

**RESULTS OF REDETERMINATION
PURSUANT TO REMAND**

PSC VSMPO - Avisma Corp. v. United States
Consol. Court No. 08-00321 (CIT Oct. 20, 2009)

Summary

This remand determination, submitted in accordance with the order of the U.S. Court of International Trade (the Court) of October 20, 2009, in *PSC VSMPO - Avisma Corp. v. United States*, Consol. Court No 08-00321, Slip Op. 09-120 (CIT October 20, 2009) (Remand Order), involves a challenge to the determination of the U.S. Department of Commerce (the Department) in the administrative review of the antidumping duty order on magnesium metal from the Russian Federation (*Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 73 FR 52642 (September 10, 2008) (*Final Results*)), covering the period April 1, 2006, through March 31, 2007. In accordance with the Court's order, the Department has admitted an affidavit from Dr. George Foster (the Foster Affidavit), an accounting professor, into the record, considered the arguments of Dr. Foster upon remand, and, as a result of that consideration, decided not to recalculate the dumping margin for PSC VSMPO–AVISMA Corporation (AVISMA).

Background

As described in the *Final Results* and accompanying Issues and Decision Memorandum (I&D Memo) at Comments 1-3, we determined that it was appropriate to treat raw magnesium and chlorine gas produced simultaneously at OPU-2¹ as co-products and we employed a net-realizable-value (NRV) analysis using prices for magnesium-metal end-products and market prices for liquid

¹ "OPU" is AVISMA's abbreviation for the operating unit.

chlorine to allocate the joint costs incurred up to the OPU-2 split-off point where raw magnesium and chlorine gas become separately identifiable products.

On October 20, 2009, the Court remanded the *Final Results* to the Department to take into account the Foster Affidavit when considering the best methodology for calculating the NRV for the chlorine gas. *See* Remand Order at 14. AVISMA had submitted the Foster Affidavit in its original case brief, dated June 11, 2008, while we were conducting the administrative review. We rejected the affidavit as untimely new factual information. Although the Court agreed with our rationale for rejecting the Foster Affidavit, it made an exception on the grounds that, given the novel nature of the underlying issue before it, the Department must afford a reasonable consideration to the opinion of Dr. Foster, “a leading accounting expert... {who} has deemed the accounting method used in the *Final Results* ‘clearly inappropriate’ and stated that the results from this method ‘cannot be correct.’” Remand Order at 13 (citations omitted).

The Department disagrees, respectfully, with the Court’s conclusion requiring consideration of the Foster Affidavit despite AVISMA’s failure to comply with the Department’s established deadlines for submission of new factual information. Nonetheless, under respectful protest, the Department has complied with the Court’s order in these final results of redetermination.

On November 12, 2009, we issued a letter to AVISMA seeking answers to additional questions and certain clarifications from Dr. Foster concerning the information he provided in the Foster Affidavit in order to complete our inquiry as part of this remand proceeding. On December 11, 2009, AVISMA submitted a response from Dr. Foster (the Foster Response). On December 29, 2009, US Magnesium LLC (US Magnesium), a domestic interested party and the petitioner in

this proceeding, submitted certain new factual information to rebut, clarify, or correct new factual information AVISMA submitted in its December 11, 2009, filing.

Specifically, US Magnesium provided information concerning the statements AVISMA has made in the not-yet-completed administrative review covering the period April 1, 2008, through March 31, 2009, in which AVISMA has advocated a cost-allocation methodology other than the method supported by Dr. Foster. On January 6, 2010, AVISMA submitted a letter urging the Department to reject the new factual information contained in the US Magnesium December 29, 2009, filing. On January 8, 2010, US Magnesium submitted comments on AVISMA's December 11, 2009, response from Dr. Foster. On January 11, 2010, US Magnesium submitted a letter responding to AVISMA's January 6, 2010, letter. On January 11, 2010, AVISMA submitted a letter urging the Department to reject certain new factual information contained in the US Magnesium January 8, 2010, filing. The central point in AVISMA's requests to have the information from the 2008-2009 administrative record rejected and not considered in these remand results rests on the argument that there is no legal basis for including the information from a subsequent segment of the proceeding in an appeal record of the segment subject to litigation.

