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June 23, 2008

Honorable Carlos M. Gutierrez
Secretary of Commerce
U.S. Department of Commerce
Central Records Unit, Room 1870
Pennsylvania Ave. and 14th St., N.W.
Washington, DC 20230

Total pages: 2

Re: Comments in Response to Federal Register Notice, *Antidumping Methodologies for Proceedings that Involve Significant Cost Changes Throughout the Period of Investigation (POI)/Period of Review (POR) that May Require Using Shorter Cost Averaging Periods* (“*Shorter Cost Averaging Periods Comment Request*”), 73 Fed. Reg. 26364 (May 9, 2008)

Attn: Import Administration, APO/Dockets Unit, Room 1870
cc: Mr. Neal M. Halper, Director, Office of Accounting
Ms. Taija A. Slaughter, Lead Accountant, Office of Accounting

Dear Secretary Gutierrez:

The Law Offices of Stewart and Stewart are responding to the U.S. Department of Commerce’s request for comments on proposals for addressing significant cost changes throughout a period of investigation (POI) or period of review (POR) in antidumping duty proceedings.

We strongly support the Department’s continued use of single weight-averaged costs of productions for each antidumping duty proceeding and stated intention to “deviate from this practice only under limited circumstances.” *Shorter Cost Averaging Periods Comment Request*, 73 Fed. Reg. at 26366. As the Department also noted, “an annual average cost tends to smooth out . . . short-term per-unit cost fluctuations resulting in a normalized average production cost to be compared to sales prices over the same extended period of time.” *Id.*, 73 Fed. Reg. at 26365.

At the same time, we also support the use of shorter periods for cost calculation when the facts of particular cases demonstrate that such cost would produce more accurate results. Yet, it is not clear to us that the development of specific numeric standards for use across cases would be useful at this time. As the determinations cited by the Department in its notice indicate, the decision to use or not use shorter periods for computing costs is very much driven by the facts of the individual cases. For example, in the review of brass sheet and strip from the Netherlands, the Department chose to use shorter periods based on the specific facts in the case: (1) the costs of copper and zinc were treated as pass-through items when sold to customers, (2) those metals accounted for a significant percentage of the total cost of the products, and (3) the cost of the metals dropped consistently and significantly throughout the POR. *Brass Sheet and Strip from the Netherlands*, 65 Fed. Reg. 742, 748 (Jan. 6, 2000).

In our view, rather than establish specific thresholds and/or numeric tests for use in determining whether or not to use shorter periods, the Department should continue with its current practice of requiring average costs as its normal practice while being open to change in particular cases where the facts demonstrate that shorter periods will produce a more accurate result.

Thank you for your consideration of these comments.

Respectfully submitted,

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