these fees) would be double counting"). Therefore, for the final results of review, we have continued to use Changwon's reported direct U.S. selling expenses.

Comment 5: Whether Certain Inland Freight Expenses Incurred by Dongbang are Based on Arm's-length Prices

Dongbang reported that some of the SSWR that it sold in the home market was transported via truck by a number of companies, including an unaffiliated freight forwarder. Based on a comparison of the prices charged by these freight companies, the petitioners assert that Dongbang did not pay arm's-length prices to transport certain SSWR in the home market. Citing Certain Cut-to-Length Carbon Steel Plate From Finland: Final Results of Antidumping Duty Administrative Review, 63 FR 2952, 2954 (Comment 5) (January 20, 1998) (CTL Plate from Finland), the petitioners claim that the Department will adjust its calculation of net price if it is unable to test whether certain expenses were incurred at arm's-length prices. Thus, the petitioners contend that the Department should rely upon partial adverse facts available to determine inland freight expenses for certain home market sales of SSWR by Dongbang. See the Proprietary Memorandum for additional information.

The respondent argues that, during the POR, the freight companies charged the same standard freight rates based on the same basic fee schedule. Thus, the respondent argues that CTL Plate from Finland does not apply here. Although the respondent reported that at times it paid a "discounted freight cost" to certain freight companies, it maintains that any differences in freight costs are small. See the Proprietary Memorandum for details. Moreover, the respondent argues that the facts do not warrant the application of adverse facts available because the criteria for its application have not been met (i.e., the respondent has not failed to cooperate to the best of its ability with a request for information, nor is it the case that necessary information is not on the record, requested information has been withheld or not provided in a timely manner or in the form requested, information cannot be verified, or the respondent significantly impeded the proceeding). Therefore, the respondent argues that the Department should continue to accept Dongbang's reported home market inland freight expenses for the final results of this administrative review.

Department's Position:

We agree with the respondent. Contrary to the petitioners' assertion, the record does not demonstrate that Dongbang failed to pay arm's-length prices to transport certain SSWR in the home market. The freight fees in question are based on a rate schedule that is used in the marketplace. Therefore, in the final results of review, we have continued to accept Dongbang's reported home market inland freight expenses.

We cannot address certain aspects of the petitioners' and the respondent's arguments without referencing business proprietary information. Therefore, we have addressed these aspects of their

arguments in the Proprietary Memorandum.

Comment 6: Whether Dongbang Properly Reported its Home Market Indirect Selling Expenses

The petitioners contend that Dongbang incorrectly included certain expenses solely attributable to third-country sales in its reported home market indirect selling expense. Specifically, the petitioners contend that Dongbang improperly included expenses related to sending computer equipment and machinery to its Vietnam office in the reported home market indirect selling expenses. The petitioners assert that these are not general operating expenses related to home market sales, as the respondent reported, but are expenses connected to the Vietnam office, a separate division of Dongbang, and therefore should be excluded from the home market indirect selling expense ratio calculation in the final results of this administrative review.

The respondent contends that the expenses at issue are not directly related to third-country export sales (e.g., they are not ocean freight expenses, marine insurance expenses, document fees, etc), rather these expenses are related to general operating activities incurred in the home market for supporting the Vietnam office. Moreover, the respondent asserts that the expenses at issue are unsubstantial, and any adjustment to the reported home market indirect selling expenses would be minor. The respondent urges the Department to accept its reported home market indirect selling expenses.

Department's Position:

We agree with the petitioners. The respondent reported that the expenses in question are "related to the expenses of the Vietnam office, including expenses for shipping drawing machinery from Korea to Vietnam and for the computer system." See Dongbang's April 21, 2003, supplemental questionnaire response, at 5. Although these expenses may not directly relate to third-country sales, the record indicates that these expenses are related to third-country operations, not home market sales. See id. Therefore, we have excluded these expenses from the indirect selling expenses that Dongbang used to calculate its home market indirect selling expense ratio.

