

DATE: August 5, 2011

MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty
Administrative Review on Certain Orange Juice from Brazil –
March 1, 2009, through February 28, 2010

Summary

We have analyzed the comments of the interested parties in the 2009-2010 administrative review of the antidumping duty order covering certain orange juice (OJ) from Brazil. As a result of our analysis of those comments, we have made changes in the margin calculations from the preliminary results. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments from parties:

General Issues

1. Offsetting of Negative Margins
2. Capping Interest Revenue by Credit Expenses

Company-Specific Issues

3. Request for Revocation by Cutrale
4. U.S. Brix Level
5. Inventory Carrying Costs for Cutrale’s U.S. Sales
6. Calculation of Cutrale’s U.S. Indirect Selling Expense Rate
7. Calculation of Cutrale’s General and Administrative (G&A) Expense Rate
8. Calculation of Fischer’s International Freight Expenses
9. Use of Fischer’s Home Market Sample Sales in Calculating Normal Value (NV) and Constructed Value (CV) Profit

Background

On April 7, 2011, the Department of Commerce (Department) published the preliminary results of the administrative review of the antidumping duty order on OJ from Brazil. See Certain Orange Juice From Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 76 FR 19315 (Apr. 7, 2011) (Preliminary Results). The period of review (POR) is March 1, 2009, through February 28, 2010.

We invited parties to comment on our preliminary results of review. We received comments from Florida Citrus Mutual and Citrus World, Inc. (collectively, the petitioners), Fischer S.A. Comercio, Industria and Agricultura (Fischer), and Sucocitrico Cutrale Ltda. (Cutrale). Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results.

Margin Calculations

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

- We treated interest revenue received by Cutrale and Fischer on their home market sales of OJ as a price adjustment, rather than as an offset to credit expenses. See Comment 2;
- We removed an adjustment to Cutrale’s U.S. sales prices and quantities to account for perceived brix level differences between the reported and actual brix of U.S. products. See Comment 4; and
- We revised the calculation of the G&A expense rate for Cutrale to include a loss on the disposal of assets during the POR. See Comment 7.

Discussion of the Issues

General Issues

Comment 1: *Offsetting of Negative Margins*

The respondents argue that the Department should depart from the practice of not using non-dumped comparisons to offset or reduce the dumping found on other comparisons (commonly known as “zeroing”) and provide for offsets for negative margins in its calculations for the final results. Specifically, the respondents contend that the Court of Appeals for the Federal Circuit (CAFC) recently rejected the Department’s interpretation of section 771(35) of the Act (i.e., allowing for “zeroing” in administrative reviews but not in investigations) and remanded the issue for further explanation from the Department. In support of this assertion, the respondents cite Dongbu Steel Co., Ltd., v. United States, 635 F.3d 1363 (Fed. Cir. 2011) (Dongbu).

In addition, Fischer points out that since 2006 the World Trade Organization (WTO) Appellate Body has held that “zeroing” in administrative reviews is inconsistent with the Antidumping Agreement and the General Agreement on Tariffs and Trade (GATT) 1994, citing United States – Measures Relating to Zeroing and Sunset Reviews, WT/DC322/AB/R (Jan. 9, 2007); (U.S. – Zeroing (Japan)) United States – Final Anti-Dumping Measures on Stainless Steel From Mexico, WT/DS344/AB/R (Apr. 30, 2008) (U.S. – Zeroing (Mexico)); United States – Continued Existence and Application of Zeroing Methodology, WT/DS350/AB/R (Feb. 4, 2009); and United States – Measures Relating to Zeroing and Sunset Reviews, Recourse to Article 21.5 of the DSU by Japan, WT/DS322/RW (Apr. 24, 2009). Consistent with those findings, the respondents note that the WTO Panel’s decision in United States – Antidumping Administrative Reviews and Other Measures Related to Imports of Certain Orange Juice from Brazil, WT/DS 382/R (Mar. 25, 2011) (WTO OJ Panel Decision) found that the Department’s application of “zeroing” in the first two administrative reviews of this proceeding was inconsistent with the requirements of Article 2.4 of the Antidumping Agreement. Cutrale asserts that the WTO Panel also found that the Department’s ongoing application of “zeroing” in current and future reviews (including the segment at issue here) constituted a separate violation of the Antidumping Agreement. Id.

Finally, Cutrale notes that the Department itself signaled an intent to eliminate “zeroing” imminently in administrative reviews when it published a revised calculation methodology (see Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings, 75 FR 81533 (Dec. 28, 2010) (Proposed Calculation Methodology)). According to Cutrale, one of the purposes of the Proposed Calculation Methodology was to make the Department’s “zeroing” practice in administrative reviews conform to the rulings of the WTO panels and the Appellate Body. While Cutrale recognizes that the Department has not yet finalized its Proposed Calculation Methodology, it argues that the Department should nonetheless follow this methodology and recalculate Cutrale’s dumping margin without “zeroing” in this proceeding.

Therefore, based upon the CAFC’s decision in Dongbu and the WTO rulings discussed above, the respondents argue that the Department should immediately discontinue “zeroing” in its margin calculations for the final results of this review.

The petitioners maintain that the Department should continue its practice of “zeroing” for the final results. As an initial matter, the petitioners disagree with the respondents that the Dongbu decision mandated a change in the Department’s practice with respect to “zeroing.” Instead, the petitioners contend that the CAFC merely remanded the case to the Court of International Trade (CIT) to provide the Department an opportunity to explain its reasoning regarding its interpretation of section 771(35) of the Act in the context of investigations and administrative reviews. See Dongbu, 635 F.3d at 1373. Because the court has not yet reached a final and conclusive decision in Dongbu, the petitioners argue that it would be premature for the Department to alter its methodology for the final results, especially given the CAFC’s other decisions upholding the use of “zeroing” in administrative reviews.¹

¹ See SKF USA Inc. v. United States, 630 F.3d 1365, 1375 (Fed. Cir. 2011) (SKF); Koyo Seiko Co. v. United States, 551 F.3d 1286, 1290-91 (Fed. Cir. 2008); SKF USA Inc. v. United States, 537 F.3d 1373, 1381-82

The petitioners also dispute the respondents' contention that the Department should abandon "zeroing" in this administrative review because of the WTO OJ Panel Decision. According to the petitioners, Brazil only challenged the results of the first two administrative reviews before the WTO. The petitioners maintain that neither the WTO OJ Panel Decision nor any other WTO decision regarding "zeroing" requires a change to the Department's calculations in the instant review. The petitioners point out the CAFC holding that WTO reports are without effect under U.S. law "unless and until such a {report} has been adopted pursuant to the specified statutory scheme" established in the Uruguay Round Agreements Act (URAA). See Corus Staal BV v. United States, 395 F.3d 1343, 1347-49 (Fed. Cir 2005) (Corus I); Corus II, 502 F.3d at 1375; and NSK, 510 F.3d. 1375. Specifically, the petitioners maintain that the Department can only implement adverse WTO rulings after completing certain implementation procedures, and the United States has neither begun to fulfill these procedural requirements in the context of the WTO OJ Panel Decision nor completed implementation with regard to any other WTO disputes regarding administrative reviews.²

Finally, regarding the Proposed Calculation Methodology, the petitioners note that the Department only proposes using this methodology for: 1) any determinations made pursuant to section 129 of the URAA in WTO disputes listed in that notice (noting that the WTO OJ Panel Decision is not included on this list); and 2) any pending administrative reviews for which the preliminary results are issued more than 60 business days after the date of publication of the Department's final calculation methodology. Thus, because the preliminary results in this administrative review were issued prior to the publication of any final modification to the calculation methodology, the petitioners assert that a change to the Department's "zeroing" methodology would not apply to the final results here. Accordingly, the petitioners maintain that the Department should not alter its "zeroing" methodology for these final results.

Department's Position:

We have not changed our calculation of the weighted-average dumping margin, as suggested by the respondents, in these final results.

Section 771(35)(A) of the Act defines "dumping margin" as the "amount by which the normal value exceeds the export price or constructed export price of the subject merchandise" (emphasis added). Outside the context of antidumping investigations involving average-to average comparisons, the Department interprets this statutory definition to mean that a dumping margin exists only when NV is greater than export price (EP) or CEP. We disagree with the respondents

(Fed. Cir. 2008); NSK Ltd. v. United States, 510 F.3d 1375, 1379-80 (Fed. Cir. 2007) (NSK); Corus Staal BV v. United States, 502 F.3d 1370, 1372-75 (Fed. Cir. 2007) (Corus II); and Corus Staal BV v. United States, 593 F. Supp. 2d 1373, 1383-85 (CIT 2008), aff'd without decision, 370 F. App'x 111 (Fed. Cir. 2010).

