

April 4, 2007

MEMORANDUM TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results of the  
Administrative Review of Stainless Steel Wire Rod from Sweden

### **Summary**

We have analyzed the case and rebuttal briefs of interested parties in the 2004-2005 review of the antidumping duty order of stainless steel wire rod from Sweden. As a result of our analysis, we have made changes in the margin calculation for the final 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 review for which we received comments from the parties:

*Comment 1: Whether to Include Electroslag Refining As a Model-Matching Criterion*

*Comment 2: Grade-Matching Methodology*

*Comment 3: Treatment of One U.S. Sale Entered During the POR But Sold Prior to the POR*

*Comment 4: Application of Further Manufacturing G&A Expenses to Sales of Non-Further Manufactured Merchandise*

*Comment 5: Calculation of Affiliated Supplier’s Billet Cost*

### **Background**

On October 6, 2006, the Department of Commerce (“the Department”) published the preliminary results in the 2004-2005 antidumping duty administrative review of stainless steel wire rod from Sweden. See Stainless Steel Wire Rod from Sweden: Preliminary Results of Antidumping Duty Administrative Review, 71 FR 59082 (October 6, 2006) (“Preliminary Results”). The product covered by this review is stainless steel wire rod. The period of review (“POR”) is September 1, 2004, through August 31, 2005.

We invited parties to comment on the Preliminary Results. The respondent, Fagersta Stainless AB (“FSAB”), filed its case brief on November 27, 2006, and the petitioners<sup>1</sup> filed their rebuttal brief on December 4, 2006. Per FSAB’s November 3, 2006, request, we held a hearing on December 6, 2006.

On January 11, 2007, we extended the time limit for the final results in this review until April 4, 2007. See Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Stainless Steel Wire Rod from Sweden, 72 FR 2261 (January 18, 2007). Based on our analysis of the comments received, we have changed the weighted-average margin applicable to FSAB and its affiliates AB Sandvik Materials Technology (“SMT”) and Kanthal AB (“Kanthal”) from the Preliminary Results.<sup>2</sup>

### **Margin Calculations**

We calculated constructed export price (“CEP”) and normal value (“NV”) using the same methodology described in the Preliminary Results, except as follows below:

1. We matched products of identical grade first before matching products of the next most similar grade and, where appropriate, attempted to match products beyond the top three most similar grades before resorting to constructed value (“CV”), consistent with our intent in the preliminary results and in accordance with the Department’s practice. See Comment 2 for further discussion.
2. We included in our final margin analysis a U.S. sales transaction made by FSAB’s U.S. affiliate, Fagersta Stainless Inc. (“FSI”), for which the entry date was within the POR but the sale date preceded the POR, in accordance with the Department’s normal practice to review sales associated with entries made during the review period. See Comment 3 for further discussion.
3. We corrected a clerical error by applying the general and administrative (“G&A”) expenses and further manufacturing costs, which were recalculated in the Preliminary Results, to only the U.S. sales of FSAB’s other U.S. affiliate, Sandvik Metallurgical Technology U.S. (“SMT U.S.”), for which SMT U.S. reported an amount for further manufacturing. See Comment 4 for further discussion.

---

<sup>1</sup> The petitioners include the following companies: Carpenter Technology Corporation; Crucible Specialty Metals Division, Crucible Materials Corporation; and Electroalloy Corporation, a Division of G.O. Carlson, Inc.

<sup>2</sup> In the Preliminary Results, we determined it appropriate to treat FSAB and its affiliates, SMT and Kanthal AB, as one entity for margin calculation purposes because they met the regulatory criteria for collapsing affiliated producers/exporters. See April 13, 2006, Memorandum from the Team to The File, entitled “Stainless Steel Wire Rod from Sweden: Whether to Collapse FSAB, SMT, and Kanthal.” No party objected to this preliminary determination. Therefore, we have continued to treat these affiliated companies as one entity in the final results.

4. For SMT U.S.' sales of merchandise that was further manufactured but for which SMT U.S. did not report a further manufacturing cost, we applied as facts available under Section 776(a)(1) of the Tariff Act of 1930, as amended ("the Act"), a weighted average of the costs reported by SMT U.S. for its other U.S. sales of further-manufactured merchandise, as recalculated for purposes of the Preliminary Results, and deducted this amount from the prices of the U.S. sales at issue. See Comment 4 for further discussion.
5. We used SMACC's<sup>3</sup> cost of producing billets reported in the August 18, 2006, Section D supplemental questionnaire response to compare to the market price of billets and to the transfer price FSAB paid to SMACC for billets used to make the merchandise under consideration. We also excluded an additional G&A expense relevant to Outokumpu Oyj<sup>4</sup> which had been incorrectly added to SMACC's cost of production for purposes of the Preliminary Results. In addition, we included the total net foreign exchange gain or loss in the calculation of Outokumpu Oyj's consolidated financial expense rate that was applied to SMACC's cost of producing the billets, in accordance with Department practice. See Comment 5 for further discussion.
6. We corrected a clerical error by subtracting the adjustment to SMT's<sup>5</sup> transfer price from FSAB's cost of billets prior to calculating FSAB's total cost of manufacturing.
7. We corrected a clerical error by converting FSAB's U.S. affiliate's reported U.S. inventory carrying costs from SEK/kg. to USD/lb. in the margin calculations.

See April 4, 2007, Memorandum from Case Analyst to The File, entitled "Calculation Memorandum for the Final Results for Fagersta Stainless AB"; and April 4, 2007, Memorandum to Neal M. Halper from Michael P. Harrison, entitled "Cost of Production, Constructed Value and Further Manufacturing Calculation Adjustments for the Final Results - Fagersta Stainless AB," for further details.

### **Discussion of the Issues**

#### Comment 1: *Whether to Include Electroslag Refining As a Model-Matching Criterion*

In the Preliminary Results, we determined it was inappropriate in this review to change the product comparison model-matching criteria adopted in the less-than-fair-value ("LTFV")

---

<sup>3</sup> SMACC or Outokumpu Stainless Ltd. Sheffield is affiliated with FSAB.

<sup>4</sup> Outokumpu Oyj is the consolidated parent of SMACC.

<sup>5</sup> AB Sandvik Materials Technology or SMT is affiliated with FSAB and is also the parent company of SMT U.S.

investigation, by including electro-slag remelting (“ESR”)<sup>6</sup> in the model-matching criteria hierarchy, as suggested by FSAB. We reasoned in the Preliminary Results that inclusion of ESR in the long-standing model-matching criteria used in this review (and prior SSWR administrative reviews) was unwarranted because: (1) the physical differences associated with remelting appear to be minor; (2) remelting is not a matching criterion in cases involving other stainless steel products besides stainless steel bar (“SSB”); (3) the price and cost differences associated with a different production process do not necessarily warrant an alteration of the model-matching criteria; and (4) ESR affects only one SSWR grade sold by FSAB to the home market, the sales of which are insignificant in terms of the total quantity of all home market SSWR sales reported by FSAB during the POR.

