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Investigation
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MEMORANDUM TO: Jeffrey May
Acting Assistant Secretary
for Import Administration

FROM: Gary Taverman
Acting Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty Investigation of Certain Aluminum Plate from South Africa

Summary

We have analyzed the case and rebuttal briefs of interested parties in the investigation of sales at less than fair value of certain aluminum plate from South Africa. As a result of our analysis, we have made changes in the margin calculations for the final determination. 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 investigation for which we received comments from interested parties:

Comment 1: Decline of the U.S. Dollar Against the South African Rand
Comment 2: Offsets for Non-Dumped Comparisons
Comment 3: SACD Storage Fee

Background

On May 21, 2004, the Department of Commerce (the Department) published the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Aluminum Plate from South Africa, 69 FR 29262 (Preliminary Determination). On June 3, 2004, the Department published Certain Aluminum Plate from South Africa: Notice of Postponement of Final Antidumping Duty Determination, 69 FR 31346. We invited parties to comment on our preliminary determination. We received case briefs and rebuttal briefs from the petitioner, Alcoa, Inc., and the respondent, Hulett Aluminium (Hulett). The period of investigation (POI) is October 1, 2002, through September 30, 2003.

Margin Calculations

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

1. With respect to third-country sales observation 156, we corrected the amounts reported for international freight, warehousing, foreign brokerage, and foreign inland freight, as noted on page eight of the Memorandum for the File from Katherine Johnson and Rebecca Trainor, Sales Verification in Pietermaritzburg, South Africa of Hulett Aluminum (Pty) Limited (Hulett) in the Antidumping Duty Investigation of Certain Aluminum Plate from South Africa, dated July 2, 2004 (Sales Verification Report).

2. We included the SACD storage fee in the reported movement expenses for both U.S. and third-country sales.

3. We included certain expenses in the total movement charges deducted from the third- country gross price in the comparison market program.

4. We used the reported U.S. dollar-denominated third-country credit expense in order to calculate total third-country direct selling expenses in the comparison market program, instead of converting third-country credit expense to South African rand.

5. We corrected the treatment of certain expenses in the calculation of NV.

6. We corrected the U.S. dollar-per-ton figure for several invoices.

7. In the U.S. sales database, we collapsed into two observations four observations which had been incorrectly reported as four separate sales.

8. We revised the POI average per-unit inland freight expense to exclude VAT charges.

9. We recalculated Hulett's basic metal adjustment to include the deduction of certain items and the addition of other items. In order to correctly adjust Hulett's reported per-unit materials costs, we added an offset to the revised basic metal adjustment.

10. We increased Hulett's general and administrative (G&A) expenses for the administrative fees paid by Hulett to its parent company. We also adjusted the denominator of Hulett's G&A expense factor (i.e., cost of sales) to exclude packing costs.

See Memorandum to The File from Kate Johnson and Rebecca Trainor, Calculation Memorandum for the Final Determination, dated October 4, 2004 (Sales Calculation Memorandum), and Memorandum to Neal M. Halper from LaVonne Clark, Cost of Production and Constructed Value Calculation Adjustments for the Final Determination, dated October 4, 2004 (Cost Calculation Memorandum), for additional discussion of the above-referenced changes to the margin calculations.

Discussion of the Issues

Comment 1: *Decline of the U.S. Dollar Against the South African Rand*

In the preliminary determination, we stated:

> Our preliminary calculations show that no Taiwan sales need to be disregarded as a result of the cost test, and that no currency conversions for Taiwan sales prices for comparison to U.S. sales prices are necessary because they are already denominated in U.S. dollars. Therefore, we preliminarily find no basis for departing from our standard calculation methodology, as claimed by the petitioner.

The petitioner argues that over the POI, there was an almost 50 percent decline in the real value of the U.S. dollar against the South African rand. According to the petitioner, this decline clearly affected Hulett's costs, which are relevant in a case where sales below cost are alleged in the referenced market. The petitioner maintains that without addressing the rand's increase in value, the Department cannot adequately determine whether the NV sales were below cost.