Comment 7: Whether the Loss in Valuation of Finished Goods Inventory Should be Included in General and Administrative (G&A) Expenses

The respondent argues that the Department incorrectly included Changwon's and Dongbang's loss on the valuation of finished goods inventory in the G&A expenses of the respective companies. The respondent states that it is the Department's practice to disregard this loss when calculating the G&A expense ratio. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Italy, 63 FR 40422, 40429 (July 29, 1998) (SSWR From Italy). In SSWR From Italy, the Department excluded from G&A expense the amount of the change in an inventory write-down provision noting that write-downs associated with finished goods inventory arise "when a

company determines that the market value for its finished goods inventory is less than its cost to produce the merchandise. Consequently, it would be unreasonable to include such write-down amounts, which arise only because {the respondent} cannot sell the merchandise for what it cost to produce, as an additional cost of production."). See also Silicomanganese from India: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination, 67 FR 15531 (April 2, 2002) and accompanying Issues and Decision memorandum at Comment 7 ("The Department has several times drawn a distinction between losses incurred as a result of a revaluation of raw materials inventory, and a revaluation of finished goods inventory. We have consistently included in the Cost of Manufacturing (COM) of subject merchandise losses of the former type, but not the latter."). Therefore, the respondent contends that, for the final results of review, the Department should follow its long-standing practice and exclude the loss on the valuation of finished goods inventory from the G&A expenses used to calculate each company's G&A expense ratio.

The petitioners contend that the Department should reject the respondent's argument because nowhere in the record have these inventory losses been described as being wholly or partially associated with finished goods. According to the petitioners, if these losses were truly limited to finished goods inventory, then the respondent would have identified the losses as such. Instead, according to the petitioners, respondent's description of the loss in the record indicates that it relates to other inventory, or all inventory, but not specifically to finished goods inventory. The petitioners note that the Department's policy is to include losses on raw materials and work-in-process inventory in the cost of production and exclude losses on finished goods inventory from the cost of production. Therefore, the petitioners conclude that the Department should affirm its preliminary G&A calculations in the final results of review.

Department's Position:

We agree with the respondent, in part. Contrary to the petitioners' claim, in Exhibit 5 of its July 18, 2003, section D supplemental questionnaire response, Changwon identified losses on the valuation of inventory as losses related to finished goods inventory. With regard to Dongbang's inventory losses, there is no indication on the record as to whether the loss on inventory relates to finished goods inventory, raw materials inventory, or work-in-process inventory (WIP). The Department normally only includes losses on the valuation of raw materials and WIP inventory in the cost of production. See Notice of Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above ("DRAMs") From Taiwan, 64 FR 56308, 56325 (October 19, 1999) ("We did not include {in G&A expenses} the write-down of finished goods, which is, conversely, more closely associated with the sale of the merchandise rather than the production of the merchandise"). Accordingly, we have excluded Changwon's loss on finished goods inventory from the G&A expenses used to calculate its G&A expense ratio. Given the lack of record information as to the nature of Dongbang's inventory losses and the fact that the respondent bears the burden of creating a complete and adequate record upon which the Department can make its determination (see NSK Ltd. v. United States, 919 F. Supp. 442, 449 (CIT 1996)), we have continued to include Dongbang's

loss on the valuation of inventory in the G&A expenses used to calculate its G&A expense ratio.

Comment 8 Whether the Valuation Loss on Using the Equity Method Should be Included in G&A Expenses

The respondent argues that the Department should not have included Dongbang's valuation loss on using the equity method in the company's G&A expenses because the Department's long standing practice is to exclude expenses associated with investment activities from G&A expenses. The respondent cites to Polyester Staple Fiber from Korea,[6] Certain Cold-Rolled Carbon Steel Flat Products from Taiwan,[7] and Circular Welded Non-Alloy Steel Pipe from Korea[8] where the Department excluded from its calculation of G&A expenses gains/losses related to investing activities because they do not relate to the production or sale of subject merchandise. Thus, the respondent asserts that the Department should continue to follow its practice and exclude Dongbang's valuation loss on using the equity method from its G&A expenses.