FSAB disagrees with the Department’s preliminary decision, arguing that it is arbitrary, capricious, and unsupported by record evidence for several reasons. First, FSAB argues that record evidence contradicts the Department’s preliminary conclusion that the physical differences associated with remelting appear to be minor. FSAB claims that the Department has offered no analysis to support its position that ESR has only a minor impact on the physical characteristics of the merchandise. FSAB states that the Department did not consult with any metallurgical engineers or other experts, or consider the information placed on the record by FSAB. FSAB asserts that it provided detailed information that identifies the physical attributes imparted through the ESR process. FSAB claims that this information shows that the ESR process reduces the number of inclusions<sup>7</sup> and that as a result of this process, the remelted material withstands stress significantly better than non-remelted material and has a higher fatigue resistance. Moreover, FSAB notes that the physical differences associated with the remelted material are extremely important to the application of the product, as evidenced by the fact that FSAB’s customer requires special test reports which detail the inclusions by size and number of non-metallic inclusions.

Second, FSAB argues that the Department’s use of remelting as a model-matching criterion in the SSB proceeding is relevant to the model-matching criteria in this review. Specifically, FSAB maintains that remelting is a significant operation in the production of SSB which is an immediate downstream product of SSWR, and that the processing of SSWR into SSB does not alter the metallurgical properties of the product. Accordingly, FSAB contends that the rationale for including the remelting characteristic in the SSB model-matching criteria should equally apply to the SSWR model-matching criteria. Moreover, FSAB alleges that the SSB “case-specific information” from the SSB proceeding, which the Department placed on the record of this review, also justifies including a remelting product characteristic in the SSWR proceeding. Specifically, FSAB contends that statements made by the petitioners in the SSB proceeding

---

<sup>6</sup> ESR is one form of remelting. Another form of remelting is vacuum arc remelting (“VAR”).

<sup>7</sup> An inclusion is a particular non-metallic formation, primarily aluminum nitride with respect to ESR-treated SSWR products and primarily nitrogen and manganese with respect to VAR-treated SSWR products. The presence of inclusions generally serves to weaken the steel, making it more prone to breaking under stress. See FSAB’s April 4, 2006, supplemental questionnaire response at pages 10-14.

advocating the inclusion of remelting as a model-matching criterion (such as remelting removes impurities and some customers specifically request remelted product because they require finished products with lower inclusion content), are identical to the statements made by FSAB in this review. Therefore, FSAB contends that nothing in the record of this review distinguishes between the importance of remelting to SSB versus SSWR production. Furthermore, FSAB maintains that the fact that SSWR is converted into SSB and both are of the same steel means that if remelting is a significant operation for the downstream product, SSB, then it must also be significant for SSWR. In support of this claim, FSAB provides a mathematical formula showing how the cost of remelting SSWR is greater than the cost of remelting SSB based on the premise that the significant material quality imparted by the ESR process into the stainless steel used to make SSWR is not altered in the conversion from SSWR to SSB.

Third, FSAB argues that the Department's reliance on other antidumping duty cases involving stainless steel products where remelting is not a model-matching criterion in support of its decision not to include remelting as a model-matching criterion in this case is unsubstantiated. Specifically, FSAB alleges that there is no record evidence that those other stainless steel products<sup>8</sup> are produced through remelting. Absent this evidence, the Department's model-matching criteria in those cases are irrelevant to the issue of whether remelting is an appropriate product characteristic for SSWR. Conversely, FSAB claims that there is ample record evidence showing the types of stainless steel products that do undergo remelting and they do not include the stainless steel products referred to by the Department in the Preliminary Results. Moreover, FSAB states that those other stainless steel products are vastly different from SSWR as they are produced using different production methods and are not downstream products of SSWR. Unlike those other stainless steel products that are not used to produce SSWR, FSAB claims that because SSB undergoes remelting, so too must the SSWR which is used to produce the SSB. For this reason, FSAB insists that, unlike the other stainless steel products, only SSB is relevant to the remelting issue.

Fourth, FSAB argues that the Department's summary dismissal of significant price and cost differences associated with remelting cannot withstand scrutiny. Specifically, FSAB claims that it has provided sufficient documentation showing that remelting is even more important for SSWR than for SSB in terms of relative cost, and that ESR-treated merchandise is significantly more costly to make and carries a significant price premium in the market when compared to non-ESR-treated merchandise. To support this claim, FSAB illustrates these price and cost differences for SSWR products having the same control number but produced with and without ESR-treated material. Moreover, FSAB notes that there are also significant<sup>9</sup> price and cost differences when comparing the SSWR grade produced with ESR-treated material to the next most similar SSWR grade produced without the ESR-treated material. Furthermore, FSAB stresses that because the same home market customer knowingly purchased both the non-ESR-

---

<sup>8</sup> In the Preliminary Results, the Department mentioned stainless steel butt-weld pipe fittings, stainless steel sheet and strip in coils, and stainless steel plate in coils, as examples of other stainless steel products for which remelting was not included in the model-matching criteria. See Preliminary Results, 71 FR at 59085.

<sup>9</sup> FSAB notes in its case brief that the price difference is approximately 100 percent whereas the cost difference is slightly over 100 percent.

treated and ESR-treated SSWR grade at issue, the ESR-treated SSWR must have vastly superior physical qualities that justify the significant price premium. Therefore, given that the cost to produce, and the price charged for, ESR-treated SSWR is twice as much non-ESR-treated SSWR, FSAB disagrees with the Department's view in the Preliminary Results that the physical differences between ESR-treated SSWR and non-ESR-treated SSWR are minor.

Furthermore, FSAB asserts that the price and cost differences noted above reflect radically different production processes, resulting in different material composition in a very important respect. Accordingly, FSAB disagrees with the Department's position in the Preliminary Results that price and cost differences associated with a different production process do not necessarily warrant an alteration of the model-matching criteria. Rather, FSAB contends that the price and cost differences must be considered in combination with the fact that the ESR production process used to produce SSWR has a significant impact on the physical characteristics of the subject merchandise. Otherwise, FSAB contends that the Department's Preliminary Results are at odds with the rationale expressed in other cases involving analogous model-matching issues. In support of its claim that the Department must also consider price and cost differences, and the ESR production process' effect on the physical characteristics of the subject merchandise in its final analysis of the model-matching issue in this review, FSAB cites to Metal Calendar Slides from Japan: Notice of Final Determination of Sales at Less than Fair Value and Final Negative Determination of Critical Circumstances, 71 FR 36063 (June 23, 2006), and accompanying Issues and Decision Memorandum at Comment 1 ("Metal Calendar Slides"); and Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Final Results of Antidumping Duty Administrative Review, 70 FR 13458 (March 21, 2005), and accompanying Issues and Decision Memorandum at Comment 1 ("Carbon Steel Flat Products").

