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February 3, 2003

MEMORANDUM TO: Faryar Shirzad
Assistant Secretary
for Import Administration

FROM: Joseph A. Spetrini
Deputy Assistant Secretary
for Import Administration, Group III

SUBJECT: Issues and Decision Memorandum for the Administrative Review of Stainless Steel Sheet and Strip in Coils From the Republic of Korea for the Period of Review - July 1, 2000 through June 30, 2001

SUMMARY:

We have analyzed the case and rebuttal briefs of interested parties in the 2000-2001 administrative review of the antidumping duty order of stainless steel sheet and strip in coils from the Republic of Korea. As a result of our analysis, we have made changes from the Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review for Stainless Steel Sheet and Strip in Coils From the Republic of Korea, 67 FR 51216 (August 7, 2002) ("Preliminary Results"). The specific calculation changes for Pohang Iron & Steel Co., Ltd. ("POSCO") can be found in Analysis for the Final Results of Review of Stainless Steel Sheet and Strip from the Republic of Korea: Pohang Iron & Steel Co., Ltd. ("POSCO Final Analysis Memorandum"), February 3, 2001. The specific calculation changes for Daiyang Metal Co., Ltd. ("DMC") and Ocean Metal Corporation ("OMC"), its wholly-owned subsidiary in the United States, can be found in Analysis for the Final Results of Review of Stainless Steel Sheet and Strip from the Republic of Korea: Daiyang Metal Co., Ltd. ("DMC Final Analysis Memorandum"), February 3, 2001.

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 comment and rebuttal briefs by interested parties.

Background

On August 7, 2002, the Department of Commerce ("the Department") published the preliminary results and partial rescission of the antidumping duty order on stainless steel sheet and strip in coils ("SSSS") from the Republic of Korea. See Preliminary Results. The merchandise covered by this order is stainless steel sheet and strip in coils as described in the "Scope of the Review" section of the Federal Register notice. The period of review ("POR") is July 1, 2000 through June 30, 2001. We invited interested parties to comment on our Preliminary Results. We received case briefs on September 6, 2002 from the petitioners, POSCO and DMC. We received rebuttal briefs on September 16, 2002, from the petitioners, POSCO and DMC.

A. Issues with Respect to POSCO

Comment 1: Indirect Selling Expense ("ISE") Ratio in the United States
Comment 2: Imputed Credit Offset to Pohang Steel America's ("POSAM") Interest Expense Incurred in the United States
Comment 3: Major Inputs From Affiliated Parties
Comment 4: Housing Expenses in the United States
Comment 5: Loss on Valuation of Inventory
Comment 6: Short-term Financial Income Earned on Monetary Instruments
Comment 7: Reversal of an Allowance for Bad Debt
Comment 8: Unrealized Income Derived from Long-Term Trade Receivables
Comment 9: Constructed Export Price ("CEP") Offset on CEP Sales
Comment 10: Ministerial Errors in the Merging of the Cost Files
Comment 11: Ministerial Error in the Calculation of L-Grade Adjustment

B. Issues with Respect to DMC

Comment 12: Adjustment for DMC's Net Financial Expenses Ratio in the Home Market
Comment 13: OMC's Interest Expense Offset with Imputed Credit Expenses in the United States
Comment 14: Deduction of Billing Adjustments from OMC's Gross Unit Price
Comment 15: Inclusion of All Home Market Sales in the CEP Profit Calculation

I. Changes Since the Preliminary Results of Review

Based on our analysis of comments received, we made changes in the margin calculation for POSCO and DMC. The changes are listed below:

POSCO

- We revised the calculation of ISEs in the United States to include housing income. See Comment 4.

- We reclassified POSCO's income and loss with respect to money market funds as financing expenses and used the short-term income earned on monetary instruments to offset interest expense for the final results of review. See Comment 6.

- We revised our calculation of general and administrative ("G&A") expenses to associate POSCO's reversal of bad debt to both export and domestic sales. See Comment 7.

- We revised the computer program to merge COP and constructed value ("CV") files in the initial phases of the cost calculation in order to prepare data for those models sold exclusively in the United States for the assignation of the revised variable cost of manufacturing ("VCOM") or total cost of manufacturing ("TCOM"). See Comment 10.

- We revised the computer program to apply the L-grade adjustment to the variable cost of manufacturing ("VCOM") and total cost of manufacturing ("TCOM") used in determining the difference-in-merchandise adjustment for sales to the United States. See Comment 11.

DMC

- We recalculated DMC's net interest expense in the home market using the actual amount of short-term interest income as an offset to interest expense. See Comment 12.

- We revised our calculation of ISE in the U.S. market to offset OMC's interest expense by the imputed credit reported in the sales database. See Comment 13.

- We revised the calculation of net price in the United States to eliminate the double counting of billing adjustments. See Comment 14.