² With regard to United States – Laws, Regulations, and Methodology for Calculating Dumping Margins (Zeroing), WT/DS294/AB/R (Apr. 18, 2006), the petitioners note that the Department modified its calculation of weighted-average dumping margins when using average-to-average comparisons in antidumping investigations. See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification, 71 FR 77722 (Dec. 27, 2006) (Zeroing Notice). The petitioners point out that in the Zeroing Notice the Department declined to adopt any other modifications concerning any other methodology or type of proceeding, including administrative reviews. Id. at 77724.

that the Department's "zeroing" practice is an inappropriate interpretation of the Act. Because no dumping margins exist with respect to sales where NV is equal to or less than EP or CEP, the Department will not permit these non-dumped sales to offset the amount of dumping found with respect to other sales. The CAFC has held that this is a reasonable interpretation of section 771(35) of the Act. See, e.g., Timken Co. v. United States, 354 F.3d 1334, 1342 (CAFC 2004) (Timken); and Corus I, 395 F.3d at 1347-49.

Section 771(35)(B) of the Act defines weighted-average dumping margin as "the percentage determined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate export prices and constructed export prices of such exporter or producer." The Department applies this section by aggregating all individual dumping margins, each of which is determined by the amount by which NV exceeds EP or CEP, and dividing this amount by the value of all sales. The use of the term "aggregate dumping margins" in section 771(35)(B) of the Act is consistent with the Department's interpretation of the singular "dumping margin" in section 771(35)(A) of the Act as applied on a comparison-specific level and not on an aggregate basis. At no stage of the process is the amount by which EP or CEP exceeds the NV permitted to offset or cancel the dumping margins found on other sales.

This does not mean that non-dumped transactions are disregarded in calculating the weighted-average dumping margin. It is important to note that the weighted-average margin will reflect any non-dumped transactions examined during the POR; the value of such sales is included in the denominator of the weighted-average dumping margin, while no dumping amount for non-dumped transactions is included in the numerator. Thus, a greater amount of non-dumped transactions results in a lower weighted-average margin.

The CAFC explained in Timken that denial of offsets is a "reasonable statutory interpretation given that it legitimately combats the problem of masked dumping, wherein certain profitable sales serve to mask sales at less than fair value." See Timken, 354 F.3d at 1343. As reflected in that opinion, the issue of so-called masked dumping was part of the policy reason for interpreting the statute in the manner interpreted by the Department. No U.S. court has required the Department to demonstrate "masked dumping" before it is entitled to invoke this interpretation of the statute and deny offsets to dumped sales. See, e.g., Timken, 354 F.3d at 1343; Corus I, 395 F.3d at 1343; Corus II, 502 F.3d at 1370, 1375; and NSK, 510 F.3d at 1375.

In 2007, the Department implemented a modification of its calculation of weighted-average dumping margins when using average-to-average comparisons in antidumping investigations. See Zeroing Notice, 71 FR at 77722. With this modification, the Department's interpretation of the statute with respect to non-dumped comparisons was changed within the limited context of investigations using average-to-average comparisons. Adoption of the modification pursuant to the procedure set forth in section 123(g) of the URAA was specifically limited to address adverse WTO findings made in the context of antidumping investigations using average-to-average comparisons. The Department's interpretation of the statute was unchanged in other contexts.

It is reasonable for the Department to interpret the same ambiguous language differently when using different comparison methodologies in different contexts. In particular, the use of the

word “exceeds” in section 771(35)(A) of the Act can reasonably be interpreted in the context of an antidumping investigation to permit negative average-to-average comparison results to offset or reduce the amount of the aggregate dumping margins used in the numerator of the weighted-average dumping margin as defined in section 771(35)(B) of the Act. The average-to-average comparison methodology typically applied in antidumping duty investigations averages together high and low prices for directly comparable merchandise prior to making the comparison. This means that the determination of dumping necessarily is not made for individual sales, but rather at an “on average” level for the comparison. For this reason, the offsetting methodology adopted in the limited context of investigations using average-to-average comparisons is a reasonable manner of aggregating the comparison results produced by this comparison method. Thus, with respect to how negative comparison results are to be regarded under section 771(35)(A) of the Act, and treated in the calculation of the weighted average dumping margin under section 771(35)(B) of the Act, it is reasonable for the Department to consider whether the comparison result in question is the product of an average-to-average comparison or an average-to-transaction comparison.

In U.S. Steel, the CAFC considered the reasonableness of the Department’s interpretation not to apply zeroing in the context of investigations using average-to-average comparisons, while continuing to apply zeroing in the context of investigations using average-to-transaction comparisons pursuant to the provision at section 777A(d)(1)(B) of the Act.³ Specifically, in U.S. Steel, the CAFC was faced with the argument that, if zeroing was never applied in investigations, then the average-to-transaction comparison methodology would be redundant because it would yield the same result as the average-to-average comparison methodology. The Court acknowledged that the Department intended to continue to use zeroing in connection with the average-to-transaction comparison method in the context of those investigations where the facts suggest that masked dumping may be occurring. See U.S. Steel, 621 F. 3d at 1363. The Court then affirmed as reasonable the Department’s application of its modified average-to-average comparison methodology in investigations in light of the Department’s stated intent to continue zeroing in other contexts. Id.

In addition, the CAFC recently upheld, as a reasonable interpretation of ambiguous statutory language, the Department’s continued application of “zeroing” in the context of an administrative review completed after the implementation of the Zeroing Notice. See SKF, 630 F.3d at 1365. In that case, the Department had explained that the changed interpretation of the ambiguous statutory language was limited to the context of investigations using average-to-average comparisons and was made pursuant to statutory authority for implementing an adverse WTO report. We find that our determination in this administrative review is consistent with the CAFC’s recent decision in SKF.

Furthermore, in Corus I, the CAFC acknowledged the difference between antidumping duty investigations and administrative reviews, and held that section 771(35) of the Act was just as ambiguous with respect to both proceedings, such that the Department was permitted, but not required, to use zeroing in antidumping duty investigations. See Corus I, 395 F. 3d at 1347.

³ See U.S. Steel Corp., v. United States, 621 F. 3d 1351 (CAFC 2010) (U.S. Steel).

That is, the Court explained that the holding in Timken – that zeroing is neither required nor precluded in administrative reviews – applies to antidumping duty investigations as well. Thus, Corus I does not preclude the use of zeroing in one context and not the other.

Moreover, we disagree with the respondents that the CAFC’s recent decision in Dongbu requires the Department to change its methodology in this administrative review. The holding of Dongbu, and the recent decision in JTEKT Corporation v. US, 2010-1516, -1518 (CAFC June 29, 2011) (JTEKT), was limited to finding that the Department had not adequately explained the different interpretations of section 771(35) of the Act in the context of investigations versus administrative reviews, but the CAFC did not hold that these differing interpretations were contrary to law. Importantly, the panels in neither Dongbu nor JTEKT overturned prior CAFC decisions affirming zeroing in administrative reviews, including SKF, which we discuss above, in which the Court affirmed zeroing in administrative reviews notwithstanding the Department’s determination to no longer use zeroing in certain investigations. Unlike the determinations examined in Dongbu and JTEKT, the Department here is providing additional explanation for its changed interpretation of the statute subsequent to the Final Modification for Antidumping Investigations⁴ – whereby we interpret section 771(35) of the Act differently for certain investigations (when using average-to-average comparisons) and administrative reviews. For all these reasons, we find that our determination is consistent with the holdings in Dongbu, JTEKT, U.S. Steel, and SKF.

Regarding the WTO reports cited by the respondents finding the denial of offsets by the United States to be inconsistent with the Antidumping Agreement, we note that the CAFC has held that WTO reports are without effect under U.S. law, “unless and until such a {report} has been adopted pursuant to the specified statutory scheme” established in the URAA. See Corus I, 395 F.3d at 1347-49; accord Corus II, 502 F.3d at 1375; and NSK, 510 F.3d 1375. As is clear from the discretionary nature of this scheme, Congress did not intend for WTO reports to automatically trump the exercise of the Department's discretion in applying the statute. See 19 USC 3538(b)(4) (implementation of WTO reports is discretionary). Moreover, as part of the URAA process, Congress has provided a procedure through which the Department may change a regulation or practice in response to WTO reports. See 19 U.S.C. 3533(g); and Zeroing Notice, 71 FR at 77722. Specifically, with respect to the WTO OJ Panel Decision, the United States has not yet employed the statutory procedure set forth at 19 U.S.C. 3533(g) to implement the panel’s finding. With respect to U.S.-Zeroing (Japan), and U.S.-Zeroing (Mexico), the steps taken in response to these reports do not require a change to the Department’s approach of calculating weighted-average dumping margins in the instant administrative review.