Finally, FSAB argues that the Department is mistaken in its stated belief that only one FSAB home market sale is at issue, and that there is no dramatic effect on the dumping margin. Specifically, FSAB alleges that the Department was incorrect in the Preliminary Results with respect to its assessment of the impact of FSAB's sales of ESR-treated SSWR on the margin calculation. FSAB contends that it did not make only one home market sale of a single grade of ESR-treated SSWR during the POR as the Department stated in the Preliminary Results. Rather, FSAB claims that it reported numerous home market sales transactions of ESR-treated SSWR both in the POR and in the contemporaneous window period. Moreover, FSAB notes that as all of its ESR-treated SSWR home market sales were of one grade, their inclusion in product comparisons effects the comparison market price of all sales of that grade. FSAB also claims that the impact of these sales on the dumping margin calculation, without the inclusion of ESR as a product characteristic for product comparison purposes, is substantial. Specifically, FSAB maintains that the quantity of U.S. sales of the affected SSWR grade involved in the product comparisons is significant. FSAB notes that after correcting for certain clerical errors, its final results margin increases significantly if the Department continues not to include ESR as a product characteristic in the matching criteria. FSAB maintains that well over 90 percent of its affiliate's U.S. sales of the affected SSWR grade will match to home market sales of the identical non-ESR-treated SSWR grade and that these matches in isolation have a significant impact on the margin. Therefore, FSAB concludes that matching U.S. sales of the non-ESR-treated grade

of merchandise to the same exact product sold in the home market would result in a more accurate comparison.

In response to the petitioners' suggestion that the differences in the margin noted above are the result of FSAB's attempts to distort its margin, FSAB maintains that it is merely requesting that the Department compare sales of identical product sold in both markets. Contrary to the petitioners' suggestion, FSAB contends that matching sales of non-ESR-treated SSWR with ESR-treated SSWR is distortive to the margin. As such, FSAB points out that a "compelling reason" warranting a change to the model-matching methodology may include greater accuracy in comparing the foreign like product to the single most similar U.S. model, in accordance with section 771(16)(B) of the Act. In support of its argument, FSAB cites to Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Review, 70 FR 54711 (September 16, 2005). In conclusion, FSAB asserts that its proposed model-matching methodology would correct a significant inaccuracy and result in accurate product comparisons, as it would compare sales of the same product in both markets.

The petitioners argue that the Department properly rejected FSAB's request to create a new model-matching criterion, as its request is designed to prevent a select group of home market sales to a single customer from being compared to sales of similar products sold in the United States. Moreover, the petitioners contend that the Department's longstanding model-matching criteria in the SSWR cases has ensured proper matches, particularly for the greatest volume of sales over the entire product line. Furthermore, the petitioners claim that the current model-matching methodology already compares products with similar physical characteristics, regardless of the production process used. If the Department were to create a new matching criterion because of a single product sold to a single home market customer in this case, the petitioners argue that the purpose of the statute would be defeated and the Department's action would encourage respondents to claim other exceptions for high-priced home market sales in an effort to selectively revise the matching procedures to reduce dumping margins.

In response to FSAB's allegation that the Department's decision not to include ESR in the model-matching criteria was arbitrary, capricious, and unsupported by record evidence, the petitioners maintain that the Department's established model-matching criteria have properly and adequately captured all important physical characteristics of SSWR. Moreover, the petitioners state that since the LTFV segment of this proceeding, the Department's model-matching characteristics have implemented the statutory objective of comparing home market and U.S. products such that only the most salient physical characteristics are selected for matching purposes while minor or commercially insignificant characteristics are ignored. In support of its position on this matter, the petitioners cite to Pesquera Mares Australes, Ltda. v. United States, 266 F.3d 1372 (Fed. Cir. 2001). The petitioners also point out that the fact that FSAB sold one ESR-treated SSWR grade to one customer in the home market should not be considered by the Department to be a sufficient reason for modifying the matching criteria, and that such action would depart from its long-established practice. Furthermore, the petitioners point out that FSAB's statement in its response, that there are no significant differences between the

merchandise sold in the home market and that exported to the United States, is further evidence that ESR does not merit inclusion in the model-matching criteria. Conversely, if the Department agrees with FSAB that remelting is a significant procedure for producing SSWR, then the petitioners maintain that the Department should also consider in its model-matching analysis other “special” production procedures, such as shaving and special annealing, which are also requested by customers who demand that the SSWR meet rigid specifications. For example, the petitioners contend that production processes other than ESR, such as argon-oxygen-decarburization (“AOD”) and vacuum-oxygen-degassing (“VOD”), may also be used to achieve specific “inclusion” requirements. Moreover, the petitioners note that various finishing operations such as shaving or extra annealing and/or the use of less scrap and more virgin material are also methods which may be used in place of remelting to achieve various inclusion requirements. Therefore, the petitioners contend that, like ESR, the additional processing steps noted above would also involve extra costs and might also be characterized as significant operations comparable to remelting if the Department agrees with FSAB’s position on this matter. The petitioners note that while the current model-matching methodology cannot possibly be designed to take into account every production processing step used for each individual customer, it does account for the most important physical characteristics of the merchandise.

In response to FSAB’s claim that besides SSWR and SSB, other stainless steel products subject to antidumping duty orders do not undergo remelting, the petitioners assert that stainless steel producers of flat-rolled products do, in fact, remelt their products to achieve certain “inclusion” properties and that the Department can confirm this fact by accessing those producers’ Internet sites. Given that other stainless steel products, like SSWR, do undergo remelting but to a much lesser extent than SSB, the petitioners contend that SSWR is more similar to those other stainless steel products than to SSB.

In response to FSAB’s claim that SSB is made from SSWR and that because remelting is a matching criterion for SSB it should also be one for SSWR, the petitioners assert that SSB is not always made from SSWR and that the vast majority of remelted SSB is not made from SSWR. Of equal importance, the petitioners note, is that it is much more common for remelting to be used in the production of various large diameter SSB which is not produced using SSWR. The petitioners conclude that FSAB has failed to acknowledge the circumstances surrounding the inclusion of remelting in the model-matching criteria employed in the SSB cases and how those circumstances are wholly distinct from those relevant to the cases involving SSWR and other stainless steel products. Specifically, the petitioners assert that the latter cases are distinct from SSB, claiming that remelting is a standard process which occurs more frequently in producing SSB whereas it appears to be more associated with a single patented process to a single customer in the other stainless steel cases (including SSWR). The petitioners further note that the reason why remelting is a standard practice in producing SSB is that, unlike SSWR and other stainless steel products, SSB can be sold in a greater variety of shapes and remelting is frequently required for its larger diameter sizes. Moreover, the petitioners note that, unlike customers of SSWR and other stainless steel products, a large number of SSB customers require producers to perform remelting. Hence, the petitioners consider FSAB’s request to include remelting in the SSWR

model-matching criteria to be without merit because it only affects a single remelted product sold to a single customer and, thus, is very limited and exclusive in nature.