Moreover, the petitioner contends that the first part of the rationale the Department articulated in the preliminary determination - the fact that there were no sales found to be below cost - is no longer applicable if the Department accepts the changes to Hulett's sales and cost data noted by the petitioner in its case brief. The petitioner also believes that the second part of the Department's rationale is invalid because not only does it ignore the fact that this is a cost case, but it also misconstrues the impact of the fact that Taiwan and U.S. sales are both denominated in U.S. dollars. According to the petitioner, the denomination of a foreign sale in U.S. dollars serves to mask the true effect of the decline in the dollar's value vis-a-vis the rand, which necessitates the application of a non-standard methodology in this case. The petitioner maintains that if the U.S. and third-country sales were denominated in different currencies, currency fluctuations would be taken into account pursuant to 19 U.S.C. §1677b-1. However, since the comparison markets are denominated in the same currency, the petitioner argues that there is no mechanism to take into account the currency fluctuations in the market in which costs are incurred.

The petitioner cites Melamine Chemicals, Inc. v. United States, 732 F.2d 924 (Fed. Cir. 1984) and United Engineering & Forging v. United States, 779 F.Supp. 1375, 1384 (CIT, 1991), aff'd 996 F.2d 1236 (Fed. Cir. 1993) in support of its argument that the Department has broad authority to address currency fluctuations in making fair value comparisons. In addition, the petitioner believes that the fact that the Department chose a policy bulletin to address currency conversion issues, as opposed to attempting to promulgate comprehensive regulations on the subject, is evidence that the Department recognizes the need for flexibility to address currency issues.

The petitioner maintains that Hulett's situation is analogous to a hyperinflationary situation because there was a rapid change in the purchasing power of the currency in the producer's home market, and the home market currency is relevant due to the examination of cost in this case. The petitioner argues that just as the Department has recognized that its standard methodology tends to distort the antidumping calculation in a hyperinflationary case, the Department should likewise recognize that applying its standard methodology to this case would also distort the antidumping calculation.

The petitioner suggests three methods that the Department could use to address the significant decline in the dollar against the South African rand and its effect on the relationship between costs and prices in the context of this case. First, the petitioner suggests disregarding Taiwan as a comparison market on the basis that the Taiwanese prices are not representative of true NV within the meaning of 19 U.S.C. §1677b(a)(A)(B)(ii). The petitioner contends that NV based on Taiwanese sales would necessarily be distorted because the dollar declined so dramatically against the South African rand during the POI, and the exporter failed to adjust its pricing to reflect this decline. In addition, although there is no known dumping finding in Taiwan on subject merchandise, the petitioner believes that these products are clearly being sold in Taiwan at less than NV. According to the petitioner, such a finding would require the Department to use constructed value (CV) as NV. Second, the petitioner submits that the Department could divide the POI into monthly weighted-average segments for comparison purposes, and allow sale-to-sale matches within the same month only. According to the petitioner, this methodology would restrict the difference in the timing of the sale and would thus ensure that the nominal values of the U.S. and Taiwanese sales are truly comparable and that a fair comparison is being made in accordance with the statute. Third, the petitioner advocates the application of the same concept of indexing the nominal values of the various transactions that is applied in hyperinflationary economies. To address the difference in the nominal dollar sales value of a sale made at the beginning of the period and a sale made at the end of the period, and to ensure that a fair comparison is made, the petitioner asserts that an index can be derived to indicate how the actual value of the dollars received has changed vis-a-vis the currency in which Hulett incurs its costs and in which it maintains its financial accounts.

In conclusion, the petitioner argues that the Department should apply a methodology in this case that ensures that the antidumping calculation is not distorted by the almost 50 percent decline in the real value of Hulett's dollar revenues for certain aluminum plate over the POI based on the currency in which its costs are calculated.

Hulett disputes that the application of the Department's normal margin calculation methodology creates the distortions alleged by the petitioner. Hulett contends that, just as the U.S. and third-country prices, both being stated in U.S. dollars, are not affected by any changes in the U.S. dollar/South African rand exchange rate, so is the Department's dumping analysis unaffected by exchange rate fluctuations because no currency conversions are necessary.

Hulett contends that over the course of this investigation the petitioner has offered a series of different rationales[1] for an alternative price comparison methodology, and has recast its arguments for an alternative methodology as Hulett has systematically discredited each one. Hulett summarizes those arguments and its responses as follows:

1. In its March 5, 2004, submission, the petitioner argued that the Department should make an adjustment to price-to-price comparisons to account for any exchange rate losses experienced by Hulett after its dollar-denominated sales were made. Hulett states that it responded in its March 10, 2004, submission that any exchange rate fluctuations that occurred subsequent to the date of sale (and the resulting exchange rate gains and losses) are not relevant to the antidumping analysis, and are to be ignored by the Department in accordance with 19 U.S.C. §1677b-1(a).