The petitioners maintain that the Department correctly included Dongbang's valuation loss on using the equity method in G&A expenses because the loss is directly related to the general activity of the company. In determining whether to include items related to certain activities in G&A expenses, the petitioners contend that the Department examines the nature of the activity and the relationship between the activity and the general operations of the company.[9] The petitioners argue that Dongbang's 2002

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[6] See Notice of Final Results of Antidumping Duty Administrative Review: Polyester Staple Fiber from Korea, 67 FR 63616 (October 15, 2002) and accompanying Issues and Decision memorandum at Comment 15 (the Department excluded a "reversal of provision for investments" from a company's G&A expense because it "excludes gains and losses, income and expenses, write-downs or reversals on investing activities.").

[7] See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Taiwan, 67 FR 62104 (October 3, 2002) and accompanying Issues and Decision memorandum at Comment 6 ("It is also the Department's practice to exclude investment-related gains, losses and expenses in the calculation of G&A.").

[8] See Notice of Final Results of Antidumping Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, 66 FR 18747 (April 11, 2001) and accompanying Issues and Decision memorandum at Comment 11 (in which the Department found a respondent's gain on investment by equity method to be unrelated to the general operations of the company and thus it disallowed such gains as an offset to G&A expenses).

[9] See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Korea, 64 FR 73196, 73209 (December 29, 1999) (in

financial statement indicates that the loss at issue arose from investments in companies that are involved with the subject merchandise. Accordingly, the petitioners state that the Department should continue to include the valuation loss on using the equity method in the G&A expenses used to calculate Dongbang's G&A expense ratio.

Department's Position:

We agree with the respondent. The Department's long standing practice is to exclude from G&A expenses the gains and losses associated with the company's investment activity. See Notice of Final Determination of Sales at Less Than Fair Value: Live Cattle From Canada 64 FR 56758 (October 21, 1999) ("The Department's practice has been to not include investment - related gains, losses, and expenses in the calculation of G&A expenses for purposes of the COP {cost of production} or CV {constructed value} calculations. In calculating COP and CV, we seek to capture the cost of production of the foreign like product and subject merchandise, and to exclude the cost of unrelated production or investment activities.") See also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Taiwan, 67 FR 62104 (October 3, 2002) and accompanying Issues and Decision memorandum at Comment 6 ("It is also the Department's practice to exclude investment-related gains, losses and expenses in the calculation of G&A."). Accordingly, for the final results of review, we excluded Dongbang's valuation loss on using the equity method from the calculation of Dongbang's G&A expense ratio.[10]

Comment 9: Whether the Department Should Subtract Imputed Credit Expense Associated With Freight Revenue From the Home Market Price

The respondent contends that the Department failed to follow its established practice of calculating normal value by subtracting from the gross unit price the imputed credit expense on both the home market sales price and the freight revenue earned on the sale. The respondent notes that in Cold-Rolled Steel Flat Products from Korea, the Department calculated imputed credit expenses based on the gross unit price and freight revenue. See the Analysis Memorandum for Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea; Notice of Preliminary

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which the Department noted that {i}n analyzing whether to include an item in G&A, the Department considers the nature of the activity and whether the activity is significant enough to be treated separately from the respondent's other business activities.").

[10] Additionally, we note that the losses at issue did not arise from investments in companies that produced subject merchandise. See Dongbang's November 19, 2002 response to section A of the Department's questionnaire at page 28 and July 18 supplemental questionnaire response at Exhibit 1, note 4-4 to the financial statement.

Results of Antidumping Duty Administrative Review, 66 FR 47163 (September 11, 2001).[11] Therefore, the respondent contends that, for the final results of review, the Department should calculate the net home market price for Dongbang by deducting from the gross unit price imputed credit expenses associated with freight revenue.

The petitioners maintain that the respondent's argument is contrary to the Department's regulations. Specifically, the petitioners contend that the freight revenue is a delayed payment of an expense and 19 C.F.R. §351.401(d) states, "where cost is the basis for determining the amount of an adjustment to ... normal value, the Secretary will not factor in any delayed payment or pre-payment of expenses by the exporter or producer." Therefore, the petitioners state that the Department should not calculate the net home market price for Dongbang by deducting imputed credit expense associated with freight revenue from the gross unit price.

Department's Position:

During the POR, Dongbang sold SSWR to certain home market customers on a delivered basis. Each month, Dongbang issued one invoice to its customers for the products that they purchased and a separate invoice for the freight charges incurred on the sales (see Dongbang's December 12, 2002 response to section B of the Department's questionnaire at 17 and February 24, 2003 supplemental questionnaire response at 8).