In response to FSAB's claim that significant price and cost differences exist between the ESR-treated and non-ESR-treated SSWR, the petitioners maintain that FSAB's claim should be dismissed because the two products are similar based on customer-specific requirements. The petitioners conclude that in order to avoid a dumping finding, FSAB is attempting to restructure the model-matching methodology by highlighting the cost and price differences between the two products. With respect to FSAB's ESR-treated grade of SSWR, the petitioners contend that FSAB sold the same grade in the U.S. market and the sales documentation submitted by FSAB for that grade indicates that there is a greater emphasis on the physical characteristics of the inclusion requirements as opposed to the production process used to achieve those inclusion specifications.

In response to FSAB's argument that the use of the current matching criteria has a distortive effect on the margin because ESR is not taken into account, the petitioners contend that the Department's model-matching procedures have resulted in comparisons of U.S. sales that are similar in physical characteristics to the home market sales for the SSWR grade in question, and therefore, have properly measured the level of dumping occurring during this review. In making the claim that matching sales of non-ESR-treated SSWR with ESR-treated SSWR is distorting the margin, the petitioners maintain that FSAB really is trying to exclude one specific product from the model-matching process. As the petitioners point out, FSAB indicated in its response that the home market customer holds a patent since 1999 for a product which requires ESR-treated SSWR. Moreover, the petitioners state that it has been FSAB's intention since filing its Section B questionnaire response to create a model-matching criterion for that patented product such that there can be no comparison of this product to any U.S. sale. The petitioners note that the Department regularly rejects a respondent's efforts to manipulate the model-matching process when it claims that it has a specialized, proprietary grade of product for sale in the home market that should not be used for comparison purposes. Alternatively, if FSAB had sold an ESR-treated SSWR grade in the United States rather than home market, the petitioners contend that FSAB would have no incentive to claim that a special model-matching criterion should be created or even highlight the price and cost differences between ESR-treated and non-ESR treated SSWR. The petitioners maintain that the model-matching procedures are designed to ensure that the Department can make reasonable product comparisons while at the same time prevent respondents from carving out high-priced niche product sales in the home market.

Department's Position:

We disagree with FSAB and have not changed the model-matching criteria to include ESR in the final results of this review.

When identical merchandise is not available in the home market for comparison to merchandise sold to the United States, the Department will compare "similar" merchandise based upon the physical characteristics of the merchandise being compared. See section 771(16)(B) of the Act.

The statute also instructs the Department to compare merchandise that is produced in the same country and by the same person as the subject merchandise; like that subject merchandise in component material or materials and in the purposes for which used; and approximately equal in commercial value to the subject merchandise. Section 771(16)(C) of the Act instructs that, where no matches can be found under section 771(16)(B) of the Act, three criteria must be met to consider a product similar to the U.S. model: 1) the comparison-market model must be produced in the same country and by the same person and of the same general class or kind as the merchandise which is the subject of the investigation; 2) the comparison-market model must be like that merchandise in the purposes for which used; and 3) the comparison-market model must be found to be reasonably comparable to the U.S. model by the Department.

When the Department has an established model-matching methodology in a proceeding, it may alter its established methodology if there is a reasonable basis for doing so. See NTN Bearing Corp. v. United States, 295 F. 3<sup>rd</sup> 1263, 1269 (CIT 2002). With respect to changes to its model-matching methodology, the Department has applied a “compelling reasons” standard, which is fully consistent, if not more rigorous, than the principles applied by the courts in reviewing the Department’s determination to alter or change its practice. See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Review, 70 FR 54711 (September 16, 2005), and accompanying Issues and Decision Memorandum at Comment 2 (“Ball Bearings”). Compelling reasons that warrant a change to the model-matching methodology may include, for example, greater accuracy in comparing foreign like product to the single most similar U.S. model, in accordance with section 771(16)(B) of the Act, or a greater number of reasonable price-to-price comparisons in accordance with section 773(a)(1) of the Act.

In this review, we continue to find an insufficient basis upon which to change the current model-matching criteria as suggested by FSAB, for the following reasons, as explained in further detail below: (1) FSAB’s use of ESR (and remelting in general) on products subject to this review is limited to home market sales of one AISI-equivalent SSWR grade,<sup>10</sup> which is insignificant in terms of the total quantity of the AISI-equivalent SSWR grades FSAB sold to the U.S. and home markets during the POR; (2) greater accuracy with respect to comparing the foreign like product to the most similar U.S. model will not result if we include ESR as a model-matching criterion; (3) remelting in general appears to be used only to a limited extent in the SSWR industry and it is not a new technological advancement in that industry; (4) remelting is also used to produce, to a limited extent, other stainless steel products such as stainless steel plate and stainless steel sheet and strip in coils for which antidumping duty orders are in place and for which the model-matching criteria do not include the remelting characteristic; (5) unlike SSWR and other stainless steel products mentioned above, remelting is an integral part of the production of a wide range of SSB and is used extensively in that industry; (6) contrary to FSAB’s claim, SSWR’s use in the production of SSB is limited to the smaller diameters of SSB and does not appear to require that

---

<sup>10</sup> The Department’s antidumping duty questionnaire instructed FSAB to assign codes to its SSWR grades sold during the POR based on the specifications established for AISI-recognized grades. See antidumping duty questionnaire at page B-6 and C-5.

the SSWR be remelted to produce SSB; (7) the cost differences identified by FSAB in producing the single ESR-treated AISI-equivalent grade and the fact that remelting is a production step not common to producing SSWR do not warrant a change to the model-matching methodology; (8) like remelting, the use of other production processes and/or the use of finer steel to make SSWR can have an impact on costs and can also affect the quality (both internally and externally) of the final SSWR product, including the level of “inclusions” and, therefore, the resulting quality is not necessarily unique to the remelting production process; and (9) the cases cited by FSAB in support of its arguments actually support the Department’s determination not to include ESR as a model-matching criterion in this review.