On February 23, 2010, we released our draft results of redetermination to interested parties for comment. *See Draft Results of Redetermination Pursuant to Remand, PSC VSMPO – Avisma Corp. v. United States*, Consol. Court No 08-00321, February 23, 2010 (draft remand results). On March 2, 2010, we received comments from AVISMA. No other interested party commented on our draft remand results.

Discussion

We have reviewed the information provided in Dr. Foster's affidavit, his responses to our questions, the original record, and, as appropriate, the information provided by US Magnesium.

As explained fully below, we continue to believe that the methodology we applied in the *Final Results* for the 2006/2007 administrative review was reasonable and appropriate, given the record evidence.

Initially, we wish to clarify to the Court that Dr. Foster's comments on our methodology were directed at the method used in *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 24541 (May 5, 2008) (*Preliminary Results*). As discussed below, we modified our methodology between the *Preliminary Results* and the *Final Results* and, in the *Final Results*, adopted some of the positions advocated by Dr. Foster.

In his affidavit, Dr. Foster argues that the Department should accept AVISMA's proposal to allocate all "pre-split-off" costs² incurred at the facility proportionally to all saleable end products produced at the facility based on their respective NRVs. *See* the Foster Affidavit at 6 and 7. The "pre-split-off" costs in the proposed methodology do not relate to any individual split-off point but, rather, to a comingled split-off point (*i.e.*, combining multiple split-off points into one split-off point). Under this proposal, the "post-split-off" costs³ for products further processed after the comingled split-off point are applied only to the products that receive the respective further processing. *Id.* Specifically, the costs incurred to refine the market-quality raw magnesium or titanium sponge further are considered post-split-off costs and are assigned directly to those products.⁴ Thus, the method which AVISMA and Dr. Foster prefer does not actually allocate costs

² A split-off point is a juncture in production where the joint products become individually identifiable. A joint product is defined as two or more products that have relatively significant sales values and are not separately identifiable as individual products until their split-off point. *See* Horngren and Foster, *Cost Accounting, A Managerial Emphasis*, 6th edition at 478.

³ Also known as "separable costs" because they are not part of the joint production process; they are identifiable with individual products. *Id.*

⁴ AVISMA also considered certain "pre-split off" costs to be "post-split off" costs. Specifically, AVISMA used

at a specific split-off point but, instead, treats the majority of the facility as one comingled split-off point. *See* the Foster Affidavit at Exhibit 1.B. Under this approach, the NRVs of all of the end products produced in the factory are forced to be equally “profitable” relative to the “common” costs prior to the split-off point. *Id.* In contrast, the Department’s approach focused on the actual split-off point where chlorine gas and raw magnesium become separately identifiable products.

While AVISMA’s approach may be acceptable in some situations, we disagree with Dr. Foster and AVISMA that the proposed method is appropriate in this administrative review of the antidumping duty order. First, during the period covered by this administrative review, the processes within the facility were not as intertwined as AVISMA represents. Thus, it is reasonable to associate the joint costs⁵ at issue (*i.e.*, the input materials and joint processing costs at OPU-2) with only specific products generated at the same joint process. Second, contrary to the claims by AVISMA and Dr. Foster, a reasonable value for chlorine gas can be determined and applied at the OPU-2 split-off point, thus avoiding the need to subsume titanium, and a number of other products, into one aggregate facility-wide allocation. That is, it is more reasonable for purposes of this review of the antidumping duty order to estimate a market price for chlorine gas at the key OPU-2 split-off point rather than multiple split-off points. Third, the approach proposed by AVISMA and Dr. Foster implicitly allocates an unreasonably high cost to chlorine gas produced at OPU-2. Fourth, the requirements and context of an antidumping duty analysis dictate that we must consider factors beyond those contemplated under Dr. Foster’s “managerial” approach.

titanium costs incurred prior to the point where titanium and magnesium dichloride ($MgCl_2$) separate to be post-split-off costs. *See* the Foster Affidavit at exhibit 1.B. Column G and AVISMA’s March 2, 2010, comments on the draft remand results at 7. Dr. Foster describes separable costs as “costs incurred beyond the split-off point are called separable costs because they are not part of the joint production process; they are identifiable with individual products.” *See* Horngren and Foster, *Cost Accounting, A Managerial Emphasis*, 6th edition at 960.