Finally, with respect to Cutrale’s argument that we should adopt the Proposed Calculation Methodology here, we disagree that there is a basis for changing the Department’s approach of calculating weighted-average dumping margins in the instant administrative review. Proposed regulations by their very nature are not binding to an agency. See Viraj Forgings Ltd., v. United States, 206 F. Supp. 2d 1288, 1293 (CIT 2002) (rejecting plaintiff’s reliance on a proposed rule as basis for receiving a zero margin). The Proposed Calculation Methodology is only a proposal

⁴ See i.e., Zeroing Notice, 71 FR at 77722; and Antidumping Proceedings: Calculation of the Weighted – Average Dumping Margin During an Antidumping Investigation; Change in Effective Date of Final Modification, 72 FR 3783 (Jun. 26, 2007) (collectively, Final Modification for Antidumping Investigations).

that remains subject to review of comments from the public and statutory consultation requirements involving Congressional committees, among others. See section 123(g)(1) of the URAA. It does not provide legal rights or expectations for parties in this administrative review. The Proposed Calculation Methodology further makes clear that, in terms of timing, any changes in methodology will be prospective only, and “will be applicable in . . . all {administrative} reviews pending before the Department for which a preliminary result is issued more than 60 business days after the date of publication of the Department’s Final Rule and Final Modification.” See Proposed Calculation Methodology, 75 FR at 82535. Additionally, the Proposed Calculation Methodology would not apply to the present administrative review because normally, “{a} final rule or other modification . . . may not go into effect before the end of the 60-day period beginning on the date which consultations {between the Trade Representative heads of the relevant departments or agencies, and appropriate Congressional committees}. . . begin.” See section 123(g)(2) of the URAA. Because the final results in this administrative review will be completed prior to the effective date of the final rule, any change in the treatment of non-dumped sales, pursuant to the Proposed Calculation Methodology (if implemented) would not apply to this administrative review.

Accordingly, and consistent with the Department’s interpretation of the Act described above, in the event that any of the U.S. sales transactions examined in this review are found to exceed NV, the amount by which the price exceeds NV will not offset the dumping found in respect of other transactions.

Comment 2: *Capping Interest Revenue by Credit Expenses*

Both respondents reported that they earned interest revenue as a result of receiving late payment of certain home market sales of OJ during the POR. In the calculations performed for the Preliminary Results, the Department treated this revenue as an offset to imputed credit expenses and capped the amount of it by the credit expenses reported, consistent with our practice of capping revenue items which are not part of the gross unit price by the amount of the corresponding expenses.

The petitioners argue that the Department should not cap interest revenue in this review. While the petitioners recognize that the Department’s practice is in fact to cap other revenue items (such as freight and pallet revenue) by the amount of any directly-related expenses, they maintain that interest revenue is different in nature. The petitioners note that in other cases where the Department has applied a cap, the revenues and expenses consisted of actual money received and paid out, instead of real revenue (i.e., interest revenue) and an imputed cost (i.e., home market credit expense). Further, the petitioners note that it does not appear that the Department has capped interest revenue in previous administrative reviews of this order. Therefore, the petitioners contend that the Department should not limit the actual revenue added to home market price to the amount of the associated imputed expense.

Neither respondent commented specifically on this issue. However, Cutrale made a general statement that it disagrees with all of the claims made by the petitioners and it urges the Department to reject them.

Department's Position:

In the Preliminary Results, we capped the interest revenue by the imputed credit expense reported for the same sale, consistent with our practice with respect to other types of revenue, such as freight revenue capped by freight expenses. See Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review, 74 FR 40167 (Aug. 11, 2009) (2007-2008 OJ from Brazil), and accompanying Issues and Decision Memorandum at Comment 3; and Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent to Revoke Antidumping Duty Order in Part, 75 FR 50999 (Aug. 18, 2010) (2008-2009 OJ from Brazil), and accompanying Issues and Decision Memorandum at Comment 2. However, upon further consideration, we now find that interest revenue related to late payment of invoices should not be used as an offset to credit. Rather, this interest revenue is more appropriately treated as a price adjustment. See 19 CFR 351.401(c). Therefore, for the final results, we have accepted the home market interest revenue amounts reported by both respondents, rather than capping this revenue by the home market credit expenses reported for the sale.

The statute does not speak to the treatment of fees associated with late payments. In such circumstances, the Department must determine the most appropriate methodology to use. See U.S. Steel Group v. United States, 225 F.3d 1284, 1290 (Fed. Cir. 2000) (quoting Koyo Seiko Co. v. United States, 36 F.3d 1565, 1573 (Fed. Cir. 1994)). Accordingly, the courts have long deferred to the Department's technical expertise in identifying, selecting, and applying methodologies to implement the statute. See Smith-Corona Group v. United States, 713 F.2d 1568, 1582 (Fed. Cir. 1983), cert. denied, 465 U.S. 1022 (1984).

Upon further analysis, we agree that interest revenue earned as late payment fees is a different type of revenue than the movement- or packing-related revenues which we have normally treated as an offset to expenses deducted under the circumstance-of-sale adjustment provision of the Act, albeit for a different reason than that espoused by the petitioners. The Department's practice is to treat interest revenue as a post-sale price adjustment.⁵ For example, in Mexican Cement we stated:

Just as an early-payment discount is a reduction in price when the customer pays in advance of the payment due date, a late payment charge is an addition to the price to the customer when the customer delays its payment. Our longstanding practice of treating early payment discounts as an adjustment to price leads us to the same determination concerning late payment increases to the price. In either

⁵ See, e.g., Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review, 71 FR 2909 (Jan. 18, 2006) (Mexican Cement), and accompanying Issues and Decision Memorandum at Comment 9; Certain Frozen Warmwater Shrimp from Brazil: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 72 FR 10680, 10686 (Mar. 9, 2007), unchanged in Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 73 FR 39940 (July 11, 2008); Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From South Korea, 65 FR. 41437 (July 5, 2000), at Comment 8; and Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Indonesia, 64 FR 73164, 73173 (Dec. 29, 1999), at Comment 6.

instance, the amount of the discount or the additional charge effectively amounts to a post-sale price adjustment and may or may not be equivalent to any reduction or increase in the company's actual or imputed interest expenses. Therefore, we determine that it is more appropriate to treat a late payment charge as a post-sale adjustment to price, not as an offset to the broader allocation of interest expense or revenue.

See Mexican Cement at Comment 9.

Consistent with our practice, we find that treating interest revenue earned as late payment fees as a price adjustment is reasonable. Therefore, we have revised our final margin calculations accordingly for purposes of the final results.

Comment 3: Request for Revocation by Cutrale

On March 31, 2010, Cutrale requested revocation of the antidumping duty order with respect to its sales of subject merchandise, pursuant to 19 CFR 351.222(b). We denied this request in the preliminary results, based on the fact that Cutrale sold the subject merchandise at less than NV in the two most recently-completed administrative reviews (*i.e.*, the second and third administrative reviews). See Preliminary Results, 76 FR at 19316; see also 2007-2008 OJ from Brazil, 74 FR at 40168 (where Cutrale's margin was 2.17 percent); and 2008-2009 OJ from Brazil, 75 FR at 51000 (where Cutrale's margin was 8.13 percent).

Cutralo argues that the Department should reconsider this decision for three reasons: 1) Cutrale will owe no duties in this review if the Department discontinues zeroing here (see Comment 1, above); 2) Cutrale will owe no duties in the immediately preceding review once the CIT remands the case to the Department for recalculation of the margins consistent with Dongbu; and 3) the Department will soon have to recalculate Cutrale's margins in both the preceding review and the second review to comply with the WTO OJ Panel Decision, and the recalculated margins in each of those segments will also be zero. Thus, Cutrale claims that it is entitled to revocation in this segment of the proceeding because it will receive dumping margins of de minimis or zero for three consecutive years. Cutrale asserts that, as a consequence, the Department should revoke the antidumping duty order with respect to its exports of subject merchandise.

The petitioners disagree that Cutrale is entitled to revocation, claiming that Cutrale's arguments are based solely on assumptions. Specifically, the petitioners assert that Cutrale assumes: 1) it will receive a zero or de minimis margin in the current review; 2) it will win its case before the CIT which challenges the final results of the third administrative review; and 3) the Department will recalculate/eliminate its margin in the second administrative review in order to comply with the WTO OJ Panel Decision. However, the petitioners contend that there is no basis to conclude that any of Cutrale's assumptions are correct and, in fact, there is considerable reason to believe the contrary.

With respect to the first and second points, the petitioners believe that, once certain clerical errors are corrected, Cutrale will not receive a zero or de minimis margin in the final results of the current review. Moreover, the petitioners explain that Cutrale's case at the CIT challenging

the final results of the third administrative review is in its very early stages and there is no basis to conclude that Cutrale will win it.

With respect to third point, the petitioners argue that the statute does not allow the Department to recalculate margins from completed administrative reviews in order to comply with WTO decisions. As support for this assertion, the petitioners cite 19 USC 3538(c), which states that determinations under that section apply only to unliquidated entries of the subject merchandise entering the United States on or after the date on which the U.S. Trade Representative directs the Department to implement them. Therefore, the petitioners contend that the Department is prohibited from recalculating the margin for Cutrale's entries covered by the second administrative review since those entries preceded the effective date of any determination arising from the WTO case.