In this review, since filing its Section B questionnaire response,<sup>11</sup> FSAB has repeatedly argued that the Department should modify the model-matching criteria used in this proceeding to include ESR (e.g., a form of remelting). FSAB used ESR to produce one AISI-equivalent SSWR grade that it sold to one customer in the home market during the POR.<sup>12</sup> Although FSAB reported sales to the United States and home market of the same SSWR grade, FSAB did not perform ESR on that same SSWR grade sold in the U.S. market. Although FSAB did report more than one sale of this SSWR grade to a single home market customer during the POR, the fact remains that the single ESR-treated AISI-equivalent SSWR grade is insignificant when compared to the large number of non-ESR-produced AISI-equivalent SSWR grades FSAB sold in both the home and U.S. markets during the POR.

The Department’s current product-matching criteria use all of FSAB’s home market sales of the ESR-treated and non-ESR-treated grade at issue (i.e., grade 20) when comparing those sales of that grade to the identical grade sold in the U.S. market. Specifically, in accordance with the instructions contained in the Department’s questionnaire, FSAB’s reported costs for each SSWR grade include both non-ESR and ESR-related production costs. FSAB’s proposal to treat ESR as a separate model-matching criterion would effectively remove the home market sales of ESR-treated SSWR from the margin calculation analysis. Specifically, adding ESR to the model-matching criteria would result in separate control numbers for the ESR-treated and non-ESR-treated merchandise at issue, as well as separate production costs and prices for the merchandise. Consequently, by excluding the ESR-treated SSWR home market sales from our analysis, the home market price and production costs of the SSWR grade at issue (i.e., grade 20) are artificially lowered when compared to sales of the same grade in the U.S. market. Therefore, including ESR as a model-matching criterion will not result in greater accuracy with respect to product comparisons involving the SSWR grade at issue. In addition, given the fact that the use of ESR is limited to the production of one AISI-equivalent grade in this review, inclusion of ESR as a model-matching characteristic will not result in greater accuracy with respect to comparing the remaining foreign like product (i.e., all other SSWR grades sold in the home market during

---

<sup>11</sup> We note that prior to filing its Section B questionnaire response, FSAB stated in its Section A questionnaire response that there are no significant differences between the SSWR sold in either the home or U.S. market. See FSAB’s Section A questionnaire response at page A-39.

<sup>12</sup> See FSAB’s January 11, 2006, Section B questionnaire response (“Section B response”) at page B-2.

the POR) to the single most similar U.S. model, in accordance with section 771(16)(B) of the Act.

Moreover, FSAB's argument, that remelting was not included in the model-matching criteria used for other stainless steel products cited by the Department in the Preliminary Results because those other products do not use remelting, is without merit. In the Preliminary Results, we stated that the Department has not used remelting as a model-matching criterion in other proceedings involving stainless steel products besides SSB, and cited to certain proceedings as examples (*i.e.*, stainless steel butt-weld pipe fittings, stainless steel sheet and strip and coils, and stainless steel plate in coils). We note that stainless steel plate and stainless steel sheet and strip in coils, like SSWR, do undergo, to a limited extent, some form of remelting.<sup>13</sup> Therefore, FSAB's claim that besides SSB and SSWR, no other stainless products are produced using a form of remelting, is incorrect.

In addition, the model-matching criteria applicable to those other stainless steel products do not include remelting and, similar to SSWR, are produced using a remelting process only to a limited extent.<sup>14</sup> In contrast, the model-matching criteria for SSB include remelting forms such as ESR because remelting is an integral part of the production of a wide range of SSB and is used extensively by that industry.<sup>15</sup> This fact is substantiated by the findings of the International Trade Commission ("ITC") with respect to SSB.<sup>16</sup> Specifically, the ITC's report on SSB highlights the significance of remelting in SSB production when it states that "{m}ost manufacturers of stainless steel bar follow an integrated production process that consists of three stages: (1) melting and casting; (2) hot-forming; and (3) finishing." The ITC report even elaborates on the melting stage as follows:

---

<sup>13</sup> See *e.g.*, Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden, 63 FR 67658 (December 8, 1998) ("Stainless Steel Plate from Sweden"), which notes that the Department issued a July 11, 1995, scope ruling with respect to a stainless steel plate product named Stavax ESR; and Stainless Steel Sheet and Strip in Coils From Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 71 FR 45521, 45523 (August 9, 2006) ("SSSS from Taiwan"); Stainless Steel Sheet and Strip in Coils From Germany: Notice of Preliminary Results of Antidumping Duty Administrative Review, 71 FR 45024, 45025 (August 8, 2006) ("SSSS from Germany"); Stainless Steel Sheet and Strip in Coils From Mexico: Preliminary Results of Antidumping Duty Administrative Review, 71 FR 35618, 35619 (June 21, 2006) ("SSSS from Mexico")

<sup>14</sup> See, *e.g.*, SSSS from Taiwan, 71 FR at 45527; SSSS from Germany, 71 FR at 45027; and SSSS from Mexico, 71 FR at 35620.

<sup>15</sup> Moreover, when the Department sought comment on its proposed model-matching criteria in the LTFV stage of the SSB proceedings, the vast majority of interested parties, not just the petitioner, participating in the SSB proceedings all agreed that remelting was a significant characteristic in SSB production and therefore should be included in the model-matching criteria. See September 29, 2006, Memorandum From the Case Analyst to The File entitled, "Public Documentation Placed on the Record" (which includes discussion of remelting in the SSB proceedings).

<sup>16</sup> See, *e.g.*, U.S. ITC Publication 3404, entitled Stainless Steel Bar From Brazil, India, Japan, and Spain: Investigation Nos. 731-TA-678-679 (Review), at page I-15 (March 2001) ("U.S. ITC Publication 3404").

“...several special melting methods are used to produce stainless steel of higher purity or lower nonmetallic inclusion content than conventional electric-arc furnace product when the demands of the application justify the added costs. These methods include melting under vacuum (vacuum induction melting (“VIM”), electron beam melting, or vacuum arc remelting (“VAR”)) or under a blanket of molten slag (electroslag remelting (“ESR”).”

In contrast, the ITC reports for SSWR and other stainless steel products, such as stainless steel sheet and strip,<sup>17</sup> for which remelting is used to a very limited extent, make no mention of remelting being an integral part of the production of those products.<sup>18</sup> For SSWR in particular, the ITC report notes the following:

“There are three basic steps in SSWR production, regardless of grade or final cross section: (1) the melting of steel and production of billets; (2) hot-rolling the billets and coiling the wire rod; and (3) finishing, which includes annealing and pickling.”