II. DISCUSSION OF THE ISSUES

A. ISSUES WITH RESPECT TO POSCO

Comment 1: ISE in the United States

Petitioners claim that the Department must recalculate POSAM's ISE ratio by using a sales denominator that reflects the actual revenue reported on POSAM's audited financial statements. Petitioners asserted that POSCO calculated the U.S. ISE ratio by dividing total selling expenses by gross revenue rather than the actual revenue recorded on POSAM's audited financial statements. Petitioners contend that the sales figure used in the Department's dumping margin calculations must reflect the sales value recorded on POSAM's audited financial statements and be consistent with Generally Accepted Accounting Principals ("GAAP") in the United States, citing the following administrative precedents: Elemental Sulphur from Canada: Final Results of Antidumping Duty Administrative Review, 64 FR 37737 (July 13, 2002); Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon from Chile, 63 FR 31411 (June 9, 1998); and Certain Cut-to-Length Carbon Steel Plate From Sweden: Final Results of Antidumping Administrative Review, 62 FR 18396 (April 15, 1997).

Petitioners further contend that the Department's stated reason for using gross sales in the denominator (that the ratio would be applied to gross unit price), reflects a misunderstanding of the issue. Rather, petitioners argue that the ratio calculated using POSAM's revenue-producing activities, as recorded on POSAM's audited financial statements, is calculated on the same basis as the gross unit price. Therefore, petitioners argue that the Department should recalculate POSCO's per-unit ISE ratio using the GAAP-consistent total sales value recorded on POSAM's income statement in the denominator.

POSCO contends that its U.S. ISE ratio was correctly calculated. POSCO argues that the Department had previously agreed that any factor, such as the ISE ratio, that is applied to gross unit price must be calculated on the same basis as the total sales value derived from gross unit price found in the unconsolidated financial statements. See, e.g., Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea, 67 FR 11976 (March 18, 2002) and accompanying Issues and Decision Memorandum at Comment 3 ("CORE"); Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews, 63 FR 2558, 2568 (January, 15 1998); and Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components thereof, Whether Assembled or Unassembled from Japan, 61 FR 38139 (July 23, 1996) at Comment 1; Structural Steel Beams from Luxembourg, 67 FR35488 (May 20, 2002) and accompanying Issues and Decision Memorandum at Comment 6. POSCO claims that the Department verified that the

majority of POSAM's ISEs are comprised of common expenses, which, according to POSCO, implies that the ISEs could not be segregated by product.

POSCO alleges that it would be inappropriate to include POSAM's indirect selling and interest expense associated with sales to UPI (and other affiliates) in the numerator and to exclude the revenue associated with those sales in the denominator. POSCO argues that POSAM does sell a specific product to its affiliate (*i.e.*, UPI) indicated by the fact that over half of POSAM's accounts receivables pertain to sales of hot-rolled coil to UPI. POSCO further contends that the related change in the GAAP did not alter POSAM's role in sales to UPI or reduce the selling, management, sales and price activities during the POR with respect to UPI.

Department's Position:

The Department agrees with POSCO that we should use the gross sales figure reported on POSAM's internal income statements in the denominator of its U.S. ISE ratio, rather than the lower sales value reported on its audited income statement, as we did in the investigation and the first administrative review of this order. See Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From the Republic of Korea, 64 FR 30664, 30676 (June 8, 1999)) ("SSSS Final Determination") at Comment 3; and Stainless Steel Sheet and Strip in Coils From the Republic of Korea; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 64950 (December 17, 2001) and accompanying Issues and Decision Memorandum at Comment 1. After discussions with company officials at POSCO, and an examination of POSAM's financial statements, the Department has determined that because a majority of POSAM's interest expense and selling costs incurred during the POR was associated with sales to UPI, we will not use the net sales figure reported on POSAM's financial statement for our dumping analysis. The exclusion of the gross sales amount from the denominator of the ISE calculation would result in a mis-allocation of expenses, and thus an inaccurate reflection of POSAM's total sales value. In particular, we note that the numerator of the ISE ratio is based on all expenses reported in POSAM's books and records (prepared in the normal course of business) incurred in connection with the gross sales value. Accepting petitioners' argument would result in a disparity between the expenses used in the numerator and the value of sales in the denominator upon which those expenses were incurred.

While we acknowledge that the net sales value is consistent with POSAM's normal books and records, prepared in accordance with its home country GAAP, we disagree that using the net sales valued to allocated the U.S. indirect selling costs results in an allocation that reasonably reflects the costs associated with sales of the subject merchandise.

Accordingly, we agree with POSCO that the inclusion of the net sales value as reported on POSAM's financial statements would inaccurately inflate POSCO's ISE factor and margin. As a

result, we believe the gross sales value POSAM reported during the POI more accurately reflects its sales revenue. However, in future questionnaires, we will re-examine the allocation and breakdown of ISEs in greater detail. Therefore, for the final results of this review, we are including POSAM's total sales value in the denominator of the ISE calculation and are making no changes to our calculation.