Finally, the petitioners note that the Department has publicly proposed the elimination of its revocation regulation. The petitioners contend that this proposed modification should be applied to any cases where margins are recalculated as a result of either WTO or U.S. court decisions.

Department's Position:

We are not revoking the order, in part, with respect to Cutrale pursuant to 19 CFR 351.222(b), because Cutrale has not met the criteria for revocation set forth in the Department's regulations.

The Department may revoke, in whole or in part, an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia*, that a company requesting revocation must submit the following:

- (1) a certification that the company has sold the subject merchandise at not less than normal value in the current review period and that the company will not sell subject merchandise at less than normal value during the future;
- (2) a certification that the company sold commercial quantities of the subject merchandise to the United States in each of the three years forming the basis of the request; and
- (3) an agreement to reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than normal value.

See 19 CFR 351.222(e)(1).

Upon receipt of such a request, the Department will consider:

- (1) whether the company in question has sold subject merchandise at not less than normal value for a period of at least three consecutive years;

(2) whether the company has agreed in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to the revocation, sold the subject merchandise at less than normal value; and

(3) whether the continued application of the antidumping order is otherwise necessary to offset dumping.

See 19 CFR 351.222(b)(2)(i).

Cutrale is not eligible for revocation from the order because the company has not met all of the criteria noted above. Cutrale's argument that it will owe no antidumping duties in the current review is insufficient to grant its revocation request. The regulation expressly requires the Department to consider whether the company in question has sold subject merchandise at not less than normal value for a period of at least three consecutive years, and not just one year. In the two immediately preceding reviews we found that Cutrale sold the subject merchandise at less than NV. See Preliminary Results, 76 FR at 19316; see also 2007-2008 OJ from Brazil, 74 FR at 40168; and 2008-2009 OJ from Brazil, 75 FR at 51000.

Cutrale's speculation as to what antidumping margins might have been calculated in prior reviews had the Department used a different methodology does not provide a basis for revocation. The principles of administrative finality apply to these completed reviews. Cutrale did not successfully challenge the final results of the second administrative review in court and, thus, they are final and conclusive. Although Cutrale has challenged the final results of the third administrative review before the CIT, unless or until there is a final and conclusive court decision invalidating these results, by statute, these results are presumed to be correct. See Shandong Huarong Gen. Group Corp. v. United States, 122 F.Supp. 2d 143, 148 (CIT 2000) ("By statute, Commerce's administrative review determinations are presumed to be correct and the burden of proving otherwise rests exclusively upon the party challenging such decision.") (citing 28 U.S.C. 2639a(1)). Because the results of the administrative reviews are presumed to be correct for a court action appealing them, they must also be presumed to be correct in the context of a revocation request. Cutrale's filing of an appeal of the final results of the third administrative review to a court does not render the final results incorrect or unlawful.

With respect to Cutrale's argument that Brazil has challenged zeroing before the WTO, we acknowledge that there was a WTO dispute between Brazil and the United States regarding zeroing. However, WTO reports do not provide an independent basis for altering the Department's methodology, except to the extent that they are implemented pursuant to a specified statutory scheme. See Corus Staal BV v. Department of Commerce, 395 F.3d 1343, 1347, 1349 (Fed. Cir. 2005), cert denied, 126 S. Ct. 1023, 163 L. Ed. 2d 853 (January 9, 2006). There have been no WTO reports implemented in any fashion that would necessitate any change in the Department's methodology in this administrative review or prior administrative reviews of this antidumping duty order.

Furthermore, regardless of the WTO findings, Cutrale's certification is based on the contention that the Department should offset sales made at less than NV with the sales that were made at not less than NV. In other words, Cutrale suggests that it had sales of the subject merchandise at less than NV during the relevant time period. However, 19 CFR 351.222(e)(1)(ii) requires the company to certify that it did not sell the subject merchandise at less than NV during each of the past three consecutive years. Therefore, we find that Cutrale has sold subject merchandise at less than NV within the period of at least three consecutive years.

While it is true that the Federal Circuit's recent opinion in Dongbu related to the question of zeroing, the Dongbu litigation is not final and conclusive, the facts of that case are different from those in the third administrative review, and we will not prejudge the outcome of the litigation on the third administrative review. (For further discussion, see Comment 1 above.). Moreover, as stated previously, the Department does not revisit the results of finalized reviews unless explicitly directed to do so by the court. See Norsk Hydro Canada Inc. v. United States, 672 F.3d 1367 (Fed. Cir. 2006) ("Revisiting issues that were resolved in prior review proceedings would impair the finality of any one annual review, potentially prolonging a . . . dispute far beyond the year to which it relates."). As there is no final and conclusive court determination directing the Department to recalculate Cutrale's margin in the 2008-2009 administrative review, it would be inappropriate to entertain any arguments which are premised on such an outcome.

Therefore, consistent with the Department's regulations, we continue to find that Cutrale is not currently eligible for revocation. See 19 CFR 351.222(b).

Comment 4: *U.S. Brix Level*

Cutrale sells OJ on a pounds-solid basis in the United States, with the number of the pounds solid in each sale determined by the actual brix level of the OJ.⁶ Cutrale's OJ products may either be of pure Brazilian juice, or they may be blended with domestic OJ. When the products are blended, the brix level of the merchandise sold is an average of the Brazilian and Florida components. In its U.S. sales listing, Cutrale separately reported the brix level shown on the U.S. invoices issued by its U.S. subsidiary, Citrus Products Inc (CPI), and the brix level determined at the time of importation. Because the brix levels for non-blended products differed between these two sources, we selected the brix levels shown on the invoices and adjusted our calculations to base all prices, quantities, and expenses on them for purposes of the preliminary results. See Preliminary Results, 76 FR at 19317; see also Memorandum to the File, from Blaine Wiltse, Trade Analyst, entitled, "2009-2010 Administrative Review of Certain Orange Juice from Brazil, Calculation Adjustments for Sucocitrico Cutrale Ltda. for the Preliminary Results," dated March 31, 2011, at page 3.

Cutrale argues that the Department based its adjustments on the mistaken notion that the brix shown on the invoice, as reported in the field INVBRIXU, is the "actual" brix of the merchandise. Cutrale states that the brix shown on the invoice is a blend of all products sold,

⁶ Brix is the unit of measurement used in the orange juice industry to measure the amount of soluble solids in a concentrate. For example, frozen concentrated orange juice (FCOJ) with a brix level of 66 contains 66 pounds of fruit sugar solids in every 100 pounds of solution.

including both subject and non-subject merchandise (i.e., Brazilian and Florida juice, which may have juice oils added). Cutrale maintains that use of invoice brix represents a departure from the methodology used in the prior review where the Department used the brix of the Brazilian portion of the merchandise, as measured by U.S. Customs and Border Protection (CBP).⁷ According to Cutrale, if the Department has changed its policy, then it should use the invoice brix for Cutrale's home market sales as well for the sake of consistency. Cutrale notes that this would mean using whole-degree brix to determine prices, quantities, and adjustments for home market sales and it contends that this would be a better methodology. Alternatively, Cutrale argues that the Department should use the "actual" brix as determined by CBP for all U.S. sales.

The petitioners did not comment on this issue.

Department's Position:

In its U.S. sales listing, Cutrale reported actual brix levels, measured to two decimal places, in the field BRIXU. Upon analysis of the data, we identified numerous invoices contained in Cutrale's responses where the brix level reported by Cutrale as the "actual" brix in the field BRIXU did not match that which appeared on the invoice. Therefore, we instructed Cutrale to revise its U.S. sales listing to report the brix level, as indicated on the invoice, for its U.S. sales of non-blended merchandise, in the field INVBRIXU.⁸

While Cutrale complied with this request, it also reported brix data for non-blended products. Upon review of this information, we noted that the brix levels for non-blended products reported in the field INVBRIXU differed from those reported in the field BRIXU. Therefore, in the Preliminary Results, we adjusted the prices, quantities, expenses, and costs of Cutrale's U.S. sales using the brix data reported in the field INVBRIXU. This was done to ensure that the prices, quantities, expenses, and costs of Cutrale's U.S. sales of non-blended products reflected conversions to a pounds-solid basis using the brix data that most closely represented the "actual" brix of the subject merchandise.

We have reviewed the information on the record in connection with the description of the data contained in Cutrale's case brief. Because Cutrale provided a satisfactory explanation as to why the brix levels for non-blended merchandise may differ across sources (e.g., the addition of juice oils), we agree with Cutrale that use of the CBP data for all U.S. sales is appropriate here. Accordingly, we are now accepting Cutrale's U.S. price, expense, and quantity data as reported for purposes of the final results. Our acceptance of these data is consistent with our longstanding practice of relying on actual brix for purposes of computing per unit prices and quantities. See 2008-2009 OJ from Brazil, at Comment 4; 2007-2008 OJ from Brazil at Comment 9; Certain Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 73 FR 46584 (Aug. 11, 2008) (2005-2007 OJ from Brazil), and accompanying Issues and Decisions Memorandum at Comment 11; and Notice of Final

⁷ In support of this assertion, Cutrale cites 2008-2009 OJ from Brazil, at Comment 4.