⁵ A joint cost is a cost of a single process that yields two or more products simultaneously. *See* Horngren and Foster, *Cost Accounting, A Managerial Emphasis*, 6th edition at 478.

AVISMA's Production Process

The production processes for magnesium and titanium within AVISMA's facility are not as intertwined as AVISMA represents. The major raw-material inputs and production stages are identifiable with the production of specific products. It is reasonable to associate the direct inputs and joint processing costs that generate market-quality raw magnesium and chlorine gas at OPU-1 and OPU-2 only to these two products instead of using in the allocation the highly profitable titanium products.

AVISMA's production facility produces magnesium metal, titanium sponge, and minor products, including de-icing compounds and fertilizer. *See* AVISMA's August 21, 2007, cost response at 3. Market-quality raw magnesium and chlorine gas are produced from a main input ore called carnallite which goes through a water-removal or dehydration process at a production stage within AVISMA's facility, OPU-1, before moving on to an electrolysis process at another production stage, OPU-2. *See* AVISMA's June 11, 2008, case brief at 7. Two main outputs result from these processes: (1) market-quality raw magnesium; (2) chlorine gas. *Id.* The market-quality raw magnesium is processed further to produce the merchandise under consideration, pure and alloyed magnesium metal. The chlorine gas is either recycled back into the dehydration process (*i.e.*, OPU-1), used as a catalyst in titanium production, or processed into calcium chloride, a product which AVISMA considers marketable. *See* AVISMA's August 21, 2007, cost response at 5-6 and AVISMA's June 11, 2008, case brief at 7-8. AVISMA also uses a small amount of the resulting market-quality raw magnesium from its OPU-2 facility in titanium production. *Id.*

Titanium is produced from a main input ore called ilmenite. To produce titanium, AVISMA reduces the ilmenite ore into a "slag" to remove iron and then uses chlorine to separate

the titanium from the titanium oxide, forming titanium tetrachloride. *See* I&D Memo at 3. Magnesium is then used to separate the chlorine from the titanium tetrachloride, forming titanium sponge and magnesium chloride. *Id.* Thus, magnesium and chlorine are clearly not joint products of titanium production; they are inputs to titanium production. Titanium continues through a few minor refinement stages to become titanium powder and grades of titanium sponge. The magnesium chloride is recycled through another electrolysis stage, OPU-3. In its OPU-3 operation, AVISMA uses electrolysis to separate the magnesium chloride that exits the titanium production back into chlorine gas and so-called technical-quality magnesium (*i.e.*, magnesium that is not marketable due to impurities) that cannot be used to produce merchandise under consideration. *See* AVISMA's August 21, 2007, cost response at 4-6. According to AVISMA, the OPU-3 facility is a "closed loop" cycle because the chlorine and technical-quality raw magnesium placed into titanium production are recovered and reused multiple times. *Id.*

Thus, there are two separate electrolysis operations at AVISMA: OPU-2 which is used to produce market-quality raw magnesium and chlorine gas from carnallite and OPU-3 which is used to reprocess the magnesium chloride from titanium production. In Attachment 1 to these final results of redetermination, we have re-produced the production flowchart provided by AVISMA in exhibit D-1 of its August 21, 2007, cost response and the flowchart attached to Dr. Foster's affidavit.

According to Dr. Foster, joint costs are the costs of a single production process that yields multiple products simultaneously. He states that the split-off point is the juncture in the process where one or more products become separately identifiable. *See* the Foster Response at 4. He states further that there are three split-off points in AVISMA's production process. *Id.* at 5. He identifies OPU-2, which produces chlorine gas, market-quality raw magnesium, and electrolyte.

Dr. Foster considers market-quality raw magnesium as raw magnesium. He identifies OPU-3, which produces chlorine gas and technical-quality raw magnesium. Dr. Foster also considers technical-quality raw magnesium as raw magnesium. He identifies the titanium-reduction stage, which produces titanium sponge and magnesium chloride. *See* the Foster Response at 4-5. Dr. Foster does not identify the fourth split-off point where the titanium oxide and iron are extracted from ilmenite.