Comment 2: Imputed Credit Offset to Pohang Steel America's ("POSAM") Interest Expense Incurred in the United States

Petitioners argue that the Department should not offset POSAM's interest expense with imputed credit in the calculation of U.S. ISEs. Petitioners contend that in recent cases the Department has agreed with POSCO that double counting occurs in the calculation of ISEs in the U.S. market if interest expense incurred in the United States are not offset with imputed credit. See CORE. Imputed credit expense, petitioners contend, represents a circumstance-of-sale adjustment that cannot be characterized as dependent on a U.S. affiliate's expenses. Petitioners allege that U.S. affiliates, such as POSAM, often negotiate price and payment terms, which generate sufficient imputed credit to offset total actual interest expenses. Accordingly, petitioners argue that POSCO's use of imputed credit as an offset to interest understates U.S. ISEs in the margin calculations. Furthermore, petitioners argue that the effect of a policy allowing the offset creates an incentive for POSAM to manipulate its sales price and credit terms to its customers so that it can generate sufficient credit expenses to offset its actual interest expenses. Finally, petitioners argue that if the Department continues to offset actual interest expenses with imputed credit expenses in the calculation of the ISEs, the Department should allocate interest expense to the subject merchandise based on the actual sales value reflected on POSAM's consolidated financial statement as argued in Comment 1 above.

POSCO contends that the Department's practice of offsetting actual interest expense with imputed credit and inventory carrying costs has been in place for years and ensures that the company's interest costs are not double counted. POSCO maintains (based on Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea, 66 FR 3540 (January 16, 2001) ("Flat Rolled")) that interest expense and imputed credit expense are directly related to each other. Consequently, double counting would occur without offsetting interest expense by imputed credit expense. POSCO argues that the imputed credit offset cannot be disallowed because the Department verified that POSAM's sales incurred a finite amount of interest during the POR. Thus, POSCO asserts that these interest expenses represent the actual interest expenses associated with borrowing to finance accounts receivable or working capital. Finally, POSCO contends that it did not manipulate prices and credit terms since no company would allow a customer extended credit terms to manipulate a dumping calculation in a dumping case that may or may not occur. Finally, POSAM argues that the Department should not use the

net sales figure from the consolidated financial statements in the denominator of the interest calculations for the same reasons stated in Comment 1 above.

Department's Position:

We agree with POSCO that, for CEP sales, it is the Department's practice to offset the interest expenses incurred by the affiliated party in the United States with imputed credit expenses calculated from the U.S. sales database. See Flat Rolled and accompanying Issues and Decision Memorandum at Comment 1; Pohang Iron and Steel Co., Ltd. et al v. United States, 118 F. Supp. 2d 1328 (Ct. Int'l Trade October 13, 2000). Also, we agree, as stated in Comment 1 of this memorandum, that we should continue to use POSAM's unconsolidated financial statements rather than its consolidated financial statements as the source of the sales value used in the denominator of the ISE calculation.

Additionally, we agree that POSCO did not manipulate its sales prices and/or credit terms on subject merchandise sales. We have no evidence, nor did petitioners submit any, that POSAM manipulated its sales prices and/or credit terms to increase its imputed credit expense to generate a higher offset to its actual interest expenses. Therefore, we have made no changes to our calculations for the final results of review.

Comment 3: Major Inputs from Affiliated Parties

Petitioners argue that the Department should take into account the price of utility nickel obtained from affiliated parties and use the higher of the COP, transfer price, or market price in valuing utility nickel from affiliated parties in determining the COP.

POSCO asserts that the Department properly accepted the reported price for utility nickel. POSCO contends that at verification it demonstrated that the cost of producing the input was less than the purchase price. Further, POSCO argues that the verified nickel prices were based on a reliable market source. In addition, POSCO notes that it provided evidence of its affiliated supplier's price to other unaffiliated customers. POSCO argues that the difference in price that the affiliated supplier offered to POSCO and to other unaffiliated customers results from differences in the terms of sale. Specifically, POSCO contends that it obtained quantity discounts from its affiliated supplier since POSCO relies on this supplier for the majority of its utility nickel purchases, and therefore, POSCO purchases large quantities. Therefore, POSCO argues that the Department should calculate the cost of utility nickel as it did in the preliminary results of review.

Department's Position:

We agree with POSCO. At verification, we examined POSCO's analysis of the major inputs purchased from its affiliated suppliers of utility nickel. See page 14 of the Sales and Cost Verification of Pohang Iron and Steel Corporation ("POSCO") in the Antidumping Administrative Review of Certain Stainless Steel Sheet and Strip in Coils from Korea ("POSCO Verification Report") We traced the total value of material purchases to a complete list of purchases by vendor. See pages 2 to 5 of verification exhibit 12A. We traced selected purchases of utility nickel in the month of May 2001 to proof of payment. See verification exhibit 12A. We compared the price of utility nickel that one supplier offered to an unaffiliated purchaser with the price it offered to POSCO on the same day in May 2001. See verification exhibit 12A. We found a difference between the price that POSCO obtained nickel from its affiliated suppliers and the price that the affiliated supplier offered to third parties, and noted that the difference was small. See POSCO Verification Report at 14. However, after analyzing the differences in prices between those offered to POSCO and unaffiliated parties, we have determined that any adjustment for those differences would have no significant impact on the cost of production. See POSCO's Final Analysis Memorandum; see also Stainless Steel Bar from Germany, 67 FR 3159 (January 23, 2002) and accompanying Issues and Decision Memorandum at Comment 10. Therefore, we are making no changes to our calculations in the final results of review.