The ITC report further discusses the melting stage of SSWR as follows:

“In the first stage, molten stainless steel is produced by melting stainless steel scrap and various alloying agents (including chromium, nickel, and molybdenum) in an electric arc furnace. Molten stainless steel is typically passed through a ladle metallurgy station, where its chemistry is refined to produce steel with specific properties according to end-use applications. It is then cast into billets, which are semifinished long products with a square cross section.”<sup>19</sup>

The ITC report also refutes FSAB’s claim that remelted SSWR is used to produce SSB. The ITC reports for SSB and SSWR indicate that to the extent that SSWR is used to produce SSB, its use in the production of SSB is limited to the smaller diameters of SSB.<sup>20</sup> More importantly, according to the ITC report on SSB, SSWR is but one of two stainless steel products that may be used to produce SSB - the other stainless steel product which may be used in limited instances to produce smaller-diameter SSB is stainless steel wire (“SSW”).<sup>21</sup> Like SSWR, SSW is another

---

<sup>17</sup> See e.g., U.S. ITC Publication 3118, entitled Certain Stainless Steel Sheet and Strip From France, Germany, Italy, Japan, The Republic of Korea, Mexico, Taiwan, and The United Kingdom: Investigation Nos. 701-TA-380-382 (Preliminary), at pages I-10 through I-14 (August 1998) (“U.S. ITC Publication 3118”).

<sup>18</sup> See e.g., U.S. ITC Publication 3866, entitled Stainless Steel Wire Rod From Brazil, France, and India: Investigation Nos. 731-TA-636-638 (Second Review), at page I-19 (July 2006) (“U.S. ITC Publication 3866”).

<sup>19</sup> See U.S. ITC Publication 3866 at page I-20.

<sup>20</sup> See U.S. ITC Publication 3404 at page I-14 and U.S. ITC Publication 3866 at pages 4-5.

<sup>21</sup> See U.S. ITC Publication 3404 at page I-14.

stainless steel product examined by the Department for which remelting was not considered an integral part of the production process and therefore, not included in the model-matching criteria.<sup>22</sup> Moreover, the ITC report for SSW makes no mention of remelting being an integral part of the production of this product either.<sup>23</sup>

Furthermore, FSAB goes to great lengths to argue that using ESR on SSWR is not a minor production step, as it has a significant impact on the internal chemistry of the steel grade used to produce the SSWR. However, as the petitioners have correctly pointed out, and the ITC report on SSWR confirms, other production steps can also be applied to the SSWR grade as well, and those extra production steps, like remelting, can also have an impact on costs, as well as affect the quality (both internally and externally) of the final SSWR product. For example, the ITC report on SSWR states the following:

“Some SSWR may be further subjected to a cold-drawing process to produce “sized” or “shaved” rod. In this process, the wire rod is straightened and cold-drawn after the initial hot-rolling, annealing, and pickling, and is then recoiled. This process imparts tighter dimensional tolerances and minimizes surface imperfections.”<sup>24</sup>

Clearly, the use of finer raw steel could have an impact on the quality of the final SSWR product, as well. Therefore, many factors and/or different production steps could affect the final SSWR product with respect to both its internal characteristics (e.g., impurities or inclusions, dimensional tolerances) and its external characteristics (e.g., surface imperfections). As use of these extra production steps appears to be dependent on a particular customers’ request, as in the case with FSAB’s use of ESR to produce one SSWR grade sold in the home market during the POR, such use also appears to be limited and, therefore, is the exception rather than the norm when producing SSWR. In prior reviews, the Department has stated that changing the model-matching criteria may be warranted if an interested party can show that a specific standard exists that is not captured in the model-matching criteria but which is industry-wide, commercially accepted and recognizes material physical characteristics of various types for the particular

---

<sup>22</sup> See Notice of Preliminary Determinations of Sales at Less Than Fair Value and Postponement of Final Determinations--Stainless Steel Round Wire From Canada, India, Japan, Spain, and Taiwan; Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination--Stainless Steel Round Wire From Korea, 63 FR 60402, 64044 (November 12, 1998), and affirmed in e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire From Canada, 64 FR 17324 (April 9, 1999).

<sup>23</sup> See e.g., U.S. ITC Publication 3194, entitled Stainless Steel Round Wire Rod From Canada, India, Japan, Korea, Spain, and Taiwan: Investigation Nos. 731-TA-781-786 (Final), at pages I-5 through I-7 (May 1999) (“U.S. ITC Publication 3194”).

<sup>24</sup> See U.S. ITC Publication 3866 at page I-20.

product at issue.<sup>25</sup> In this review, it is clear based on the limited application of ESR, in particular, and remelting, in general, to SSWR that FSAB has not met this test.

Additionally, throughout this review, FSAB has claimed that ESR represents a new technological development in the SSWR industry that occurred after the completion of the LTFV segment of this proceeding. Although we recognize FSAB's claim that it only started using the ESR process to produce the one grade at issue after the Department completed the LTFV segment of this proceeding, the petitioners correctly point out that other forms of remelting, such as vacuum-arc-remelting ("VAR"), have been used to produce SSWR before the initiation of the LTFV segment of this proceeding.<sup>26</sup> In fact, both ESR and VAR are similar in terms of their intended purposes and uses. For example, ESR and VAR are both used to make a cleaner steel (*i.e.*, a steel with fewer, smaller, and more evenly distributed and/or segregated inclusions). However, the use of one remelting form may be preferred over the other depending on the type of final end use of the SSWR.<sup>27</sup> Therefore, we do not consider remelting (in one form or another) to be a new technological development affecting the SSWR industry, as it has been in existence for decades.<sup>28</sup>

We recognize that FSAB may have incurred additional costs when it used ESR to remelt one AISI-equivalent SSWR grade of merchandise sold in the home market during the POR. We also recognize that a producer which remelts grades of merchandise used to produce any stainless steel product may incur additional costs, and those costs will be greater when compared to the costs incurred to produce the same grades without remelting. However, in this case, the single AISI-equivalent SSWR grade for which FSAB used ESR represents only one in a broad range of other SSWR grades sold by FSAB in the U.S. and home markets during the POR. Moreover, based on FSAB's own data and the ITC report information, it does not appear that the use of remelting is a common practice in the SSWR industry. Therefore, the cost differences identified by FSAB with respect to the single remelted AISI-equivalent grade relative to the numerous other non-remelted grades sold during the POR, coupled with the fact that ESR remelting is a production step not common to producing SSWR, do not warrant the inclusion of ESR as an additional model-matching criterion.

Finally, we disagree with FSAB's claim that the extra costs incurred to produce SSWR through ESR and the higher sales prices charged for such merchandise warrant its inclusion as a model-

---

<sup>25</sup> See *e.g.*, Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review, 71 FR 53370, 53372 (September 11, 2006), which cites to August 31, 2006, memorandum from James Terpstra, Program Manager, AD/CVD Operations, Office 3, to Melissa G. Skinner, Director, AD/CVD Operations, Office 3.

<sup>26</sup> See Preliminary Results, 71 FR at 59084.

<sup>27</sup> See also FSAB's April 4, 2006, supplemental questionnaire response at page 14.