It is clear from Dr. Foster's observations that market-quality raw magnesium and titanium sponge are not joint products as they are never generated at the same split-off point. Moreover, according to AVISMA, market-quality and technical-quality raw magnesium are two different products. *See* AVISMA's August 21, 2007, cost response at 6. Market-quality raw magnesium is used to produce the merchandise under consideration and to replenish the magnesium lost in the production of titanium while technical-quality raw magnesium is only used in the production of titanium to recapture the chlorine. *See* AVISMA's August 21, 2007, cost response at 3-6.

We recognize that in a few instances chemicals cross between the titanium and magnesium operations. Such chemical crossovers do not appear to be prerequisites for AVISMA to operate the two separate production processes. While we have chosen not to emphasize them here, they are relatively insignificant to the larger operations. For example, AVISMA used a small quantity of magnesium chloride (an output of the titanium-production process) as an input in OPU-2. *See* the Foster Affidavit at Exhibit 1.B. Similarly, AVISMA used a small quantity of anhydrous carnallite (an output of OPU-1 which is the predominant input in OPU-2) as an input in OPU-3. *Id.* Contrary to Dr. Foster's observation, magnesium chloride, a joint product of titanium sponge, is not generally used as an input in OPU-2. *See* the Foster Affidavit at 1 and at Exhibit 1.B. During the period of review, AVISMA used only [] metric tons of magnesium chloride in

OPU-2 as opposed to [] metric tons of anhydrous carnallite. *See* the Foster Affidavit at Exhibit 1.B. Similarly, anhydrous carnallite is generally not used as an input in OPU-3. During the period of review, AVISMA used only [] metric tons of anhydrous carnallite in OPU-3 as opposed to [] metric tons of magnesium chloride that flowed from titanium production to OPU-3. *Id.*

A major problem with AVISMA's approach (one comingled split-off point) is that, except for the costs to refine the magnesium and titanium further, Dr. Foster does not attempt to identify costs attributable directly to specific products. As indicated earlier, according to Dr. Foster, where feasible, the sales value at the split-off point method of joint-cost allocation is the preferred approach. The next preferred approach is the estimated NRV method. Dr. Foster's cost-accounting textbook states clearly that, for purposes of allocating the joint costs to the joint products, the NRV is calculated at a specific split-off point. *See* Horngren and Foster, *Cost Accounting: A Managerial Emphasis*, 7th edition, example at 533. The Department finds that Dr. Foster does not identify the split-off point in his original affidavit for two reasons: because of his acceptance of AVISMA's assertion that a market value of chlorine is unobtainable and because of his adoption of one comingled split-off point (*i.e.*, an economics-of-the-production facility approach). We asked Dr. Foster to identify the split-off point to which the [] percent titanium NRV and the [] percent magnesium-metal NRV relate. *See* the Department's November 12, 2009, letter at question 10. Dr. Foster's response was that his assignment did not include the calculation of the NRVs. *See* the Foster Response at 5. Instead, Dr. Foster relied on AVISMA's calculation submitted in Exhibit 1.A. of the affidavit and stated that AVISMA can best answer the Department's question on these specific points. *Id.*

In adopting a one-facility approach, Dr. Foster and AVISMA combine two separate split-

off points (*i.e.*, OPU-2 and OPU-3) into one comingled split-off point. They then proceed to aggregate together costs that are, in fact, identifiable to specific products or sets of products within the facility (*i.e.*, OPU-3 with OPU-1 and OPU-2). AVISMA's proposal is to allocate the "pre-split-off" costs incurred at the facility to all saleable end products in proportion to their NRVs. AVISMA claims that these "pre-split-off" costs are joint costs associated with the OPU-2 and OPU-3 split-off points. The Department believes that Dr. Foster and AVISMA are wrong in combining two separate split-off points into one comingled split-off point. The outputs of OPU-2 are chlorine gas and market-quality raw magnesium. The market-quality raw magnesium is used in the production of magnesium metal and as a supplement for magnesium lost in OPU-3. The chlorine gas is not used in the production of magnesium metal but rather as an input to titanium production and calcium chloride production. The outputs of OPU-3 are chlorine gas and technical-quality raw magnesium. The outputs of OPU-3 are recycled back into the production of titanium products as a closed loop.⁶ AVISMA agrees that technical-quality raw magnesium and market-quality raw magnesium are two different products. Technical-quality raw magnesium can only be used in the titanium production and not for magnesium metal production. *See* AVISMA's August 21, 2007, cost response at 4-6. Thus, none of the outputs of OPU-3 are used in the production of magnesium metal. By combining OPU-2 and OPU-3 split-off points into one comingled split-off point, Dr. Foster allocates OPU-3 costs incorrectly to magnesium metal. *See* the Foster Affidavit at Exhibit 1.B. Combining the joint costs of two separate processes producing different products into a broad interpretation of "joint" costs in a value allocation with highly valuable titanium products distorts the analysis significantly because the high-value titanium absorbs the largest