2. On April 9, 2004, the petitioner submitted a letter claiming that any "decline in revenue" that resulted from the conversion to rand of U.S. dollar payments must be reflected in the antidumping calculation in this case. Hulett states that this argument has been rejected by the Department and the courts, citing, for example, the Court of International Trade's finding in The Torrington Co. V. United States, 832 F.Supp. 379, 392 (CIT 1993) that "the key issue {in an antidumping proceeding} is to compare the price paid in the U.S. to the price paid in the home market or third-country market, not the return realized by the [exporter] on sales made in the two markets."

Hulett argues that, although the petitioner now expresses concern that the currency movements will affect the cost test, none of the proposed solutions are addressed to the cost test; rather each solution focuses only on the U.S. dollar-to-U.S. dollar price comparisons. Hulett counters the petitioner's argument that Hulett inappropriately failed to adjust its third-country prices at the end of the POI to account for the decline of the dollar against the rand, by stating that the U.S. antidumping statute does not require that a foreign producer increase its third-country prices to account for currency appreciation.

Hulett protests that the petitioner seeks to turn the cost test into something it is not by taking issue with the particular third-country sales that would be disregarded as a result of the standard cost test. Hulett argues that the occurrence of certain third-country prices being above cost in one time period, but below cost in another time period, can happen anytime there is any change in the exchange rate during the POI or where changes to the cost over the POI require costs to be averaged over a period of time

[1] Hulett cites to the petitioner's comments filed on March 5, 2004, April 9, 2004, and May 7, 2004.

shorter than the full POI. Furthermore, according to Hulett, the statute does not authorize the Department to disregard particular sales that are above the cost of production at the time they were made, even though those same sales may be below cost at other points in time.

Hulett supports the Department's preliminary determination not to depart from the standard dumping methodology, stating that, because U.S. and third-country sales in this case are not denominated in different currencies, there is no factual reason or legal basis to account for any currency fluctuation. Regardless of the Department's authority to account for currency fluctuations, Hulett argues, that authority is limited to situations where the currency fluctuations affect the relationship between NV and the U.S. selling price. In this case, according to Hulett, the appreciation of the home market currency has no impact on the relationship between NV and U.S. selling prices because both NV and U.S. selling prices are in U.S. dollars.

Hulett points out that 19 U.S.C. 1677b-1(b) applies to sustained movements in the currency in which sales used as NV are denominated. As third-country sales are denominated in U.S. dollars, there is no relevant "foreign currency" value to which the special provision could be applied. Furthermore, Hulett argues, the purpose of this provision was "to ensure that the process of currency conversion does not distort dumping margins, which would be the result of any such adjustment by the Department. <u>See</u> Uruguay Round Agreements Act, Statement of Administrative Action, H.R. DOC. NO. 103-316 (1994) (URAA).

Hulett believes that the petitioner's analogy of this case to one involving a hyperinflationary economy is inapposite, as there has been no decline in the purchasing power of the rand. To the extent that the petitioner suggests that there has been a decline in the purchasing power of the U.S. dollar relative to the rand due to post-sale exchange rate fluctuations, Hulett contends that any such decline is irrelevant to the Department's fair market comparisons.

Hulett denies the merit of any of the petitioner's suggested alternative methodologies. With respect to the proposition that sales to Taiwan are not representative of true NV because of the significant decline of the dollar against the rand during the POI, Hulett argues that any allegation that a "particular market situation" exists pursuant to 19 CFR 351.404(c)(2) is untimely. Furthermore, the argument is lacking in any logical support because both the U.S. and third- country sales are made in U.S. dollars.

Regarding the petitioner's argument in favor of dividing the POI into monthly segments, Hulett responds that such a departure from the Department's normal practice of averaging prices over the full POI would in no way account for any changes to the U.S. dollar/rand exchange rate, because those prices are not affected by changes in the exchange rate. While Hulett acknowledges that the Department has used shorter averaging periods in situations where prices differ significantly over the course of the POI, Hulett states that no such price variation exists here. <u>See</u>, <u>e.g.</u>, <u>Notice of Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Indonesia</u>, 64 FR 14690 (March 26, 1999) (<u>Rubber Thread</u>).