<sup>28</sup> See also FSAB's Section B response at page B-2.

matching criterion. FSAB relies on Metal Calendar Slides and Carbon Steel Flat Products as support that the price and cost differences associated with ESR, as well as the impact of the ESR production process on the physical characteristics of the merchandise, warrant a change in the model-matching criteria. However, FSAB's reliance on these determinations is misplaced. In Metal Calendar Slides, the Department determined not to switch the hierarchical order of two criteria (i.e., width and length) already included in the model-matching criteria because the petitioner did not demonstrate that differences in functionality, production, or pricing, and marketing were sufficient to overturn the established methodology.<sup>29</sup> In this review, we find that the differences in price and production cost between the ESR- and non-ESR-treated grade at issue, as reported by FSAB, are not sufficient to change the established product-matching methodology for the reasons discussed above. In Carbon Steel Flat Products, we determined not to include surface type in the model-matching criteria, in part, because the Department did not find significant cost differences associated with it and the product at issue was interchangeable. The Department's decision in that case was also based, among other things, on the fact that the respondent had not demonstrated that the product characteristic represented a new technological advancement in that industry since the original investigation and/or an industry-wide, commercially accepted standard.<sup>30</sup> Similarly, in this review, FSAB's use of remelting is not a new technological advancement and is only used to a limited extent in the SSWR industry.

Therefore, based on the reasons and analysis provided above, we continue to find an insufficient basis upon which to change the current model-matching criteria as suggested by FSAB in this review.

Comment 2: Grade-Matching Methodology

FSAB claims that the Department made two clerical errors with respect to product matching in the Preliminary Results. First, it did not attempt to match products of the same grade first before matching products of the next most similar grade. Second, it included language in the margin calculation program that erroneously limited the matches, resulting in a number of U.S. sales matching to CV rather than to sales of similar merchandise. FSAB claims that this grade matching methodology is contrary to the CEMEX<sup>31</sup> rule whereby the Department is obligated to exhaust possible similar matches that pass the difference-in-merchandise test prior to resorting to CV. FSAB cites to Policy Bulletin 98.1: Basis for Normal Value When Foreign Market Sales Are Below Cost (February 23, 1998) ("Policy Bulletin 98.1") in support of its position.

Although the petitioners believe it is correct to match identical grades before non-identical grades in the grade matching hierarchy, the petitioners maintain that expanding the grade matching hierarchy beyond the top three grades is not in accordance with the Department's longstanding

---

<sup>29</sup> See Metal Calendar Slides, 71 FR 36063, at Comment 1.

<sup>30</sup> See Carbon Steel Flat Products, 70 FR 13458, at Comment 1.

<sup>31</sup> See CEMEX v. United States, 133 F.3d 897 (CAFC 1998) ("CEMEX").

practice and intended methodology. In support of its argument, the petitioners point out that the Department's antidumping duty questionnaire did not contain such instructions. Accordingly, the petitioners request that the Department reject FSAB's claim in this regard.

Department's Position:

We agree with FSAB that we made the above-mentioned clerical errors with respect to product matching in the Preliminary Results, and have corrected these errors in the final results.

Specifically, in the Preliminary Results, the Department intended to first match products of the same grade before matching to the next most similar grade(s) in accordance with its normal practice. Moreover, in the Preliminary Results, where product matches of the same grade were not possible, the Department intended to match products to the next most similar grade beyond the top three most similar grades, if necessary, before resorting to CV. Although the petitioners are correct that the antidumping duty questionnaire issued in this review requested FSAB to report initially only the top three most similar grades in the event that matching products with the same grade was not feasible, the Department later issued a supplemental questionnaire in which it requested FSAB to report additional similar grades for certain products sold in the U.S. market with unique proprietary grades.<sup>32</sup> The Department's efforts in this review to make price-to-price comparisons based on product comparisons within the Department's difference-in-merchandise test before resorting to CV is in accordance with CEMEX and Policy Bulletin 98.1.

Comment 3: *Treatment of One U.S. Sale Entered During the POR But Sold Prior to the POR*

In the Preliminary Results, we did not include in our analysis one CEP transaction reported by FSAB's U.S. affiliate, Fagersta Stainless Inc. ("FSI"), because, although the date of U.S. entry was within the POR, the date of sale was prior to the POR.

FSAB argues that the Department should include the CEP transaction in its analysis because the Department's antidumping duty questionnaire requires a respondent to report such sales transactions in cases such as the instant one where the respondent can identify and tie the POR entries of the subject merchandise to the subsequent CEP sales. In support of its argument that the Department's practice is to consider in its margin analysis each U.S. sale of subject merchandise entered for consumption during the POR, FSAB cites to Corrosion-Resistant Carbon Flat Products from Canada: Final Results of Antidumping Duty Administrative Review, 70 FR 13458 (March 31, 2005). FSAB proposes to extend the window period an additional month backward (i.e., May 2005 instead of June 2005) for purposes of comparing this U.S. sale to home market sales.

The petitioners urge the Department to deny FSAB's request to include in its analysis the sale at issue, arguing that FSAB's request should have been made at the outset of this review.

---

<sup>32</sup> See pages 2-3 of the Department's May 19, 2006, letter to FSAB.

Moreover, as FSAB's request has been made at such a late stage in this review, the petitioners maintain that it is difficult for the Department to evaluate the significance of FSAB's request and not feasible for the Department to request additional information from FSAB on the FSI sale at issue.

Department's Position:

We agree with FSAB. The Department's antidumping duty questionnaire instructs respondents to report their U.S. sales of subject merchandise entered during the POR, with certain exceptions that do not apply to the CEP transaction at issue. FSAB has complied with the Department's instructions by reporting the sale at issue in its U.S. sales listing.<sup>33</sup> Therefore, we have included the sale in our final margin calculation in accordance with our normal practice. In addition, the Department's questionnaire instructs respondents to report all sales of the foreign like product during the three months preceding the earliest month of U.S. sales (in addition to other months relevant to the contemporaneous comparison window period).<sup>34</sup> Therefore, we have extended the comparison window period accordingly.

Comment 4: *Application of Further Manufacturing G&A Expenses to Sales of Non-Further Manufactured Merchandise*

In the Preliminary Results, the Department recalculated the general and administrative ("G&A") expense component of the further manufacturing costs reported for sales made by FSAB's U.S. affiliate SMT U.S. As a result of recalculating the G&A expense component, the Department also recalculated the total further manufacturing costs reported for SMT U.S.'s sales.

FSAB claims that the Department made a clerical error when it applied the recalculated G&A expenses and further manufacturing costs to U.S. sales of merchandise by FSAB's other U.S. affiliate, FSI, that did not undergo further manufacturing, in addition to SMT U.S.'s sales of merchandise that did undergo further manufacturing.