⁸ See Letter to Cutrale, re: "2009-2010 Antidumping Duty Administrative Review: Certain Orange Juice from Brazil," dated December 16, 2010, at pages 5-6; see also Letter to Cutrale, re: "Antidumping Duty Administrative Review on Certain Orange Juice from Brazil," dated February 25, 2011.

Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil, 71 FR 2183 (Jan. 13, 2006) (OJ from Brazil Investigation), and accompanying Issues and Decision Memorandum at Comment 19.

Finally, although we have accepted Cutrale's U.S. price, expense, and quantity data as reported for purposes of the final results, we continue to find it necessary to adjust Cutrale's reported cost data for its U.S. sales to ensure that these reflect conversions to a pounds-solid basis using the actual brix. Therefore, we have altered our cost adjustments from the Preliminary Results to base these on Cutrale's actual brix data, as reported in the field BRIXU. For further discussion of this issue, see the August 5, 2011, Memorandum from Blaine Wiltse, Analyst, to the File, entitled "Calculation Adjustments for Sucocitrico Cutrale Ltda. for the Final Results."

Comment 5: Inventory Carrying Costs for Cutrale's U.S. Sales

During the POR, Cutrale held its merchandise in inventory in the United States prior to shipment to U.S. customers. We computed the opportunity cost associated with holding this inventory in the preliminary results using the following components: the cost of manufacturing (COM) of the OJ (in Brazilian reais), the short-term interest rate paid by Cutrale (in Brazilian reais), and the duration of time that the OJ remained in inventory. This formula has been used to compute U.S. inventory carrying costs in all segments of this proceeding.

Cutrale disagrees that this formula is appropriate, arguing that, because CPI is the company that holds the subject merchandise in the United States and invoices the ultimate customer, it is CPI that bears the inventory carrying costs for Cutrale's U.S. sales. Therefore, Cutrale argues that the Department should calculate CPI's inventory carrying costs using the interest rate incurred by CPI on its borrowings in the United States, not Cutrale's interest rate for short-term borrowing in Brazil. According to Cutrale, it is the Department's practice to use the U.S. interest rate for the U.S. portion of inventory carrying costs. As support for this assertion, Cutrale cites Notice of Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada, 69 FR 75921 (Dec. 13, 2004), and accompanying Issues and Decision Memorandum at pages 141-42; and Certain Welded Stainless Steel Pipe from Taiwan: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order In Part, 65 FR 39367 (June 26, 2000).

Specifically, Cutrale argues that, because CPI's invoice price is the starting point for determining U.S. price, the costs that are deducted from this price must be those that CPI itself incurs. Cutrale argues that to deduct something other than CPI's actual costs would result in a mismatch between the price of the product and the costs that are used to adjust the price. Additionally, Cutrale contends that, as CPI's operational costs are incurred in U.S. dollars, then CPI's inventory carrying costs must also be dollar costs. According to Cutrale, given that the interest costs for borrowing in Brazil are incurred in reais to finance sales made in reais, it is improper to apply this interest rate to CPI's costs incurred in dollars to finance sales made in dollars. Cutrale claims that this would create a skewed and unfair calculation of CPI's inventory carrying costs.

Finally, Cutrale argues even if the Department uses Cutrale's COM when calculating the value of its inventory, that this should have no bearing on how CPI's inventory carrying costs are

calculated. Cutrale urges the Department to translate its COM value in reais into U.S. dollars using an average exchange rate and then apply the interest rate incurred by CPI on its U.S. borrowings to determine CPI's inventory carrying costs. Cutrale maintains that this is the most accurate and fair method and is consistent with the Department's practice.

The petitioners disagree with Cutrale's assertion that the Department departed from its practice in the Preliminary Results when it used Cutrale's home market short-term interest rate to calculate U.S. inventory carrying costs. To the contrary, the petitioners point out that the Department employed the same methodology in the previous review⁹ and Cutrale did not challenge or contest the methodology at that time. Furthermore, the petitioners contend that Cutrale is incorrect in alleging that the Department's long-standing practice is to use the U.S. short-term interest rate in its calculation of inventory carrying costs incurred by a parent company's U.S. affiliate. The petitioners cite to SSSSC from Mexico¹⁰ and Ball Bearings from France¹¹ as cases wherein the Department used the parent company's short-term interest rate incurred on transactions in the comparison market in its calculation of inventory carrying costs incurred on U.S. sales. Accordingly, the petitioners urge the Department to uphold the methodology used in the Preliminary Results when calculating CPI's inventory carrying costs for the final results.

However, the petitioners suggest that, should the Department decide to depart from the methodology it used in the Preliminary Results, it should use the entered value, rather than Cutrale's COM, in the revised calculation. The petitioners contend that using the entered value of the subject merchandise would more accurately reflect CPI's actual inventory value and would, therefore, achieve a more proper comparison.

Department's Position:

We have not changed our calculation of Cutrale's U.S. inventory carrying costs in these final

⁹ The petitioners cite the April 7, 2010, Memorandum to the File from Blaine Wiltse, Trade Analyst, entitled, "2008-2009 Administrative Review of Certain Orange Juice from Brazil, Calculation Adjustments for Sucocitrico Cutrale Ltda. for the Preliminary Results," at page 2.

¹⁰ See Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review, 69 FR 6259 (Feb. 10, 2004) (SSSSC from Mexico), and accompanying Issues and Decision Memorandum at Comment 8, where the Department stated, "where the payment terms that an exporting company extends to its affiliate and the time that the merchandise remains in the affiliate's inventory indicate that the exporting company bears the cost of carrying the merchandise for a portion of the time that the merchandise is in inventory, then the exporting company's short-term interest rate will be used to calculate that portion of the inventory carrying costs."

¹¹ See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661 (Sept. 1, 2010) (Ball Bearings from France), and accompanying Issues and Decision Memorandum at Comment 3, where the Department stated, "While we recognize that there may be exceptions, it has generally been our longstanding practice that, if the payment terms that the parent company extends to its U.S. subsidiary indicate, in combination with the time the merchandise remains in the U.S. subsidiary's inventory, that the parent company bears the cost of carrying the merchandise for a portion of time the merchandise is in inventory in the United States, we use the parent company's short-term interest rate to calculate that portion of the ICC {inventory carrying costs}."

results. We find that it is the Department's well-established practice to calculate inventory carrying costs based on COM and to match the currency of the interest rate to the currency of the cost being imputed.¹² In this case, given that Cutrale's COM was incurred in Brazilian reais, recalculating Cutrale's U.S. inventory carrying costs required the use of the home-market interest rate. Contrary to Cutrale's claim that we departed from our practice in the Preliminary Results, we have calculated Cutrale's inventory carrying costs in this manner in every prior segment of this proceeding.¹³

While we recognize that Cutrale has cited to other cases where we used a different methodology, in other cases and in this order, as noted above, we have been consistent in our practice of basing our calculation of inventory carrying costs on COM and matching the currency of the interest rate to the currency of the COM. Given that Cutrale's COM is in Brazilian reais, we have calculated Cutrale's U.S. inventory carrying costs using Cutrale's cost of borrowing in Brazil. We find this approach reasonable because it ensures that inventory carrying costs are calculated on the same basis as COM.

Comment 6: Calculation of Cutrale's U.S. Indirect Selling Expense Rate

Cutrale has two subsidiaries in the United States, CPI and Cutrale Citrus Juices USA, Inc. (CCJ), which sell subject merchandise. Both subsidiaries reported their indirect selling expenses incurred during the POR, and we deducted these expenses from U.S. price, in accordance with section 772(d)(1)(D) of the Act.

The petitioners contend that Cutrale understated the U.S. indirect selling expenses reported for both affiliates by omitting several expense items (i.e., certain warehousing expenses and a portion of expenses categorized as "Others" in its financial statements for CPI and other expenses/interest related to operations for CCJ). In addition, the petitioners argue that the portion of CCJ's indirect selling expenses which Cutrale allocated to subject merchandise was also understated because CCJ's allocation ratio excluded a portion of selling, general, and administrative (SG&A) expenses. The petitioners disagree with the claim made by Cutrale in its April 14, 2011, submission that these expenses were properly excluded because they were not related to the production of subject merchandise.

¹² See, e.g., Paul Müller Industrie GMBH Co. et al. v. United States, 502 F. Supp. 2d 1271, 1276 (CIT 2007) citing to Extruded Rubber Thread from Malaysia: Final Results of Antidumping Duty Administrative Review, 63 FR 12752, 12760 (Mar. 16, 1998); Final Determination of Sales at Less than Fair Value: Canned Pineapple Fruit from Thailand, 60 FR 29553 (June 5, 1995); and Certain Corrosion-Resistant Carbon Steel Flat Products from Australia: Final Results of Antidumping Duty Administrative Reviews, 61 FR 14049 (March 29, 1996).