Although Dongbang invoiced customers for the product and freight charges separately, the delivery terms are part of the terms of the sale and, as such, can be expected to have a direct impact on the negotiated sales price (see Dongbang's December 12, 2002 response to section B of the Department's questionnaire at 14). Thus, in the preliminary results of review, the Department calculated normal value by adding freight revenue associated with the sale to the gross unit price and subtracting from the gross unit price the expense incurred by Dongbang to ship the merchandise. After adding freight revenue to the gross unit price, we have, in effect, a gross unit price that includes charges to the customer for freight. Accordingly, in the final results of review, the Department has recalculated the home market imputed credit expense to reflect imputed credit expenses associated with freight revenue. This approach is consistent with the approach taken in the Final Determination of Sales at Less Than Fair Value: Certain Carbon and Alloy Steel Wire Rod from Canada, 59 FR 18791, 18796 (April 20, 1994) (in which the Department calculated imputed credit expenses associated with freight revenue, noting "where freight and movement charges are not included in the price, but are invoiced to the customer at the same time as the charge for the merchandise, the Department considers the transaction to be similar to a delivered price transaction since the seller may consider its return on both transactions in setting price."). See also Notice of Amended Final Antidumping Duty Determination of

[11]Memorandum to the File through James Doyle from Robert Bolling re "Analysis for POSCO for the Preliminary Results of the Seventh Review of Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea" (August 31, 2001).

Sales at Less Than fair Value and Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from India, 66 FR 60194, 60195 (December 3, 2001) and Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Reviews and Determination to Revoke in Part, 64 FR 2173, 2179 (January 13, 1999) where the Department found the omission of freight revenue from the home market credit expense calculation to be a clerical error.

Finally, contrary to the petitioners' claim, 19 C.F.R. §351.401(d) addresses delayed payment or prepayment of expenses, not revenue. Thus, this regulation does not preclude the Department from calculating imputed credit expenses on freight revenue. Here, the Department is calculating imputed credit expenses on freight revenue to account for price differences owing to when the customer pays the respondent, rather than to account for delayed payments or prepayments of expenses by the respondent. Consequently, in the final results of review, the Department calculated home market imputed credit expense on the sales price and the freight revenue earned on the sale.

Comment 10: Ministerial Error

The respondent maintains that the Department incorrectly calculated total home market direct selling expenses by adding credit expense, expressed in U.S. dollars, to all of the other direct selling expenses which were expressed in Korean won. The respondent notes that the Department then converted the total home market direct selling expenses to U.S. dollars and used the converted total home market direct selling expenses to calculate net home market prices in U.S. dollars. The respondent states that the following programing language will correct the error: CREDIT=CREDITUS/USXRATE + CREDITW.

The petitioners did not comment on this issue.

Department's Position:

We agree with the respondent and have corrected the error for the final results of review.

Comment 11: Whether the Department Should Grant Changwon a CEP Offset to the Home Market Sales Price

The respondent argues that the Department erred by not granting a CEP offset to Changwon because the facts of the instant review are similar to those in cold-rolled carbon steel flat products from Korea in which the Department granted POSCO a CEP offset.[12] Cold-Rolled from Korea involved the same

[12] See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Korea, 67 FR 31225, 31229-30 (May 9, 2002) (Cold-Rolled from Korea); Memorandum from Holly A. Kuga, Acting Deputy Assistant Secretary for Group II, to

U.S. affiliate as in the instant review, POSAM, and one of the companies which makes up the collapsed respondent in the instant review, POSCO. The respondent notes that in Cold-Rolled from Korea, POSAM was heavily involved in and performed exclusively several of the U.S. selling functions for CEP sales, which were otherwise performed entirely by POSCO for export price and home market sales. The respondent claims that the facts are no different here because in the instant review POSAM "receives the order from the customer, invoices the customer, participates in the determination of price with U.S. customers, receives payment from customers, and bears the risk of non-payment from the customer." Thus, the respondent argues, the Department should follow its own example in Cold-Rolled from Korea and grant Changwon a CEP offset.

