UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-580-855
Administrative Review
POR: 11/01/2010-10/23/2011
Public Document
AD/CVD-01: SB

DATE: June 10, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Gary Taverman
Senior Advisor
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results in the Second Antidumping Duty Order Administrative Review of Diamond Sawblades and Parts Thereof from the Republic of Korea

---

SUMMARY

We have analyzed the case briefs and comments submitted by interested parties in the second administrative review of the antidumping duty order on diamond sawblades and parts thereof from the Republic of Korea. As a result of our analysis, we have made certain changes in the margin calculations. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues for which we received comments by parties:

General Issues
Comment 1: Whether the Petitioner's Targeted Dumping Allegations are Timely
Comment 2: Fraud Allegations and the Reliability of Respondents' Submissions
Comment 3: Product-Matching
Comment 4: Treatment of U.S. Repacking Expenses

Ehwa-Specific Issues
Comment 5: Treatment of Indirect Selling Expenses and Inventory Costs
Comment 6: Treatment of Level of Trade
Comment 7: Calculation of Variable Cost of Manufacture and Double-Counting G&A and Production Interest Expenses

Shinhan-Specific Issues
Comment 8: Treatment of Duty Drawback Adjustment

BACKGROUND

On December 10, 2012, the Department of Commerce (Department) published the preliminary results of the administrative review of the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the Republic of Korea (Korea).[1] The period of review (POR) is November 1, 2010, through October 23, 2011. This review covers imports of diamond sawblades from three producers/exporters: Shinhan Diamond Industrial Co., Ltd. and its affiliate SH Trading Inc. (collectively, Shinhan); Ehwa Diamond Industrial Co., Ltd. (Ehwa); and Hyosung Diamond Industrial Co., Ltd., Western Diamond Tools Inc., and Hyosung D&P Co., Ltd. (collectively, Hyosung). On January 16, 2013, the Diamond Sawblades Manufacturers Coalition (Petitioner), Ehwa, and Shinhan submitted case briefs.[2] On January 23, 2013, all three parties submitted rebuttal briefs.[3]

On April 5, 2012, the Petitioner filed an allegation that Hyosung, Ehwa, Shinhan, and Ehwa's and Shinhan's Chinese subsidiaries (Weihai Xiangguang Mechanical Industrial Co., Ltd. (Weihai) and Qingdao Shinhan Diamond Industrial Co., Ltd. (Qingdao Shinhan), respectively) sold diamond sawblades into the United States bearing false country of origin designations. On April 4, 2012, the Department rejected the Petitioner's March 29, 2012 submission due to bracketing deficiencies, but accepted the Petitioner's amended submission dated April 5, 2012, in which the Petitioner requested that the Department take information related to this allegation into consideration in both the first and second administrative reviews.

On March 19, 2013, we issued a post-preliminary analysis memorandum (Post-Preliminary Analysis Memorandum) finding that the sales and cost data submitted by Ehwa and Shinhan in this review are reliable for purposes of calculating antidumping duty margins.[4] We based our conclusion on the verified findings in the first administrative review of this order[5] and the fact that the Korean Customs Service's investigations that gave rise to Petitioner's allegations regarding false country of origin designations also pertained to the period covered by this review. No parties commented on our Post-Preliminary Analysis Memorandum and, for these final results, we are continuing to rely on the information submitted by Ehwa and Shinhan.

---

[1] *See Diamond Sawblades and Parts Thereof From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 73420 (December 10, 2012) (*Preliminary Results*) and Memorandum, "Preliminary Decision Memorandum for the Administrative Review of the Antidumping Duty Order on Diamond Sawblades and Parts Thereof from the Republic of Korea" dated December 3, 2012 (PDM).

[2] *See* letters from Petitioner, "Diamond Sawblades and Parts Thereof from the Republic of Korea: Case Brief with Regard to Ehwa Diamond Industrial Co., Ltd." and "Diamond Sawblades and Parts Thereof from the Republic of Korea: Case Brief with Regard to Shinhan Diamond Industrial Co., Ltd." dated January 16, 2013. *See also* letters from Ehwa, "EHWA Case Brief in the Second Administrative Review of the Antidumping Duty Order on Diamond Sawblades and Parts Thereof from Korea," and Shinhan, "Diamond Sawblades and Parts Thereof from Korea; 2nd Review Case Brief" dated January 16, 2013.