¹³ See, i.e., Certain Orange Juice From Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 18794, 18796 (Apr. 13, 2010) unchanged in 2008-2009 OJ from Brazil; Certain Orange Juice From Brazil: Preliminary Results of Antidumping Duty Administrative Review, 74 FR 15438, 15440 (Apr. 6, 2009), unchanged in 2007-2008 OJ from Brazil; Certain Orange Juice from Brazil: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 73 FR 18773, 18775 (Apr. 7, 2008) unchanged in 2005-2007 OJ from Brazil; Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Critical Circumstances Determination: Certain Orange Juice from Brazil, 70 FR 49557, 49562 (Aug. 24, 2005) unchanged in OJ from Brazil Investigation.

Specifically, the petitioners disagree that it is appropriate to exclude expenses related to non-subject-merchandise from the numerator of the indirect selling expense ratios for both subsidiaries, given that Cutrale used the value of total sales (*i.e.*, including both sales of subject and non-subject merchandise) as the denominator. The petitioners argue that it is the Department's policy to ensure that the numerator and the denominator of the indirect selling expense ratio are stated on the same basis. As support for this assertion, the petitioners cite the March 31, 2009, Memorandum to the File from Elizabeth Eastwood entitled "Calculations Performed for Fischer S.A. Comercio, Industria e Agricultura (Fischer) for the Preliminary Results in the 07-08 Antidumping Duty Administrative Review of Certain Orange Juice from Brazil," at page 1, where the Department stated that it "recalculated CNA's indirect selling expense ratio to include all indirect selling expenses incurred by the company during the period of review in the numerator because the denominator is CNA's total POR sales of all products." Therefore, the petitioners contend that Cutrale's U.S. indirect selling expense rates for CPI and CCJ should be recalculated to include expenses related to sales of non-subject merchandise, thereby ensuring that the numerator and denominator in the calculation are stated on the same basis, and the Department should also include all SG&A and operations-related expenses in the revised calculation for CCJ.

Cutrale did not specifically comment on this issue. Rather Cutrale made a general statement that it disagrees with all of the claims made by the petitioners and it urges the Department to reject them.

Department's Position:

We have not changed Cutrale's U.S. indirect selling expense ratios, as suggested by the petitioners, in these final results. After reviewing the information on the record, we disagree that Cutrale improperly excluded any expenses from its calculation of the reported figures.

With regard to CPI, Cutrale described the expenses at issue in submissions dated April 6 and 14, 2011. These submissions show that the expenses in question were properly excluded from CPI's indirect selling expenses. Specifically, the expenses consisted of: 1) warehousing expenses directly related to U.S. sales of non-subject merchandise; 2) other direct selling expenses related to U.S. sales of non-subject merchandise (*e.g.*, sales commissions, etc.); and 3) expenses related to the handling and unloading of subject merchandise at the port of entry, which were reported in Cutrale's U.S. sales database as movement expenses.¹⁴ Because these expenses were all direct selling or movement expenses, it would be inappropriate to include them in the calculation of indirect selling expenses. Therefore, we disagree that any revision to CPI's indirect selling expense ratio is necessary.

With regard to the petitioners' arguments concerning CCJ's exclusion of a certain percentage of its indirect selling expenses, the Department examined the allocation issue in a previous review

¹⁴ For further explanation of these warehousing expenses and an itemized listing of those expenses classified as, "Others" in CPI's financial statement, see Cutrale's submission dated April 6, 2011, at pages 1-3; see also Cutrale's submission dated April 14, 2011, at pages 1-2 and Exhibit SS-02.

and rejected similar arguments by the petitioners in that review. See 2007-2008 OJ from Brazil at Comment 4. Similarly in this review we had no reason to question Cutrale's allocation methodology because it employed the same methodology to allocate CCJ's expenses to the company's manufacturing operations as CCJ itself uses in the ordinary course of business.¹⁵ Because there is no indication on the record that this methodology has changed since the 2007-2008 review or that the methodology is distortive, we are continuing to accept it here.

Further, we find that the record contradicts the petitioners' assertion that CCJ improperly excluded certain expenses¹⁶ from total indirect selling-expenses. Specifically, we find that CCJ included its interest expense for the POR as part of its indirect selling expenses, despite the petitioners' claim to the contrary. See Cutrale 3rd Supplemental Response at 19. With respect to the remaining item referenced by the petitioners (for which Cutrale has claimed business proprietary treatment), we also disagree that this item should be included because this item appears to be related to CCJ's manufacturing operations. See Cutrale Questionnaire Response at Exhibit C-20.

With respect to the overall calculation for CCJ, we agree that it is appropriate to match the universe of expenses covered in the numerator to the total sales revenue included in the denominator. While we recognize the petitioners' concerns over CCJ's calculation methodology, we find that the record with respect to this issue contains inadequate information and is inconclusive. Moreover, while Cutrale reported this information on January 11, 2011, the petitioners only raised this concern for the first time in their case brief on May 9, 2011, and we note that it is the Department's general practice not to request additional information after the submission of briefs. Accordingly, we are accepting CCJ's indirect selling expense ratio as reported for purposes of the final results.¹⁷ Nonetheless, we intend to revisit this issue in subsequent reviews in which CCJ is involved and to obtain additional information.

Comment 7: Calculation of Cutrale's G&A Expense Rate

The petitioners argue that the Department should recalculate Cutrale's 2009 G&A expense rate to include three additional expenses excluded from the reported G&A rate calculation: 1) an expense for which Cutrale has claimed business proprietary treatment (and thus cannot be disclosed here); 2) net losses on the disposal of fixed assets; and 3) reserve contingencies associated with labor claims. The petitioners claim that the Department's policy is to include in the G&A expense rate calculation those expenses that relate to the general operations of the company as a whole and, therefore, items specifically reported on Cutrale's 2009 financial statements that meet this criterion should be included in Cutrale's G&A expense rate calculation.

¹⁵ See Cutrale's January 11, 2011, submission (Cutrale 3rd Supplemental Response), at page 19 and Exhibit TS-19.

¹⁶ See Cutrale's original questionnaire response, submitted on June 21, 2010 (Cutrale Questionnaire Response), at Exhibit C-20.

¹⁷ In any event, we note that making the change requested by the petitioners would not alter Cutrale's dumping margin in this review. Therefore, we find that this adjustment falls under the definition of an "insignificant adjustment," as set forth in 19 CFR 351.413 and, consequently, it is unwarranted for this reason, as well.

The petitioners also state that including these expenses in the G&A expense rate calculation would be consistent with the Department's practice in previous segments of this proceeding.¹⁸

Finally, with respect to the net losses on the disposal of fixed assets, the petitioners state that Cutrale did not provide details of these losses. Therefore, they argue that the Department should use the net loss on the disposal of fixed assets reported by Cutrale in the third administrative review as facts available under section 776(a) of the Act.

Cutrale disagrees that it is necessary to adjust its G&A rate, claiming that the items identified by petitioners are not related to the production of OJ and, therefore, were properly excluded from its G&A expenses. Specifically, regarding the proprietary expense, Cutrale argues that the item identified by the petitioners is an investment and is not related to Cutrale's cost of manufacturing or sales of OJ. Additionally, Cutrale states that its disposal of fixed assets should be excluded from its G&A expenses because the losses in question are small, and the disposals were from its cattle operations and bear no relation to Cutrale's cost of producing OJ. Finally, Cutrale contends that the petitioners are wrong in their facts regarding "reserve for contingencies" and that the amount has no association with Cutrale's cost of producing OJ. Therefore, Cutrale believes that the Department acted properly in the Preliminary Results by excluding these items from its calculation of Cutrale's G&A expense rate and it should continue to do so in the final results.

Department's Position:

It is the Department's well-established practice to include in the G&A expense rate calculation those expenses that relate to the general operations of the company as a whole. See Hot-Rolled Steel from Japan, 64 FR at 24350. In 2005-2007 OJ from Brazil, at Comment 19, as in this proceeding, in determining whether it is appropriate to include or exclude from the G&A expense rate calculation particular income or expense items, the Department reviewed the nature of each item and its relation to the general operations of the company.

Regarding the proprietary expense item, we agree with Cutrale that it relates to investment activity and, accordingly agree that it should be excluded from the G&A expense rate calculation. The Department normally does not include losses or gains from investment activity in G&A expenses because they do not relate to the general operations of the company. The reasoning, articulated in Notice of Final Determination of Sales at Less Than Fair Value: Live Cattle From Canada, 64 FR 56739, 56758 (Oct. 21, 1999), is that, in calculating the cost of production (COP) and CV, we seek to capture the COP of the foreign like product and subject merchandise, and to exclude the cost of investment activities. Therefore, consistent with our practice, we have continued to exclude the loss in the calculation of COP and CV. See the Memorandum to Neal Halper, Director, Office of Accounting, from Gary Urso, Accountant, entitled, "Antidumping Duty Administrative Review of Certain Orange Juice from Brazil; Cost of Production and Constructed Value Calculation Adjustments for the Final Results - Sucocitrico

¹⁸ As support for this assertion, the petitioners cite 2008-2009 OJ from Brazil at Comment 16; Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Carbon-Quality Steel Products from Japan, 64 FR 24329, 24350 (May 6, 1999) (Hot-Rolled Steel from Japan); and U.S. Steel Group v. United States, 998 F.Supp. 1151, 1154 (CIT 1998).