Finally, with respect to the petitioner's proposal that the Department index sales prices, Hulett argues that to do so is not only contrary to the antidumping law, but it also relies on the mistaken view that the Department should address the difference in the "real value" between a sale made in dollars at the beginning of the period and a sale made in dollars at the end of the period. Hulett contends that, to make an adjustment to account for differences in the value of the dollars received for sales vis-a-vis the producer's domestic currency would amount to a methodology for adding exchange rate gains and losses to actual sales prices, an adjustment contrary to the statute and previously rejected by the Department.[2]

The Department's Position:

We have not departed from our standard calculation methodology with respect to currency conversion for purposes of the final determination. As stated by Hulett, the conduct of which the petitioner complains is not relevant to our calculation of the margin of dumping in this case. Here, both U.S. and third-country sales are denominated in U.S. dollars and are not affected by any changes in the U.S. dollar/South African rand exchange rate. Consequently, our analysis of whether there is any dumping in the United States also is not affected by changes in the exchange rate.

We note that the petitioner expresses concern that the currency movements will affect the cost test. Yet the solutions proposed by the petitioner focus only on the U.S. dollar-to-U.S. dollar price comparisons; none address the cost test. In determining whether an individual sale to Taiwan was below cost, the Department used the POI average cost, in rand, and compared that amount to the price of the Taiwan sale, converted to rand using the exchange rate on the date of sale. This methodology fully accounts for the appreciation of the rand, and also determines which third-country sales were below cost. Where appropriate, the Department's standard computer program then eliminated the below-cost sales from the third-country database.

With respect to the petitioner's proposal to disregard sales to Taiwan, the petitioner offers no support for its allegation. A mere allegation that sales to Taiwan were dumped, in the absence of any actual finding of dumping, is insufficient to establish a "reason to believe or suspect that dumping occurred in this third country market. See Alloy Piping Products v. United States, 201 F.Supp.2d 1267, 1276 (CIT 2002). In addition, the petitioner's allegation of a "particular market situation" is untimely, as the deadline for making such an allegation expired on January 14, 2004. See 19 CFR 351.301(d)(1). Accordingly, we find no reason to disregard Taiwan as a third-country market.

[2]Hulett cites to its March 10, 2004 submission in which it argued that the Department does not penalize respondents for exchange rate losses associated with their sales, consistent with The Torrington Co., v. United States 832 F. Supp. 379, 392 (CIT 1993) (Torrington) and Certain Fresh Cut Flowers From Colombia, 56 FR 32169, 32171 (July 15, 1991) (Flowers).

We also disagree with the petitioner's proposal to divide the POI into monthly segments. In certain instances, the Department may use a shorter period than the whole POI to determine weighted-average normal values in order to prevent distortions in the calculation of the weighted-average margin. These instances include situations where there is significant inflation in the comparison market during the POI and there is a pattern of significant price differences during the POI (see Rubber Thread). In this case, however, both prices (denominated in U.S. dollars) and costs (denominated in South African rand), as verified by the Department, remained stable over the POI, thereby obviating the need to consider shorter-than-POI price averaging periods.

Furthermore, breaking the POI into monthly periods to better compare U.S. dollar prices to U.S. dollar prices does not in any way account for any changes to the U.S. dollar/rand exchange rate because those prices are not affected by changes in the exchange rate. In addition, the petitioner's citation of Rubber Thread is inapposite because, unlike the current investigation, that case involved different currencies and prices differed significantly over the POI. In the instant case, as discussed above, all sales are denominated in U.S. dollars and prices to Taiwan and the United States did not differ significantly over the POI.

Finally, with respect to the petitioner's argument that the Department should index actual sales prices, there is no mandate for the Department to make an adjustment to address how the value of the dollars received for sales have changed vis-a-vis the producer's domestic currency. Such adjustment would merely represent another methodology for adding exchange rate gains and losses to actual sales prices, which is contrary to the statute and previously rejected by the Department. See Torrington and Flowers.

Accordingly, for purposes of the final determination, we find no basis to depart from the Department's standard calculation methodology.

Comment 2: *Offsets for Non-Dumped Comparisons*

In calculating Hulett's overall weighted-average dumping margin for purposes of the preliminary determination, the Department did not use non-dumped comparisons to offset or reduce the dumping found on other comparisons, consistent with the methodology used in other cases.