Petitioners did not comment on this issue.

Comment 4: Housing Expenses in the United States

POSCO contends that in the preliminary results of review, the Department overstated the U.S. ISE ratio by including housing expenses in the numerator of the ratio, but not the housing income. POSCO argues that it had eliminated both housing expenses and housing income from the total amount of ISEs reported in the questionnaire response contending that both amounts were unrelated to the sales or production of the subject merchandise. POSCO notes that in the original investigation, the Department included net housing expenses (housing expenses less housing income) incurred for employees in the United States in the in the U.S. ISE ratio. See SSSS Final Determination at 30670. Therefore, POSCO contends that the Department should either exclude both housing income and expenses from its calculation, or, should include only net housing expenses in the calculation of the U.S. ISE ratio.

Department's Position:

We agree with POSCO that all housing income and expenses incurred in the United States should be included in the calculation of POSAM's ISEs. Therefore, for the final results of review,

we have revised the calculation of the U.S. ISE ratio to include housing income, as we did in SSSS Final Determination. See POSCO's Final Analysis Memorandum.

Comment 5: Loss on Valuation of Inventory

POSCO argues that the loss on the valuation of inventory reported in non-operating expenses should be excluded from the G&A calculation because it is unrelated to the production of the subject merchandise. POSCO explained that it recorded the loss in its inventory ledger for Kwangyang Works, which does not produce the subject merchandise.

Petitioners disagree that POSCO's loss on the valuation of inventory should be excluded from the calculation of G&A. Petitioners argue that excluding the loss on the valuation of inventory would exclude expenses which pertain to non-subject merchandise from the numerator and simultaneously include sales of non-subject merchandise in the denominator, thereby distorting the calculation.

Department's Position:

We agree with petitioners that the numerator and denominator in the calculation of the G&A ratio should include the expenses and the sales value for subject and non-subject merchandise. Therefore, excluding expenses for non-subject merchandise from the numerator but including sales of non-subject merchandise in the denominator would distort the results of the calculation. As a result, we have made no change to our calculations for the final results of review.

Comment 6: Short-Term Financial Income Earned on Monetary Instruments

POSCO disagrees with the Department's exclusion of short-term financial income earned on monetary instruments from the calculation of G&A expenses in the preliminary results of review. POSCO argues that these gains represent interest income on money market funds, which its auditors classified as G&A expenses rather than financial expenses, since this income (and loss) relates to the general activity of the company. POSCO notes that the Department has allowed respondents to reduce interest expenses by this income. See Final Determination of Sales at Less than Fair Value: Stainless Steel Bar from Korea, 67 FR 3149 (January 23, 2002) ("Stainless Steel Bar") and accompanying Issues and Decision Memorandum at Comment 8; Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from India, 63 FR 72246, 72252 (December 31, 1998) at Comment 4 ("Mushrooms from India"). Therefore, POSCO argues that the Department should include POSCO's short-term income and losses, whether classified as G&A or financial expense, in the calculation of COP for the final results of review.

Petitioners contend that the Department properly excluded financial income earned on monetary instruments and argue that gains related to marketable securities should not be treated as an offset to G&A or interest expense. Petitioners argue that although short-term interest income may be allowed as an offset to financial expenses, the offset does not pertain to POSCO's gains on marketable securities, which imply earnings based on investment activity. Petitioners contend that Mushrooms from India established that the Department does not allow gains from investment activities to be used as an offset to financial expenses. Therefore, petitioners argue that the Department must continue to reject this investment related income as an offset to financial expense.

Department's Position:

We agree with POSCO. When determining what is appropriate to include or exclude from the G&A or interest expense calculation, the Department examines the nature of the activity and the relationship between this activity and the operation of the company. Under Korean GAAP, certain short-term investments (e.g., money market funds) are classified as current marketable securities on the financial statements and generate short-term interest income. Generally, these items are classified as cash and cash equivalents on the financial statements under U.S. GAAP. At verification, we saw that the items at issue represent money market funds and that the income generated was short-term interest income. In Stainless Steel Bar, and Cold Rolled, the Department disallowed short-term gains on marketable securities in the G&A calculation and stated that it is the Department's practice to offset financial expenses with short-term interest income at the highest level of consolidation. See also Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy, 67 FR 3155 (January 23, 2002), Issues and Decision Memorandum, comment 22; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Finding, 61 FR 57629 (November 7, 1996), at Comment 24. Therefore, we have reclassified POSCO's income and loss with respect to money market funds as financing expenses and used the short-term income earned on monetary instruments to offset interest expense for the final results of review. See POSCO's Final Analysis Memorandum.