---

<sup>33</sup> The AD questionnaire issued to FSAB in this review contained the following instructions regarding U.S. sales reporting on page C-1:

Report each U.S. sale of merchandise entered for consumption during the POR, except: (1) for EP sales, if you do not know the entry dates, report each transaction involving merchandise shipped during the POR; and (2) for CEP sales made after importation, report each transaction that has a date of sale within the POR.

<sup>34</sup> The AD questionnaire issued to FSAB in this review contained the following instructions regarding home market reporting on page B-1:

Because contemporaneous sales must be used to determine normal value, the reporting period for these sales depends on the dates of sale for the U.S. sales you report in response to section C of this questionnaire. Report all sales of the foreign like product during the three months preceding the earliest month of U.S. sales, all months from the earliest to the latest month of U.S. sales, and the two months after the latest month of U.S. sales.

The petitioners note that FSAB's proposed method of correction of the above-mentioned errors does not address FSAB's failure to provide further manufacturing cost data for certain SMT U.S. sales transactions, all of which underwent further manufacturing according to its response.

Department's Position:

We agree in part with FSAB. Because the merchandise sold by FSI did not undergo further manufacturing, no further manufacturing costs should have been assigned to sales of it. Therefore, we have corrected this clerical error.

Furthermore, there are also SMT U.S. sales of merchandise that underwent further manufacturing but for which no further manufacturing costs were reported in FSAB's further manufacturing cost listing. SMT U.S. did provide a further manufacturing cost for the vast majority of U.S. sales of further manufactured merchandise. However, for less than one percent of its U.S. sales transactions of further manufactured merchandise, SMT U.S. did not provide such cost. Therefore, for the final results of this review, we have determined it appropriate to assign a further manufacturing cost to those SMT U.S. sales as well. As this information is necessary for determining the net U.S. price for the U.S. sales at issue but is not available on the record, the use of facts available is appropriate pursuant to section 776(a)(1) of the Act. Because the Department did not discover this data omission prior to the submission of the petitioners' rebuttal brief, and therefore did not afford FSAB an opportunity to address it, the Department does not consider it appropriate to make an adverse inference in this instance. Accordingly, as facts available, the Department has deducted a further manufacturing amount from the prices of the affected U.S. sales based on a weighted average of the recalculated further manufacturing costs for the SMT U.S. sales for which further manufacturing costs were reported.

Comment 5: Calculation of Affiliated Supplier's Billet Cost

In the Preliminary Results, the Department adjusted the billet cost FSAB reported for billets it purchased from its affiliate, SMACC, to reflect the higher of the transfer price, market price, or SMACC's cost of producing the billets. We adjusted SMACC's cost of producing the billets to include G&A and financial expenses.

FSAB argues that the Department made several errors when calculating the cost of the billets FSAB received from SMACC, which FSAB used to produce the merchandise under consideration. First, FSAB points out that the data used by the Department in its Preliminary Results to calculate SMACC's cost of producing the billets was not the most current cost data it provided. FSAB states that in its August 18, 2006, Section D supplemental questionnaire response ("August 18 response"), it provided revised cost data for SMACC, including G&A expenses from the 2005 calendar year-end financial statements.

Second, FSAB claims that the Department overstated SMACC's G&A expenses by including the G&A expenses of Outokumpu Oyj, the consolidated parent of SMACC. FSAB states that SMACC, not Outokumpu Oyj, produced the billets that it used to produce the merchandise under

consideration and therefore, consistent with the Department's practice in applying G&A, SMACC's G&A expenses should be used in the billet cost calculation. Accordingly, FSAB asserts that SMACC's G&A expenses, based on the 2005 year-end financial statements, were included in SMACC's billet costs reported in the August 18 response and that there is no discussion on the record indicating the Department's determination that SMACC's G&A expenses should include any portion of Outokumpu Oyj's G&A expenses.

Third, FSAB asserts that the Department erred when calculating SMACC's parent company's (i.e., Outokumpu Oyj's) consolidated financial expense ratio that it applied to SMACC's cost of producing the billets. FSAB claims that the Department failed to include Outokumpu Oyj's exchange rate gains as shown in footnote 11 of its 2005 annual report in the calculation of the consolidated financial expense rate. FSAB states that it is the Department's practice to include the total net foreign exchange gain or loss reported in the financial statement of the entity used to compute the respondent's net interest expense. In support of its argument, among other cases, FSAB cites to Silicomanganese from Brazil; Final Results of Antidumping Administrative Review, 69 FR 13813 (March 24, 2004), and accompanying Issues and Decision Memorandum, at Comment 14.

The petitioners did not comment on these issues.

Department's Position:

We agree with FSAB in part. We agree that SMACC's cost of producing billets from the August 18 response should be used to compare to the market price of billets and to the transfer price FSAB paid to SMACC for billets used to make the merchandise under consideration. We also agree with FSAB that the cost of production data contained in the August 18 response included SMACC's year-end 2005 G&A expenses and a management fee paid to SMACC's headquarters. Therefore, it was not necessary to include additional G&A expenses from Outokumpu Oyj in the calculation of SMACC's cost of production. We also agree with FSAB that Outokumpu Oyj's total net foreign exchange gain or loss should be included in the numerator of the consolidated financial expense rate calculation which was applied to SMACC's cost of producing the billets in accordance with Department practice.<sup>35</sup> However, after analyzing footnote 11 of Outokumpu Oyj's annual report, we do not completely agree with FSAB's proposed recalculation of the consolidated financial expense rate. Footnote 11 of Outokumpu Oyj's 2005 annual report summarizes the foreign exchange gains and losses reported in various lines on Outokumpu Oyj's consolidated income statement. We note that the foreign exchange loss from financial income and expenses as shown in footnote 11 was already included in the Department's financial expense rate calculation as part of total financial income and expenses. The foreign exchange loss on purchases as shown in footnote 11 was included in Outokumpu Oyj's cost of sales. As such, this amount was included in the denominator of the interest expense

---

<sup>35</sup> See Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review, 68 FR 11045 (March 7, 2003).

rate calculation. Since the foreign exchange loss from purchases is a part of the company's total net foreign exchange gains and losses, it should be included in the numerator of the financial expense rate calculation. For the final results, we deducted the foreign exchange loss on purchases from the cost of sales denominator and included it in the net interest expense numerator. See the April 4, 2007, Memorandum to Neal M. Halper from Michael P. Harrison, entitled "Cost of Production, Constructed Value and Further Manufacturing Calculation Adjustments for the Final Results - Fagersta Stainless AB," for further details.

Recommendation

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

Agree \_\_\_\_

Disagree \_\_\_\_\_

---

David M. Spooner  
Assistant Secretary  
for Import Administration

---

(Date)