⁶ In the case of another "closed loop" at OPU-1 and OPU-2, AVISMA agreed that such costs and quantities can be ignored. *See* AVISMA's April 7, 2008, second supplemental section D response at 3.

portion of “joint” costs via chlorine gas.

It is Reasonable to Estimate a Value of Chlorine

We disagree with AVISMA and Dr. Foster that a reasonable value for chlorine gas cannot be determined. We continue to find in these final results of redetermination that a reasonable value for chlorine gas is obtainable and usable for purposes of an antidumping analysis. This difference in opinion is the key to the discussion as to which method of allocation is appropriate. If a reasonable estimate of the value for chlorine gas is available, then an allocation at the OPU-2 split-off point is possible. If not, then the solution proposed by Dr. Foster and AVISMA to use the NRVs of all the end products becomes a possible alternative.

As indicated elsewhere, Dr. Foster has stated that it is preferable to allocate costs at the split-off points, if possible, whether using a direct sale price or an estimated NRV.⁷ In his affidavit Dr. Foster appears to insist on the existence of actual sales of chlorine gas at the split-off point because he rejects an estimated NRV for chlorine gas based on sales of calcium chloride, the de-icing agent. *See* the Foster Affidavit at 4 and 6 and the Foster Response at 1. Dr. Foster also does not entertain an estimate of the value for chlorine gas based on market prices of liquid chlorine. *See* the Foster Response at 1. He rejects market prices even though chlorine gas and liquid chlorine are chemically identical and the difference in chemical state is due only to temperature and/or pressure.

If a reasonable estimate of the chlorine gas value is used, there is no need to resort to the NRV of titanium, and a number of other products, in order to derive the necessary counter-values

⁷ In Dr. Foster’s textbook, he also mentions the use of market selling-price data at the split-off point as his preferred approach. In his textbook, he indicates that there are several alternative approaches to this method (*e.g.*, sales value at the split-off method, estimated NRV). The point is that an estimate of the NRV at the split-off point can be determined in different ways depending on the facts and purpose. *See* Horngren and Foster, *Cost Accounting, A Managerial Emphasis*, 6th edition at 480.

to the net magnesium sales value. That is, it is reasonable for purposes of this antidumping analysis to estimate a market price for chlorine gas, a readily available product in liquid form, and the product actually resulting from the OPU-2 split-off point in question rather than aggregating a major portion of the facility costs and comingling the multiple split-off points in the facility.

The value for chlorine gas under our method matches economic reality more closely. We asked Dr. Foster for his opinion as to what considerations arise if the NRV allocation method results in costs assigned to an input or output product that is significantly above or below the prevailing market prices for that product. In his response, Dr. Foster states, “It is not clear which products in this matter the Department of Commerce (‘Commerce’) believes have prevailing market prices, either at the split-off points or subsequent production points.” *See* the Foster Response at 1. Dr. Foster states further that liquid chlorine does have a market price but this market price is not relevant and AVISMA does not have the ability to turn liquid chlorine into a chlorine gas. *Id.* We also asked Dr. Foster about the relatively high value assigned to chlorine under his facility-wide method. Dr. Foster replied, “I do not believe that I (1) assigned a relatively high value to chlorine or (2) used the relatively high profits from titanium to allocate costs to chlorine gas.” *See* the Foster Response at 3. Dr. Foster stated, “I do not calculate costs assigned to chlorine gas.” *Id.* at 4.