Comment 7: Reversal of an Allowance for Bad Debt

POSCO contends that the Department erred in attributing the reversal of an allowance for bad debt solely to export sales, since it applies to both export and domestic sales. POSCO claims that it believes that the Department intended to allocate the reversal between domestic and export sales, as evidenced by the format chosen for the calculations in Appendix IV of the Department's preliminary analysis memorandum.

POSCO further notes that the Department reclassified the reversal of an allowance for bad debt from G&A expenses to ISE. POSCO explains that it does not object to this reclassification of the reversal for bad debt, if the allowance amount is attributed to both domestic and export sales.

Petitioners did not comment on this issue.

Department's Position:

We agree with POSCO. It was our intention to allocate the reversal for bad debt between export and domestic sales. Therefore, we have modified our calculations accordingly. In addition, we are making no changes to our reclassification of the reversal of the allowance for bad debt from G&A to ISE, since the allowance for bad debt, and any subsequent reversals, pertain to sales rather than the general expenses of the company. See POSCO's Final Analysis Memorandum.

Comment 8: Unrealized Income Derived from Long-Term Trade Receivables

POSCO claims that the Department should not exclude unrealized income derived from long-term trade receivables from the calculation of short-term interest income. POSCO argues that this income relates to a sale for which the customer is paying for its merchandise in installments over an extended period of time. POSCO explains that it classified the unrealized income derived from long-term trade receivables as short-term interest income because it represents the amortized portion of the difference between the nominal value of a sale and the present value of the sale (determined by discounting the receivable at an effective interest rate).

POSCO further claims that the Department overstated the total amount of miscellaneous income derived from long-term trade receivables because it included the total amount of the miscellaneous income rather than just the portion derived from the long-term trade receivable in its calculations.

Petitioners disagree that the unrealized interest income derived from long-term trade receivables requires an offset to financial expense. Petitioners claim that page B-19 of the Department's questionnaire indicates that the standard method of accounting for such income involves a price adjustment. As a result, petitioners contend that the Department should not adjust the financial expense ratio for items considered to be price adjustments.

Petitioners also contend that the Department properly excluded the miscellaneous interest income from its calculation of G&A expenses since the reported miscellaneous income represents long-term, rather than short-term, interest income. Petitioners contend that the Department's standard practice allows an offset for financial expenses only when the interest income can be

classified as short-term interest income. See Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from Taiwan, 65 FR 16877 (March 30, 2000).

Department's Position:

We agree with petitioners that the unrealized income derived from long-term trade receivables should not be included in the short-term interest income used to offset financial expense. POSCO explained that this income results from certain sales which had lengthy payment terms. As a result, POSCO recorded the difference between the actual invoice price of the merchandise and the net present value of the merchandise at the expected time of payment in the future. POSCO explained that it then amortized this difference over the period for which payment was delayed, and included the amortized amount for fiscal year 2000 in the short-term interest income used to offset interest expenses. We found at verification that no payments had been made in these transactions. See POSCO Verification Report at page 27. As a result, we will not offset financial expenses by the amount of unrealized income derived from long-term trade receivables, since POSCO did not realize any income from these transactions.

However, we disagree with petitioners that this income should be treated as a price adjustment. Appendix I of the Department's August 29, 2001 questionnaire defines price adjustments as "any change in the price charged for subject merchandise or the foreign like product that is reflected in the purchaser's net outlay." Since no money has changed hands, we have no knowledge of what the final payment, if any, will be. Therefore, there can be no price adjustment. As a result, we have made no change to our margin calculations for the final results of review.

Finally, we disagree with POSCO that we overstated the total amount of miscellaneous income derived from long-term trade receivables by including the total amount of the miscellaneous income rather than just the portion derived from the long-term trade receivable in the calculations. An examination of the line items included in POSCO's proposed short-term interest offset reveals that none of the line items qualifies as a short-term interest offset to interest income in the calculation of COP. Two categories of income relate to delayed payments of their customers, and are otherwise accounted for as an adjustment to gross unit price in the sales response. See pages 5 and 13 of verification exhibit 25A, and page 1 of verification exhibit 25C and POSCO Final Analysis Memorandum. Therefore, for the final results of review, we have made no changes to our calculation of interest expense in the calculation of COP.

Comment 9: CEP Offset on U.S. CEP Sales

POSCO claims that it qualifies for a CEP offset. Although the Department found that POSCO's home market and U.S. sales were made at the same level of trade ("LOT") in the

preliminary results of review, POSCO claims that the record demonstrates that the normal value ("NV") is at a more advanced LOT than the CEP. Consequently, POSCO argues that it is entitled to a CEP offset.