[3] *See* letters from Petitioner, "Diamond Sawblades and Parts Thereof from the Republic of Korea: Rebuttal Brief," Ehwa, "EHWA Rebuttal Brief in the Second Administrative Review of the Antidumping Duty Order on Diamond Sawblades and Parts Thereof from Korea," and Shinhan, "Diamond Sawblades and Parts Thereof from Korea; 2nd Review; Rebuttal Brief" dated January 23, 2013.

[4] *See* Memorandum to Paul Piquado, Assistant Secretary for Import Administration, entitled "Administrative Review of the Antidumping Duty Orders on Diamond Sawblades and Parts Thereof from the Republic of Korea for the 2010-2011 Period: Post-Preliminary Analysis" dated March 19, 2013.

[5] *See Diamond Sawblades and Parts Thereof From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 2009–2010*, 78 FR 11818 (February 20, 2013).

We extended the due date for the final results of review to April 30, 2013,[6] and then to June 10, 2013.[7]

SCOPE OF THE ORDER

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of the order are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of this order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of these orders. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the order. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the order. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the order.

Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, the Department added HTSUS 6804.21.00.00 to the scope description pursuant to a request by CBP.

The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

---

[6] *See* Department Memorandum, "Diamond Sawblades and Parts Thereof from the Republic of Korea and the People's Republic of China: Extension of Time Limits for the Final Results of the Antidumping Duty Administrative Reviews" dated March 22, 2013.

[7] *See* Department Memorandum, "Diamond Sawblades and Parts Thereof from the Republic of Korea and the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Reviews" dated April 29, 2013.

CHANGES SINCE THE PRELIMINARY RESULTS

Based on our analysis of the comments received, we have modified the margin program to ensure that the product matching methodology restricts matches on the basis of physical form for Ehwa and Shinhan. *See* Comment 3, below. We also made changes specific to Ehwa. *See* Comments 5-7, below. For changes specific to Ehwa, and for further explanation of how the changes were applied in the calculation, *see* Department memorandum, "Final Results Calculation for Ehwa Diamond Industrial Co., Ltd." dated June 10, 2013 (Ehwa Final Calculation Memorandum). For changes specific to Shinhan, and for further explanation of how the changes were applied in the calculation, *see* Department memorandum, "Final Results Calculation for Shinhan Diamond Industrial Co., Ltd. and its affiliate SH Trading Inc." dated June 10, 2013 (Shinhan Final Calculation Memorandum).

Consistent with the *Preliminary Results*, we determine that Hyosung's failure to provide requested information necessary to calculate accurate dumping margins warrants the continued use of facts otherwise available with an adverse inference. Consequent to the changes from the *Preliminary Results*, the final margin for Hyosung is 120.90 percent. For further discussion, *see* Department Memorandum, "Final Adverse Facts Available Rate for Hyosung" dated June 10, 2013 (Hyosung AFA Memorandum).

DISCUSSION OF THE ISSUES

General Issues

Comment 1: Whether the Petitioner's Targeted Dumping Allegations are Timely

For the first time in this administrative review, Petitioner raised in its case briefs targeted dumping allegations against Ehwa and Shinhan. Petitioner argues that the Department has clearly indicated its intention to use the targeted dumping methodology in administrative reviews and that the record indicates that Ehwa's and Shinhan's sales were targeted. Accordingly, Petitioner argues that the Department should take into account Ehwa's and Shinhan's alleged targeted dumping and use the average-to-transaction methodology.

Ehwa and Shinhan argue that Petitioner's targeted dumping allegations are untimely filed and prejudicial to Ehwa and Shinhan. Ehwa and Shinhan assert that, although there was no set deadline for the submission of a targeted dumping allegation in this review, the allegation is untimely because Petitioner first raised it in its case brief. Shinhan adds that Petitioner has not demonstrated why it could not file its allegation within the established period and that the Department has no legal authority to apply a targeted dumping analysis in administrative reviews. Both Ehwa and Shinhan further argue that Petitioner has not shown a pattern of targeted sales.

Department's Position

Petitioner first raised its targeted dumping allegations with respect to Ehwa and Shinhan in its January 16, 2013, case brief, 44 days after the Department issued the *Preliminary Results* on

December 3, 2012. Although the Department has not established specific deadlines for when the Department will accept targeted dumping allegations in administrative reviews, we find that Petitioner's targeted dumping allegations are untimely. Further, given the elapsed time between the receipt of the respondents' questionnaire responses and the issuance of the *Preliminary Results*, we find that Petitioner had ample opportunity to file its targeted dumping allegations prior to December 3, 2012, and certainly prior to its case briefs.