Hulett argues that this methodology no longer reflects a permissible interpretation of the antidumping statute, and should not be applied in the final determination in this case. Hulett states that the statute neither requires nor precludes the practice; and the Court of International Trade (CIT) has determined, and the Department has acknowledged in recent cases, that the antidumping statute itself is silent on the issue of offsets. According to Hulett, in recent cases, both the CIT and a NAFTA Panel have deferred to the Department's decision not to provide an offset based upon this statutory silence and conclusions that the WTO Antidumping Agreement does not clearly speak to this issue. Hulett points out, however, that the conclusion that the WTO Antidumping Agreement permits this methodology has been a necessary element to these decisions.

In addition, Hulett points out that beginning with Murray v. Charming Betsy, 6 U.S. (2 Cranch) 64, 118 (1804) (Charming Betsy)[3], the Federal Circuit has consistently affirmed that U.S. international trade statutes must be interpreted to be consistent with international obligations, absent contrary indications in the statutory language or its legislative history. Hulett argues that Charming Betsy has been specifically recognized by the Federal Circuit to apply as a principle in interpreting the antidumping/countervailing duty statutes where there has been a definitive WTO Appellate Body decision on the specific issue in a case involving the United States.

Moreover, Hulett asserts that a WTO Panel has now specifically ruled, in a case brought by Canada against the United States, that the U.S. methodology is inconsistent with U.S. international legal obligations under Articles 2.4 and 2.4.2 of the WTO Antidumping Agreement. See United States - Final Dumping Determination on Softwood Lumber from Canada, WR/DS264 (April 12, 2004) at 120-30 (Lumber). Therefore, if this decision is affirmed by the WTO Appellate Body, as a matter of statutory construction under Charming Betsy, Hulett maintains that the methodology used by the Department will no longer reflect a permissible interpretation of the antidumping statute.[4]

Accordingly, for purposes of the final determination, Hulett contends that the Department should compute Hulett's overall, weighted-average dumping margin by providing an offset based on non-dumped comparisons.

The petitioner believes that it would be premature for the Department to change its methodology for calculating an overall weighted-average dumping margin in the final determination in this case. The petitioner argues that the Department's methodology has been upheld by the CIT and was recently upheld by the Court of Appeals for the Federal Circuit.[5] The petitioner maintains that since the courts have determined that the Department's methodology is a reasonable interpretation of U.S. law, the only

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[3]And more recently affirmed in Allegheny Ludlum Corp. v. United States, 367 F.3d 1339, 1348 (Fed. Cir. 2004) (citing Luigi Bormioli Corp. v. United States, 304 F.3d 1362, 1368 (Fed. Cir. 2002)); Fed.-Mogul Corp. v. United States, 63 F.3d 1572, 1581 (Fed. Cir. 1995).

[4]On August 12, 2004, Hulett submitted the decision of the WTO Appellate Body as relevant authority issued subsequent to the submission of Hulett's case brief. The Appellate Body issued its decision on August 11, 2004, finding that the U.S. methodology for calculating the weighted-average dumping margin in the softwood lumber investigation was inconsistent with the WTO Antidumping Agreement.

[5]Serampore Industries PVT. LTD. v. United States, 675 F. Supp. 1354 (CIT 1987); Bowe Passat Reinigungs-UND Waschereitechnik GmbH v. United States (CIT 1996); Timken Company v. United States, 240 F. Supp 2d 1228 (CIT 2002), affd. 354 F.3rd 1334 (Fed. Cir. 2004); Corus Staal BV v. United States, 259 F. Supp 2d 1253 (CIT) 2003).

question is whether a determination by the WTO Appellate Body in the lumber case that the Department's methodology in that case was inconsistent with the Antidumping Agreement would necessarily obligate the Department to alter its methodology in this case. The petitioner claims that the answer is clearly no, and that the Statement of Administrative Action accompanying the URAA states "[n]either federal agencies nor state governments are bound by any finding or recommendation included in [WTO panel or Appellate Body] reports."[6] Moreover, the petitioner submits that section 129 of the URAA provides that review and consultation regarding changes must be completed. Accordingly, the petitioner believes that the Department would be in violation of Section 129 of the URAA if it changed its methodology in the final determination of this case.