POSCO claims that it is entitled to a CEP offset because POSCO's selling functions differ from those of its U.S. subsidiary, POSAM. POSCO claims that its home market selling functions include negotiating prices, invoicing the customer, handling inland freight, and receiving payment from customers. In the U.S. market, POSCO explains that its affiliate POSAM performs several exclusive functions such as: negotiating sales terms, invoicing customers, handling import documentation, arranging and paying for marine insurance, serving as importer of record, paying U.S. brokerage and handling, and receiving payment from customers. POSCO contends that the same factual basis applies to this case as an earlier determination by the Department where different levels of trade in the home and U.S. markets resulted in a CEP offset in favor of POSCO. See Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Korea, 67 FR 31225, 31230 (May 9, 2002). POSCO claims that it does not qualify for a LOT adjustment since its sales in the home market are not on the same LOT as the CEP sales. Accordingly, POSCO argues that the Department should grant a CEP offset for POSCO's CEP sales in the final results of review.

Petitioners contend that POSCO does not qualify for a CEP offset. Petitioners allege that POSCO's activities in its home market do not vary from its activities in its export market where POSCO, petitioners allege, carries out the same functions in selling to POSAM as it does in its home market. Taking into consideration the assumption that sales by POSAM are at a more advanced LOT than sales to POSAM, petitioners further contend that there is no difference between POSCO's activities in either its home market or export market. Consequently, Petitioners maintain that the Department must continue to find that sales to POSAM are not at a different LOT and that no CEP adjustment is necessary or appropriate.

Department's Position:

We disagree with POSCO that it qualifies for a CEP offset. First, there is no record evidence that POSCO's selling functions differ between the home market and the U.S. market. Second, the facts in the Cold-Rolled case cited by POSCO are distinguishable. In that case, Department explained that POSAM negotiated sales terms and performed market research for its sales in the United States. See Cold-Rolled Preliminary at 31229. In contrast, exhibit 6 of POSCO's October 3, 2001 section A response, explains that POSCO negotiates prices for sales to the United States and that POSAM was not involved in price negotiation. Because there is no record evidence that POSCO performs different selling functions in the home market versus the

U.S. market, we determine that a LOT adjustment or a CEP offset is not warranted and we are making no changes to our calculations for the final results of review.

Comment 10: Ministerial Errors in the Merging of the Cost Files

POSCO claims that the Department erred in merging the cost files for purposes of the model match program by bringing in only COP and not both the COP and CV file in the initial phases of the calculation. As a result, POSCO claims that the Department's COP program failed to assign a variable cost of manufacturing ("VCOM") or total cost of manufacturing ("TCOM") to those models which were sold exclusively in the United States. Consequently, POSCO explains that certain U.S. sales erroneously failed to find a NV match in the home market.

Petitioners did not comment on this issue.

Department's Position:

We agree with POSCO that this adjustment was made erroneously in the model match program, and we have corrected the error.

Comment 11: Ministerial Error in the Calculation of the L-Grade Adjustment

POSCO claims that the Department erred in making adjustments to the variable cost of manufacturing ("VCOM") and the total cost of manufacturing ("TCOM") in applying the L-grade adjustment for products sold exclusively in the U.S. market. POSCO explains that the Department made an adjustment for all U.S. and home market models in the context of the calculation of COP. As a result, it failed to apply the L-grade adjustment to models sold in the United States. Consequently, those U.S. products that had no variable VCOM for TCOM failed to find a match in the home market in accordance with the Department's model match criteria. POSCO contends that the error can be corrected by inserting the same language in the CV file that the Department used in Part 3 of the model match program for COP.

Petitioners did not comment on this issue.

Department's Position:

We agree with POSCO that we erroneously failed to apply the L-grade adjustment information to those models that were produced in Korea and sold exclusively in the United States and third countries. As a result, the VCOM and TCOM for certain U.S. sales was set to zero, and certain sales failed to find the most similar match within the window period. Therefore, we will

revise our calculations in the final results of review to appropriately apply the L-grade adjustment to the products sold in the United States. See POSCO's Final Analysis Memorandum.

B. ISSUES WITH RESPECT TO DMC

Comment 12: Adjustment for DMC's Net Financial Expenses Ratio in the Home Market

Petitioners argue that the Department should not accept DMC's net financing expense ratio. Petitioners contend that DMC did not properly segregate its short-term and long-term interest.

Petitioners claim that DMC erroneously calculated the ratio using the actual amount of deposits on December 31, 2001, which petitioners claimed as the last day of DMC's fiscal year. Petitioners contend that this methodology ignores the fact that the ratio changes over time and that the actual interest expense for the period is based upon any number of transactions with differing principal amounts, interest rates and terms. Petitioners contend that the ratio of short-term to long-term deposits as of December 31, 2001, may be different from that of the weighted-average amounts over the entire period.

Additionally, petitioners state that DMC's approach ignores the fact that short-term interest rates are always lower than long-term interest rates as demonstrated in Daiyang Metal Co., Ltd. Home Market Sales, United States Sales, and Cost of Production Verification Report; Antidumping Administrative Review on Stainless Steel Sheet and Strip in Coils from Korea, ("DMC Verification Report") dated July 31, 2002, at page 6 of exhibit 52, where the weighted-average interest rate for short-term deposits for the fiscal year ending December 31, 2001, was lower than the long-term deposit rate. Petitioners argue that these findings contradict DMC's statement that the interest rates for both short- and long-term financial instruments were very similar.