For example, in *Ball Bearings and Parts Thereof From France, Germany, and Italy*, the petitioners submitted a targeted dumping allegation for several respondents prior to the issuance of the preliminary results.[8] This allowed the Department to issue a post-preliminary analysis and receive and analyze comments from interested parties prior to issuing final results.[9] In contrast, we find in the instant case, that Petitioner's filing of its targeted dumping allegations in its case briefs did not provide Ehwa or Shinhan with sufficient time to adequately review and comment on the allegations. To entertain a targeted dumping allegation at this point in the proceeding raises due process concerns. Furthermore, the timing of Petitioner's filing of its targeted dumping allegations in its case briefs did not provide sufficient time for us to analyze the allegations and any potential comments, and issue a post-preliminary analysis for comment within the statutory deadline for completion of this proceeding.

Accordingly, we are not examining Petitioner's targeted dumping allegations in this review and have continued to apply the average-to-average methodology from the *Preliminary Results* for Ehwa and Shinhan. Because we find Petitioner's targeted dumping allegations untimely, we are not addressing Shinhan's additional arguments.

Comment 2: Fraud Allegations and the Reliability of Respondents' Submissions

Shinhan argues that the conclusions of the Department's analysis in the previous administrative review and evidence presented in that review's verification reports confirm the reliability and accuracy of Shinhan's home market and U.S. sales databases, as well as the accuracy of Shinhan's responses to the Department's supplemental questionnaires addressing Petitioner's allegations of fraud in the instant administrative review. Shinhan states that the Department's meeting with officials of the Korea Customs Service validates the accuracy of the information provided by Shinhan.

Petitioner did not comment on this issue.

Department's Position

We agree and have relied on Shinhan's sales and cost data for these final results.

Comment 3: Product-Matching

---

[8] *See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012), and the accompanying Issues and Decision Memorandum at Comment 1.

[9] *Id.*

Ehwa and Shinhan assert that the preliminary margin programs do not require identical physical forms when matching "similar" merchandise. Ehwa and Shinhan assert that this is inconsistent with the Department's stated intent to allow product matching only between products with the same physical forms.

Petitioner agrees.

Department's Position

We agree that we intended to limit product matches on the basis of the first product characteristic, "Physical Form."[10] Accordingly, we have revised the margin program for Ehwa and Shinhan to restrict both identical and similar product matches within the first product characteristic, "Physical Form." *See* Shinhan Final Calculation Memorandum at 2, and Ehwa Final Calculation Memorandum at 2.

Comment 4: Treatment of U.S. Repacking Expenses

Ehwa and Shinhan argue that it is the Department's practice to exclude U.S. movement expenses from the calculation of constructed export price (CEP) profit. In support, Ehwa and Shinhan cite the underlying less than fair value (LTFV) investigation, which cites the Department's Policy Bulletin 97.1. According to Ehwa and Shinhan, the Department should classify Ehwa's and Shinhan's U.S. repacking expenses as U.S. movement expenses with the result that they would also be excluded from the calculation of CEP profit.[11]

Petitioner agrees.

Department's Position

While the Department agrees that Policy Bulletin 97.1 explains that the Department's practice is to exclude movement expenses from CEP selling expenses and CEP profit, we disagree that the companies' U.S. repacking expenses should be classified as a movement expense rather than as a direct selling expense. As an initial matter, Policy Bulletin 97.1 does not state that repacking should be treated as a movement expense or that it should be excluded from the CEP profit calculation.

In accordance with section 772(d)(1)(B) of the Tariff Act of 1930, as amended (Act), the Department normally classifies repacking as a direct selling expense when these expenses "result

[10] *See* Department Memorandum, "Preliminary Results Calculation for Ehwa Diamond Industrial Co., Ltd. in the Second Review of Diamond Sawblades and Parts Thereof from the Republic of Korea," and "Preliminary Results Calculation for Shinhan Diamond Industrial Co., Ltd. in the Second Review of Diamond Sawblades and Parts Thereof from the Republic of Korea" dated December 3, 2012.

[11] *See Notice of Final Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the Republic of Korea*, 71 FR 29310 (May 22, 2006) ("*Final Determination*"), and accompanying Issues and Decision Memorandum at Comment 4, and Policy Bulletin 97.1, "Calculation of Profit for Constructed Export Price Transactions" dated September 4, 1997.

from, and bear a direct relationship to, the sale."[12] In the LTFV investigation, we did treat Ehwa's and Shinhan's repacking as movement expenses. However, it is well established and upheld practice that the Department must base its decisions on the record of the administrative proceeding before it in each review.[13] Here, the record of the instant proceeding does not indicate that the Department should deviate from its normal practice of classifying U.S. repacking as a direct selling expense. In its questionnaire response, Ehwa noted that, with respect to repacking, "General Tool repacks some of the sawblades into individual consumer packages before shipping."[14] In its questionnaire response, Shinhan reported that "SDA and Diteq {Shinhan's U.S. subsidiaries} incurred minimal repacking costs for repacking of subject merchandise for shipment to U.S. customers."[15] Thus, Ehwa's and Shinhan's repacking is not necessary to transporting the subject merchandise to the United States, and, thus, is not a movement expense as conceived by section 772(c)(2)(A) of the Act.