Cutrale Ltda.,” dated August 4, 2011, for the details regarding the proprietary specifics of the investment loss. See also Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 71 FR 26455, 26460 (May 5, 2006), unchanged in Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part, 71 FR 65082 (Nov. 7, 2006); Certain Hot-Rolled Carbon Steel Flat Products From Thailand: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 68 FR 68336, 68339 (Dec. 8, 2003), unchanged in Certain Hot-Rolled Carbon Steel Flat Products From Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 69 FR 19388 (Apr. 13, 2004); and Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyvinyl Alcohol From the Republic of Korea, 68 FR 13681, 13684 (Mar. 20, 2003) (where we excluded results from investment activity from COP and CV).

We agree with the petitioners that the loss on disposal of assets during the POR should be included in Cutrale’s G&A expense rate calculation. It is expected that a producer will periodically replace production equipment or other fixed assets and, in doing so, will incur miscellaneous gains and losses. Replacing production equipment is a normal and necessary part of doing business. In Cutrale’s normal books and records, the costs associated with fixed assets currently being used in production are recognized, and become part of the product-specific cost of manufacturing, through depreciation expenses. See Cutrale Questionnaire Response at Exhibit D-12. However, the gains and losses from the routine disposal of fixed assets are recognized as period costs, not product-specific manufacturing costs, in Cutrale’s normal books and records. See the October 28, 2010, supplemental section D questionnaire response at Exhibit SD-9. As such, the gains or losses on disposal become a general expense and no longer relate to any specific product or division. The equipment, having been removed from the production process prior to its sale or disposal, is no longer an element of product-specific production costs when the disposal or sale takes place. It rather is simply a miscellaneous asset awaiting disposal. As the gains or losses on the routine disposal or sale of fixed assets of this type relate to the general operations of the company as a whole, we consider Cutrale’s normal treatment of these costs as general expenses reasonable. See Notice of Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada, 70 FR 73437 (Dec. 12, 2005), and accompanying Issues and Decision Memorandum at Comment 8; see also Notice of Final Determination of Sales At Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate Resin from Indonesia, 70 FR 13456 (Mar. 21, 2005), and accompanying Issues and Decision Memorandum at Comment 13 (where the Department included gains and losses incurred on the routine disposition of fixed assets in the G&A expense rate calculation). Therefore, for the final results, the Department has adjusted Cutrale’s G&A expense rate to include the net loss on the disposal of fixed assets. Moreover, because the information regarding these losses is on the record, there is no need to resort to facts available to make this adjustment.

Finally, we disagree with the petitioners that the reserve contingencies associated with labor claims should be included in Cutrale’s G&A expense rate calculation. The amount cited by the petitioners is an asset on Cutrale’s balance sheet, not an expense. See the October 28, 2010, supplemental section D questionnaire response at Exhibit SD-9 (Sucocitrigo Cutrale Ltda. balance sheet). There is no reason to believe that Cutrale’s books and records are distortive and

that these reserve contingencies should be current expenses. Accordingly, we disagree with the petitioners that Cutrale's G&A expense rate should be adjusted to include these amounts.

The petitioners cite the third administrative review of this proceeding to support their arguments. See 2008-2009 OJ from Brazil at Comment 16. As in previous reviews, in determining whether it is appropriate to include in, or exclude from, the G&A expense rate calculation particular income and expense items, we reviewed the nature of the items and their relation to the general operations of the company. However, the fact pattern in the 2008-2009 administrative review is not the same as that in the current review. Specifically, the Department made clear in the third administrative review that the provision for contingent liabilities was included in G&A expenses because the respondent recognized the losses and related write-offs on its income statement. *Id.* Here, the figure the petitioners refer to for the reserve contingencies associated with labor claims is not an expense recognized on Cutrale's income statement, but rather an asset on the balance sheet. Therefore, for purposes of the final results, we have revised Cutrale's G&A expense rate calculation to include only the net loss on the disposal of fixed assets.

Comment 8: *Calculation of Fischer's International Freight Expenses*

In this administrative review, Fischer reported that most of its U.S. sales were transported to the United States on vessels operated by an affiliated company. In the preliminary results, we determined that the international freight expenses provided by Fischer's affiliate were not at arm's length. Therefore, we assigned to all sales shipped by Fischer's affiliate the international freight rate charged by the affiliate to an unaffiliated party in order to state these expenses on an arm's-length basis.

Fischer claims that its reported international freight expenses are at arm's-length and, thus, they should be accepted as reported. However, Fischer contends that, if the Department continues to find that it is appropriate to adjust these expenses, it should revise the methodology used in the preliminary results because this methodology overstates them. Specifically, Fischer claims that the invoice used as the arm's-length freight rate includes two separate charges: the international freight rate specified by the contract and a separate additional bunker fuel surcharge. According to Fischer, the bunker fuel surcharge is not a legitimate component of the international freight expense because this charge is reimbursable to Fischer's affiliate when specific conditions set forth in the contract are met.

Fischer argues that, just as its affiliate's customer is contractually required to reimburse the affiliate for the bunker fuel surcharges, Fischer's own U.S. customer is also required to reimburse Fischer for its additional bunker fuel costs. Fischer notes that the Department has recognized that Fischer's customer has reimbursed its U.S. affiliate, Citrosuco North America, Inc., for bunker fuel surcharges in prior segments of this proceeding. However, in this administrative review, Fischer claims that its customer was not charged for bunker fuel because the fuel charge did not reach the amount that would trigger the bunker fuel adjustment clause of its contract with its customer.

According to Fischer, including the bunker fuel surcharge as a component of international freight expense is contrary to the Department's regulations and its prior treatment of customer-

reimbursed costs in this proceeding. Fischer argues that this issue was addressed in the less-than-fair-value (LTFV) investigation where the Department treated Fischer's reported bunker fuel adjustments as an offset to U.S. freight expenses. See OJ from Brazil Investigation at Comment 15. Fischer claims that by not treating the bunker fuel surcharge as it was treated during the LTFV investigation, the Department is overstating the international freight expenses for all of Fischer's sales shipped by Fischer's affiliate.

Therefore, while Fischer claims that the Department should accept its reported vessel-specific international freight expenses in its U.S. sales database, if it does not Fischer requests that the Department exclude the bunker fuel surcharge from its calculation of the arm's-length international freight rate.

The petitioners agree with the Department's methodology for assigning an arm's-length international freight rate to sales shipped by Fischer's affiliate, noting that it is consistent with the methodology in previous administrative reviews.¹⁹ The petitioners point out that Fischer did not contest the Department's use of this methodology in the third administrative review. Moreover, the petitioners maintain that the Department's treatment of bunker fuel adjustments in the LTFV investigation has no bearing on its treatment of the bunker fuel charge at issue here. According to the petitioners, in the LTFV investigation, Fischer reported as a billing adjustment a bunker fuel adjustment that its U.S. subsidiary had received from its U.S. customer. However, in this administrative review, the petitioners note that Fischer has acknowledged that it neither received nor reported any bunker fuel billing adjustments. The petitioners maintain that Fischer seeks to confuse the issue by conflating bunker fuel charges and bunker fuel adjustments. In contrast, the petitioners note that, according to the explanation contained in Fischer's own brief, only the amount of the bunker fuel surcharge that exceeds the amount specified in the contract can be reimbursed as a bunker fuel adjustment.

Finally, the petitioners maintain that in the second administrative review Fischer made similar arguments regarding the issue of double counting of the bunker fuel surcharge. See 2007-2008 OJ from Brazil at Comment 10. The petitioners point out that in the second administrative review the Department rejected Fischer's double counting argument, finding that it was appropriate to accept Fischer's bunker fuel adjustments as an offset to international freight expenses while including a bunker fuel surcharge component in the arm's-length international freight rate. Therefore, the petitioners assert that the Department should continue to assign the international freight rate charged by Fischer's affiliate to an unaffiliated party, which includes a bunker fuel surcharge, to all U.S. sales shipped by Fischer's affiliate.

Department's Position:

In determining whether to use transactions between affiliated parties, our practice is to compare the transfer price to either prices charged to other unaffiliated parties who contract for the same service or prices for the same service paid by the respondent to unaffiliated parties. See Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not to Revoke in Part, 69 FR 644731 (Nov. 8,

¹⁹ See 2007-2008 OJ from Brazil at Comment 10; and 2008-2009 OJ from Brazil at Comment 11.

2004), and accompanying Issues and Decision Memorandum at Comment 11. See also 2007-2008 OJ from Brazil at Comment 10; and 2008-2009 OJ from Brazil at Comment 11.