Petitioners contend that section 776(e)(a) of the Tariff Act of 1930 ("the Act") urges the Department to resort to facts available in calculating respondent's short-term interest income if the necessary information is not available on the record. However, petitioners state that in the event the Department rejects their suggested methodology, the Department should amend DMC's short-term interest income offset to agree with POR data on the record.

DMC argues that it does not normally segregate its short- and long-term interest income, and therefore, it allocated interest income based on the ratio of short-term and long-term deposits. DMC notes that, at verification, it demonstrated that "interest rates for both short-term and long-term financial instruments were very similar." See DMC Verification Report, verification exhibit 52, page 5. DMC contends that since the interest rates were so similar, the use of a ratio of the short- and long-term instruments was not distortive.

Furthermore, DMC states that it provided the actual interest income received during the cost reporting period, and segregated into its short- and long-term components. See DMC Verification Report, verification exhibit 52, pages 11-17. Therefore, DMC argues that the actual data is on the record and was verified by the Department. DMC further asserts that the actual split between the short- and long-term interest income was virtually identical to the ratio calculated by DMC based on the short- and long-term deposits.

DMC claims that it does not object to the Department's use of the actual split between short- and long-term interest income if it prefers an even more precise calculation. DMC notes that the use of the actual split between short- and long-term interest income would decrease the interest income offset.

Department's Position:

We agree with petitioners that calculating an interest expense ratio based on a given date fails to take into account the actual time period in which interest income is earned. As a result, we recalculated DMC's net interest expense using the actual amount of short-term interest income as an offset to interest expense for the final results of review. See DMC Final Analysis Memorandum.

However, we note that, the end of DMC's fiscal year is December 31, 2001, rather than March 31, 2001, and we have made our calculations accordingly.

Comment 13: OMC's Interest Expense Offset with Imputed Credit Expenses in the United States

Petitioners argue that the Department should disallow OMC's use of imputed credit to offset interest expenses included in the calculation of ISEs in the United States since there is no evidence that OMC's actual borrowing subsidizes its imputed credit cost. Petitioners contend that the Department has recently offset respondents' actual interest expenses with their imputed interest expense on the grounds that including both expenses in the calculation of U.S. ISEs is "double-counting:" See Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From the Republic of Korea, 64 FR 30644, 30699 (June 8, 1999); Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Preliminary Results of Antidumping Duty Administrative Reviews, 64 FR 48767, 48771 (September 8, 1999); and Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews, 64 FR 12927, 12932 (March 16, 1999).

Additionally, petitioners contend the Department's policy of offsetting interest expense with imputed interest expenses provides respondents with an incentive to extend credit terms to its U.S.

customers without making a comparable increase in U.S. price. Thus, petitioners argue that the Department should deny OMC's interest expense offset.

DMC contends that it revised OMC's U.S. interest expenses to add an expense item and to abide by the Department's policy of offsetting interest expenses included in the calculation of ISE selling expenses in the United States by the imputed credit costs associated with subject merchandise. DMC contends that it has been the Department's well-established practice to offset interest expenses by the imputed credit expenses reported on the sales database. See Stainless Steel Plate in Coils from Korea; Final Results of Antidumping Duty Administrative Review, 66 FR 64107 (December 11, 2001) and accompanying Issues and Decision Memorandum at Comment 14 ("Korea SSPC"); Stainless Steel Sheet and Strip in Coils from Korea; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 64950 (December 17, 2001) and accompanying Issues and Decision Memorandum at Comment 13; and Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea; Final Results of Antidumping Duty Administrative Review, 67 FR 11976 (March 18, 2002) and accompanying Issues and Decision Memorandum at Comment 1. DMC states that the reason the Department offsets interest expenses with the imputed credit from the database is to ensure that the company's interest expenses are not double counted.

DMC also claims that respondents have no incentive to manipulate prices and credit terms in order to increase imputed credit expenses and, thus, increase the interest offset for the following reasons: (1) The deduction for credit expenses has a far more direct and significant impact on U.S. price and the dumping margin than does the deduction for financing expenses included in either ISEs or manufacturing costs; (2) It makes no commercial sense that a company would allow its customers not to pay or to extend the terms of payment without a price increase on the basis of an adjustment to antidumping duty margin calculation in an administrative review that may or may not occur; (3) While credit expenses must be imputed for the Department's purposes, actual interest expenses cannot be attributed to individual sales, these credit expenses represent real costs to a company; and, (4) If a respondent loses money in the U.S. market, the respondent's margin increases.