Further, the respondent distinguishes the instant review from the administrative review of stainless steel sheet and strip in coils from Korea in which the Department did not grant POSCO a CEP offset.[13] First, the respondent notes that the Department did not grant the CEP offset in Stainless Steel Sheet and Strip from Korea because it did not find record evidence of different selling functions performed in the home and U.S. markets. However, the respondent claims that in the instant review there is a detailed explanation of the difference in selling functions. Also, the respondent distinguishes the instant review and Cold-Rolled from Korea from Stainless Steel Sheet and Strip from Korea by noting that, unlike the situation in Stainless Steel Sheet and Strip from Korea, in the former two cases POSAM was involved in price negotiations with U.S. customers. The respondent also notes that, in the instant review, POSAM and Changwon performed market research for U.S. sales as did POSAM in Cold-Rolled from Korea. Based on the foregoing, the respondent contends that the Department should grant Changwon a CEP offset in the final results of review.

The petitioners argue that the Department properly found that Changwon and Dongbang do not sell at a level of trade in the home market that is more advanced than the level of trade in the United States and, therefore, do not qualify for a level of trade adjustment. The petitioners note that in order to have normal value adjusted downward by the CEP offset, the respondent first needs to demonstrate that its sales in Korea were at a different, more advanced level of trade than were its U.S. CEP sales. See 19 C.F.R. §351.412(f)(1)(ii).

Joseph A. Spetrini, Acting Assistant Secretary for Import Administration concerning Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Stainless Steel Wire Rod from the Republic of Korea, dated April 5, 2004 see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Korea, 67 FR 62124 (Oct. 3, 2002), and accompanying Issues and Decision memorandum at Comment 6.

[13] See Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Final Results and Partial Rescission of Antidumping Duty Administrative Review 68 FR 6713 9February 10, 2003)(Stainless Steel Sheet and Strip from Korea) and accompanying Issues and Decision memorandum at Comment 9.

The petitioners also note that in the preliminary results of review, the Department found that there was one channel of distribution in the Korean market and one channel of distribution for U.S. sales."[14] The petitioners state that the Department "found that the selling functions performed by the collapsed respondent are sufficiently similar in the home market and the United States to consider the {levels of trade} LOTs in the two markets to be the same LOT."[15] The petitioners conclude that because the Department rejected the respondent's request for a level of trade adjustment based on the information in the record, it should affirm the preliminary finding that no level of trade adjustment is warranted in this review.

Department's Position:

We disagree with the respondent. The facts in Cold -Rolled from Korea are distinguishable from those in the instant review because in Cold -Rolled from Korea, POSAM exclusively performed a number of U.S. selling functions for CEP sales, whereas, in the instant review both Changwon and its Korean affiliate, POSTEEL, also performed selling functions for CEP sales. As noted in 19 C.F.R. §351.412(c), in the case of CEP sales, the starting price is the price as adjusted under section 772(d) of the Tariff Act of 1930, as amended, (the Act) (i.e., the sales price less expenses associated with commercial activities in the United States). Thus, the relevant transaction is the transaction between Changwon/POSTEEL and the affiliated U.S. distributor, POSAM. For the preliminary results of review, the Department found that the selling functions performed by Changwon/POSTEEL for Changwon's sales to POSAM (CEP sales) are essentially the same as the selling functions performed by Changwon in the home market, with the difference being that Changwon occasionally visits its home market customers (see "The Selling Function Chart" in Exhibit 1, of Changwon's March 6, 2003, supplemental questionnaire response). As we stated in the preliminary results of review, "{t}his difference alone does not warrant finding separate LOTs in the United States and home markets. Accordingly, all comparisons are at the same LOT." Since all comparisons are at the same LOT, neither a LOT adjustment, pursuant to section 773(a)(7)(A) of the Act, nor a CEP offset, pursuant to section 773(a)(7)(B) of the Act, are warranted. See Level of Trade Analysis Memorandum to Howard Smith from the Team dated September 30, 2003.

Recommendation

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

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[14] Stainless Steel Wire Rod From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review, 68 FR 57879, 57881-82 (October 7, 2003).

[15] Id.

Agree____ Disagree____

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Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

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(Date)