For the final results, we have continued to assign the international freight rate charged to an unaffiliated party as the international freight expense for products shipped by Fischer's affiliate. Although Fischer contends that the Department should accept its data as reported, it provided no evidence to show that the amounts charged by its affiliate were, in fact, at arm's length. After examining the documents on the record, we have determined that the rate used in our analysis represents the best evidence of the price that Fischer's affiliate charges when it sets prices on an arm's-length basis. Because this price differs significantly from the prices that the affiliate charged Fischer for the same service, we cannot rely on the affiliated party prices in this instance.

Moreover, while Fischer contends that the Department incorrectly calculated the "replacement" rate by including a bunker fuel surcharge, we disagree. Fischer calculated its affiliated-party international freight expenses by summing: 1) the per-metric ton freight rate; and 2) the bunker fuel surcharge for the quantity of subject merchandise shipped. See Fischer's November 19, 2010, questionnaire response at Exhibit 3. Although Fischer maintains that bunker fuel surcharges are not part of its international freight expenses, its own reporting of these expenses in the U.S. sales listing belies its claim.

We find that Fischer conflates the bunker fuel surcharge at issue here with the bunker fuel adjustments it has reported in prior segments of this proceeding. Bunker fuel surcharges are a component of international freight expenses paid by Fischer, while bunker fuel adjustments are bunker fuel surcharges reimbursed by Fischer's customer and (when received) reported as a billing adjustment. Fischer acknowledges it did not report a bunker fuel billing adjustment in this administrative review; however, the evidence on the record demonstrates that Fischer was in fact responsible for paying the bunker fuel surcharge to its affiliate. Therefore, for these final results we have continued to assign all U.S. sales shipped by Fischer's affiliate the international freight rate charged to an unaffiliated party, including the bunker fuel surcharge amount.

Comment 9: *Use of Fischer's Home Market Sample Sales for NV and CV Profit*

Fischer reported two home market sales of not-from-concentrate (NFC) OJ which it classified as "sample" sales. In the preliminary results, we included these sales in our analysis and calculated a dumping margin for them. Both Fischer and the petitioners argue that the Department should exclude these sales from the margin calculations for purposes of the final results.

Fischer contends that the Department has historically excluded sample sales from its analysis because they are not representative of actual sales, and it should do so here as well. According to Fischer, leaving these sales in the margin calculations distorts the home market profit computed for CV, yielding a profit ratio which is "unrealistically high."

However, Fischer notes that, if the Department excludes these sample sales from its analysis (thereby removing the distortion from CV profit), the revised CV profit ratio still cannot be used to calculate CV for sales of NFC. According to Fischer, the new ratio will be based entirely on

sales of FCOJ, and it is unreasonable for the Department to apply a profit ratio calculated from data from one product (*i.e.*, FCOJ) to a different product (*i.e.*, NFC). Therefore, Fischer argues that the Department should base the CV profit ratio for NFC sales on the CV profit ratio calculated for Fischer in the second administrative review. Fischer notes that the Department used this same methodology in the third administrative review when all of Fischer's home market sales failed the cost test.

The petitioners agree that Fischer's home market NFC sample sales should be excluded from the final results dumping margin calculations because they were not made in the ordinary course of trade pursuant to section 773(a)(1)(B)(i) of the Act. As support for the Department's practice in this area, the petitioners cite Brass Sheet and Strip From Germany: Amended Final Results of Antidumping Duty Administrative Review, 75 FR 66347 (Oct. 28, 2010) (Brass Sheet and Strip from Germany) and accompanying Issues and Decision Memorandum at Comment 6 (where the Department excluded free sample sales and other trial shipments from its analysis because it found them to be outside the ordinary course of trade). According to the petitioners, the Department mistakenly failed to exclude these sales from its analysis for the preliminary results, and as a result, it understated Fischer's dumping margin.

Regarding Fischer's argument on the CV profit ratio, the petitioners contend that Fischer's suggested approach is unlawful. According to the petitioners, the Act clearly sets forth the basis for calculating CV profit, and it does not preclude the Department from applying a profit ratio calculated for one product to another. Rather, the petitioners note that the Act directs the Department to calculate CV profit based on sales of the foreign like product, in the ordinary course of trade, for consumption in the foreign country. The petitioners assert that, because both FCOJ and NFC are part of the same foreign like product, section 773(e)(2)(A) of the Act requires the Department to use a CV profit ratio based on home market sales of FCOJ in this administrative review when calculating CV for U.S. sales of NFC. The petitioners contend that the alternatives provided for under section 773(e)(2)(B) of the Act only apply if the data required to calculate CV profit in accordance with section 773(e)(2)(A) of the Act are unavailable, which is not the case here.

Department's Position:

We disagree that it is appropriate to exclude Fischer's home market sample sales of NFC from our analysis for purposes of the final results.

The petitioners claim that Fischer's home market NFC sample sales should be excluded from our analysis because such sales were not made in the ordinary course of trade. The term "ordinary course of trade" is defined in section 771(15) of the Act, which provides that:

The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind. The administering authority shall consider the following sales and transactions, among others, to be outside the ordinary course of trade:

(A) Sales disregarded under section 773(b)(1).

(B) Transactions disregarded under section 773(f)(2).

In this case, neither of the two specified provisions applies because the former relates to sales which fail the cost test, while the latter relates to transactions disregarded between affiliated parties.

Neither the petitioners nor Fischer provides any rationale for the exclusion of these sales beyond the mere fact that Fischer classified them as samples. Although the petitioners cite Brass Sheet and Strip from Germany to support their position, we find the petitioners' reliance on that case to be misplaced. In Brass Sheet and Strip from Germany, the Department found samples and trial shipments to be outside the ordinary course of trade. Regarding the samples, the Department determined that the German respondent did not charge its customer for these sales. Regarding the trial shipments, the Department determined that the German respondent: 1) received payment for these sales in a lump sum; and 2) did not record separate metal and fabrication prices, following the respondent's normal practice. In the instant case, while Fischer stated in its questionnaire response that "the purpose of this transaction was for sampling and testing by the end user,"²⁰ Fischer also reported receiving payment from its customer for the sample sales in question. Additionally, there were no other departures from Fischer's normal selling practices in evidence in the reporting of these sales. Specifically, Fischer reported prices for these sales and these sales were of a quantity that was not aberrational when compared to Fischer's other POR home market sales. Therefore, we find no basis to conclude that Fischer's home market sample sales are outside of the ordinary course of trade.

Regarding Fischer's argument that the Department has historically excluded sample sales from its analysis because they are not representative of actual sales, we disagree. Fischer cites no case precedent to support its position. In fact, the Department has previously included sample sales in its analysis. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Narrow Woven Ribbons with Woven Selvedge from Taiwan, 75 FR 41804 (July 19, 2010), and accompanying Issues and Decision Memorandum at Comment 10. Similarly, regarding Fischer's argument that leaving these sales in the margin calculations is distortive and results in a CV profit ratio which is "unrealistically high," Fischer provides no analysis to support its position but rather simply makes a conclusory statement. As a result, we find no basis to exclude these sales either from our analysis or from the calculation of CV profit.

Regarding the remainder of Fischer's argument (i.e., that the Department should not include a profit ratio based exclusively on home market sales of FCOJ in CV for U.S. sales of NFC), this argument is moot because we have not, in fact, calculated a profit ratio for the final results based exclusively on sales of FCOJ. Rather, we computed the home market profit ratio as the weighted-average profit earned on all home market sales of the foreign like product (including, in this case both FCOJ and NFC). This methodology is consistent with our long-standing

²⁰ See the July 2, 2010, section B questionnaire response at page B-24.

practice and in accordance with section 773(e)(2)(A) of the Act (also known as “the preferred method”).²¹

Nonetheless, even if Fischer had no useable home market sales of NFC, we disagree that it would be appropriate to use a profit rate determined from another segment of the proceeding, given that there were home market sales of the foreign like product (FCOJ) in the ordinary course of trade. Fischer’s interpretation of section 773(e)(2)(A) of the Act appears to be that the “preferred methodology” is product-specific. However, this is not a reasonable interpretation of the Act. CV profit is normally calculated using all sales of the foreign like product, regardless of model. See, e.g., Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 72 FR 52061 (Sept. 12, 2007), and accompanying Issues and Decision Memorandum at Comment 4. Therefore, in accordance with section 773(e)(2)(A) of the Act, we have continued to use all of Fischer’s home market sales in the ordinary course of trade to calculate CV profit for purposes of the final results.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If this recommendation is accepted, we will publish the final results of review and the final weighted-average dumping margins for the reviewed firms in the Federal Register.

Agree _____

Disagree _____

 Ronald K. Lorentzen
 Deputy Assistant Secretary
 for Import Administration

 (Date)

²¹ Sections 773(e)(2)(A) and (B) of the Act direct the Department to base CV profit on “the actual amounts incurred and realized by the specific exporter or producer being examined in the . . . review . . . , in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign like country.”