Department's Position:

We disagree with Hulett and have not changed our calculation of the weighted-average dumping margin for the final determination. Specifically, we made model-specific comparisons of weighted-average export prices with weighted average normal values of comparable merchandise. Section 773(a) of the Act; see also section 777A (d)(1)(A)(I) of the Act. We then combined the dumping margins found based upon these comparisons, without permitting non-dumped comparisons to reduce the dumping margins found on distinct models of subject merchandise, in order to calculate the weighted-average dumping margin. See section 771(35)(A) and (B) of the Act. This methodology has been upheld by the CIT in Corus Engineering Steels, Ltd. v. United States, Slip Op. 03-110 at 18 (CIT August 27, 2003); Bowe Passat Reiningungs-und Waschereitcechnik GmbH v. United States, 240 F.Supp. 2d 1228 (CIT 2002). Furthermore, in the context of an administrative review, the Federal Circuit has affirmed the Department's statutory interpretation which underlies this methodology as reasonable. See Timken Co. v. United States, 354 F. 3d 1334 (Fed. Cir. 2004).

Hulett asserts that the WTO Appellate Body ruling in Lumber renders the Department's interpretation of the statute inconsistent with its international obligations and, therefore, unreasonable. However, in implementing the Uruguay Round Agreements Act, Congress made clear that reports issued by WTO panels or the Appellate Body "will not have any power to change U.S. law or order such a change." SAA at 660. The SAA emphasizes that "panel reports do not provide legal authority for federal agencies to change their regulations or procedures . . . " Id. To the contrary, Congress has adopted an explicit statutory scheme for addressing the implementation of WTO dispute settlement reports. See 19 U.S.C. 3538. As is clear from the discretionary nature of that scheme, Congress did not intend for WTO dispute settlement reports to automatically trump the exercise of the Department's discretion in applying the statute. See, 19 U.S.C. 3538(b)(4) (implementation of WTO reports is discretionary); see also, SAA at 354 ("After considering the views of the Committees and the agencies, the Trade Representative **may** require the agencies to make a new determination that is "not inconsistent" with the panel or Appellate Body recommendations..." (emphasis added)).

[6] H.R. Doc. 103-316 at 1032 (1994).

Comment 3: *SACD Storage Fee*

As discussed in the sales verification report at pages one and ten, Hulett did not include the SACD storage fee in the reported movement expenses for either U.S. or third-country sales. See Sales Verification Report.

The petitioner argues that the Department should use facts available for this expense since Hulett did not provide a revised sales database including this sales adjustment, nor did it provide an explanation of how to apply these daily charges to the existing sales database. The petitioner suggests several alternatives for partial facts available: (1) calculate the maximum number of days reported among all line items in Sales Verification Report Exhibit 20, apply the daily rate to this number of days, and adjust all U.S. sales transactions accordingly; (2) use the same methodology as in (1) above except use the average number of days reported in Sales Verification Exhibit 20; or (3) calculate annual storage costs and divide this amount by the total gross value of all export shipments of subject merchandise (to all destinations) to calculate a per-USD storage charge, and then apply this figure to each U.S. sales transaction. Finally, the petitioner contends that since Hulett did not demonstrate equivalency between U.S. and Taiwan exports on this matter, these partial facts available adjustments should be made to U.S. sales only.

Hulett maintains that it is not necessary for the Department to calculate the SACD storage fees based on facts available, as suggested by the petitioner, because the adjustment for this charge can be made based on verified data on the record. Hulett states that it inadvertently overlooked this charge when compiling its database because the fee is separately charged and because it is insignificant in amount.

Hulett states that the Department can compute the SACD storage fee applicable to each sale by using the data in Field 39.3 in the Taiwan database and Field 50.3 in the U.S. database, because those fields contain for each sale the number of days that the subject merchandise for that sale is held in storage prior to shipment to the United States and Taiwan, and by applying the applicable storage fee charge to the number of days the merchandise remained in storage in excess of the normal allotted time. Should the Department decide to make this adjustment, Hulett argues that it should be made for both the U.S. and Taiwan sales databases as the charge is applicable to sales to both markets.

Department's Position:

We have included the SACD storage fee in the reported movement expenses for both U.S. and third-country sales using the methodology suggested by Hulett, as verified by the Department. See Sales Calculation Memorandum.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions and adjusting all related margin calculations accordingly. If these recommendations are accepted, we will publish the final determination in the Federal Register.

Agree ______ Disagree ______

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Jeffrey May
Acting Assistant Secretary
for Import Administration

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(Date)