<u>Ehwa-Specific Issues</u>

Comment 5: Treatment of Indirect Selling Expenses and Inventory Costs

Ehwa argues that the Department's margin program inappropriately applied a currency conversion to Ehwa's foreign indirect selling expenses and inventory cost, which it reported in U.S. dollars.

Petitioner agrees.

Department's Position

We agree with Ehwa that these expenses were reported in U.S. dollars. Accordingly, we have removed the currency conversion for these expenses in Ehwa's margin program. *See* Ehwa Final Calculation Memorandum at 2-3.

Comment 6: Treatment of Level of Trade

Ehwa argues that the Department intended to compare Ehwa's home market as a single, more advanced level of trade (LOT) to a single U.S. market LOT. Ehwa adds that, due to a programming oversight, the Department did not achieve this intended comparison. According to Ehwa, the Department's preliminary programing recognizes two home LOTs and one U.S. LOT.

---

[12] *See, e.g., Certain Orange Juice From Brazil: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination*, 77 FR 21724 (April 11, 2012), unchanged in *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 63291 (October 16, 2012).

[13] *See, e.g., Stainless Steel Sheet and Strip in Coils from Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 7519 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 4 ("each administrative review of the order represents a separate administrative proceeding and stands on its own."); *Handong Huarong Mach. Co. v. United States*, 29 CIT 484, 491 (CIT 2005) ("As Commerce points out 'each administrative review is a separate segment of proceedings with its own unique facts. Indeed, if the facts remained the same from period to period, there would be no need for administrative reviews.'").

[14] *See* Ehwa's Section C Questionnaire, dated June 2, 2012, at C-35.

[15] *See* Shinhan's Section C Questionnaire Response, dated March 30, 2012, at 38.

Ehwa adds that this same programming error means that constructed value (CV) profit and selling expenses are not assigned to certain U.S. models. Ehwa proposes specific programming to address the oversight.

Petitioner agrees that the preliminary programming failed to implement the Department's determination of treating Ehwa's home market as a single, more advanced LOT. However, Petitioner argues that Ehwa's suggested programming language does not provide the correct remedy, because it would disregard contradict the Department's preliminary determination that Ehwa's home market LOT was at a more advanced level than its U.S. LOT.

Department's Position

We agree that the preliminary program did not achieve the intended outcome. In addition, we agree with Ehwa that its suggested language corrects the problem, and we have adjusted Ehwa's margin program accordingly. *See* Ehwa Final Calculation Memorandum at 3.

With respect to Petitioner's concern, while we agree that the HM LOT is more advanced than the US LOT, the correction we have adopted ensures that we can merge the US sales database with the CV profit selling expense database. We recognize that HM LOT is more advanced than US LOT by the fact that we're granting a CEP offset.

Comment 7: Calculation of Variable Cost of Manufacture and Double-Counting G&A and Production Interest Expenses

Ehwa argues that variable cost of manufacture (VCOM) is obtained by deducting fixed overhead (FOH) expenses from the total cost of manufacture (TCOM), and the Department erred when it calculated VCOM by deducting FOH from the total cost of production (TOTCOP). Ehwa also argues that the preliminary programming double-counts general and administrative expenses and interest expenses in the calculation of TCOM.

Petitioner agrees.

Department's Position

We agree and have made the appropriate adjustments. *See* Ehwa Final Calculation Memorandum at 3-4.

<u>Shinhan-Specific Issues</u>

Comment 8: Treatment of Duty Drawback Adjustment

Shinhan argues that the *Preliminary Determination* properly granted Shinhan a duty drawback adjustment for exports of subject merchandise that used dutiable imported products/materials.

Department's Position

We agree with Shinhan, and have made no adjustment to duty drawback for the final results.

RECOMMENDATION:

Based on our analysis of the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final results of review and the final dumping margins in the Federal Register.

AGREE ✓ DISAGREE_____

Paul Piquado
Assistant Secretary
for Import Administration

10 JUNE 2013
Date