Department's Position:

We agree with DMC. It has been the Department's well-established practice to offset interest expenses by the imputed credit expenses reported on the sales database, in order to avoid double counting imputed credit and interest expenses. See Pohang Iron and Steel Co., Ltd. et al v. United States, 118 F. Supp. 2d 1328 (Ct. Int'l Trade October 13, 2000); Korea SSPC; Stainless Steel Sheet and Strip in Coils from Korea; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 64950 (December 17, 2001) and accompanying Issues and Decision Memorandum at Comment 13; and Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat

Products from Korea; Final Results of Antidumping Duty Administrative Review, 67 FR 11976 (March 18, 2002) and accompanying Issues and Decision Memorandum at Comment 1. Therefore, we have revised our calculation for the final results of review to offset interest expense by the imputed credit expenses reported in the sales database. See DMC Final Analysis Memorandum.

Comment 14: Deduction of Billing Adjustments from OMC's Gross Unit Price

DMC alleges that the Department inadvertently deducted U.S. billing adjustments from U.S. price twice, since the gross unit price was reported net of billing adjustments. Therefore, DMC contends that this error should be corrected for the final results of review.

Petitioners did not comment on this issue.

Department's Position:

We agree with DMC. For the final results of review, we have recalculated the U.S. price by omitting the deduction of billing adjustments from our margin calculation program. See DMC Analysis Memorandum.

Comment 15: Inclusion of All Home Market Sales in the CEP Profit Calculation

DMC claims that the Department failed to include all sales in the CEP profit ratio. DMC explains that section 772(f)(2)(C)(i) of the Act stipulates that CEP profit will be based on the expenses for all sales in the United States and home markets. The Statement of Administrative Action ("SAA") states that "the total profit is calculated on the same basis as the total expenses." DMC maintains that in the final results of review, the Department should include DMC's sales to affiliated parties that failed the Department's arm's-length test. DMC argues that although the Department excludes sales that fail the arm's-length test from the calculation of CEP profit, the Department includes sales that fail the cost test in the calculation of CEP profit. See Policy Bulletin 97.1 at footnote 4; and section 351.402(d)(1) of the Departments regulations. Therefore, DMC argues that, if the Department uses sales below cost, which are considered to be out of the ordinary course of trade, in its margin analysis, it must also include sales that failed the arm's-length test, which are made in the ordinary course of trade, in the calculation of CEP profit in order to reflect actual profit in its antidumping duty calculations. See Policy Bulletin 97.1 at footnote 4.

According to DMC, exclusion of these sales from the CEP profit ratio will inflate DMC's actual profit and will deflate DMC's U.S. prices thereby distorting the dumping margin. DMC contends that the Department should either: (1) include all sales in calculating the CEP profit ratio or, (2) apply the actual profit ratio from DMC's consolidated financial statements.

Petitioners argue that DMC presents no evidence that inclusion of the sales failing the arm's-length test in the calculation of CEP profit would be an appropriate calculation in this case. Petitioners assert that the Department stated, in its Policy Bulletin 97.1 at footnote 4, that the use of "total actual profit" in calculating the CEP profit deduction is required by statute, and since the calculation of total actual profit and total expenses includes sales (above or below cost), the calculation must also include below cost sales in order to reflect actual profit.

Therefore, petitioners argue that the Department must disregard DMC's proposal to (1) include all of DMC's sales in calculating the CEP profit; or, (2) apply the actual profit ratio from DMC's consolidated financial statements. As a result, petitioners argue that the Department should continue to exclude DMC's sales to its affiliated parties that failed the arm's length test in calculating the CEP profit ratio.

Department's Position:

We agree with petitioners that excluding sales that fail the arm's length test from the calculation of CEP profit is appropriate since these sales "do not reflect actual market prices and, thus, do not represent actual profit (or loss)." See Certain Stainless Steel Wire Rods from France; Final Results of Antidumping Duty Administrative Review, 63 FR 30187 (June 3, 1998). It is the Department's practice to exclude non-arm's length sales in the calculation of CEP profit. See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186, 69195 (November 15, 2002).

The Department's policy bulletin 97.1 states that sales which were not made at arm's length prices are not reliable indicators of actual profit, since they are not treated as reliable indicators of normal value or input costs. See Section 773(a)(5) of the Act. Thus, inclusion of sales that failed the arm's length test would distort the calculation of total actual profit. Therefore, for the final results of review we are including below-cost sales and excluding non-arm's length sales for purposes of determining CEP profit in our margin calculation.

According to section 772(f) of the Act, because the calculation of both total actual profit and total expenses includes sales (whether above or below cost) that are made at a profit or at a loss, the calculation must include below-cost sales in order to reflect actual profit. See section 351.402 (d)(1) of the Department's regulations; See also Antidumping Duties; Countervailing Duties: Final Rule, 62 FR 27296, 27354 (May 19, 1997).

Therefore, we have made no changes to our calculations for the final results of review.

III. RECOMMENDATION:

Based on our analysis of the comments received, we recommend adopting all of the above changes and positions, and adjusting the margin calculation programs accordingly. If accepted, we will publish the final results of the investigation and the final weighted-average dumping margins in the Federal Register.

AGREE_____ DISAGREE_____

_____

Faryar Shirzad
Assistant Secretary
for Import Administration

_____

Date