There is, however, an allocated cost assigned to chlorine under Dr. Foster’s method. The amount of cost ultimately assigned to chlorine gas produced at OPU-2 under Dr. Foster’s facility-wide approach is easy to identify and calculate. *See* Attachment 2 to these final results of redetermination. The total joint cost incurred in the production of market-quality raw magnesium and chlorine gas at OPU-2 is on the record. The total costs allocated to magnesium under Dr. Foster’s approach are also on the record. The total joint cost of magnesium and chlorine, less the

amount allocated by Dr. Foster to magnesium, equals the amount assigned to chlorine. If we divide the total costs assigned under this method by the quantity of chlorine produced, we can see the allocated costs that Dr. Foster assigned to chlorine, RUR [] per metric ton. *See* Attachment 2 to these final results of redetermination.

AVISMA's Approach Results in the Allocation of Unreasonably High Costs to Chlorine

We believe that the assigned value of RUR [] per metric ton for chlorine does not reflect economic reality, especially for a company such as AVISMA that uses large quantities of chlorine. Consider first that AVISMA is willing to incur losses on the further-processing and sale of its calcium chloride de-icer. *See* Memorandum to Neal M. Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – PSC VSMPO-AVISMA Corporation and VSMPO-Tirus, US Inc.," dated April 29, 2008 (Preliminary Results Cost Memo), at 2 and Attachment 1, and Memorandum to Neal M. Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final Results – PSC VSMPO-AVISMA Corporation and VSMPO-Tirus, US Inc.," dated September 2, 2008 (Final Results Cost Memo), at 2 and Attachment 2. In doing so, AVISMA incurred [

] of the finished product was able to earn. If chlorine gas warranted such a high valuation, AVISMA would not have been willing to consume chlorine gas to produce the de-icer and sell it at a []. Dr. Foster is unwilling to use the NRV of calcium chloride because it renders a negative NRV for chlorine at the OPU-2 split-off point. Furthermore, the market prices of chlorine, in its various states, that are on the record do not justify such an unreasonably high valuation. For example, when the Department was conducting the review, on May 1, 2008, US Magnesium submitted bulk liquid-chlorine prices of RUR 3,830 per metric ton obtained from price lists from a company located in Berezniki, Russia. *See* the US Magnesium

May 1, 2008, submission at 1 and Attachment 1. US Magnesium also submitted chlorine prices obtained from Russian export statistics of RUR 5,532 per metric ton, presumably for bulk quantities. *See* the US Magnesium April 15, 2008, submission at 12 and Exhibit 3. For its part, AVISMA submitted four AVISMA purchases of chlorine in small containers that averaged RUR [] per metric ton. These purchases were not for AVISMA's magnesium and titanium production facility. Small containers increase the market price of chlorine as compared to bulk purchases, which are more in line with AVISMA's operational requirements. *See* I&D Memo at 18-19. Moreover, this value was not even close to the actual chlorine value used in AVISMA's own records, RUR [], as shown below. In light of the Foster Affidavit, the RUR [] cost per metric ton that we calculated for the *Final Results* remains reasonable and supported by record evidence.

Antidumping Context

The requirements and context of an antidumping duty proceeding dictate that the Department must consider factors beyond those contemplated under Dr. Foster's managerial approach. Dr. Foster states, "By 'managerial emphasis,' I mean that for decision-making purposes managers should use 'different costs for different purposes'." *See* the Foster Response at 6. We cannot rely on such a standard. Dr. Foster recognizes that there are other types of emphasis in accounting; for example, he mentions other approaches such as generally accepted accounting principles and taxation. *Id.* Under the antidumping duty law, the Department must exercise its authority in very specific ways.

Section 773(f)(1)(A) of the Tariff Act of 1930, as amended (the Act), states, "Costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such costs are kept in accordance with the generally accepted accounting principles of the exporting

country and reasonably reflect the costs associated with the production and sale of the merchandise.” The methodology endorsed by Dr. Foster is not used in AVISMA’s normal records. Section 773(f)(1)(A) of the Act states further that the “administering authority shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer *on a timely basis* if such allocations have been *historically used* by the exporter or producer.” (Emphasis added.) In addition, the methodology endorsed by Dr. Foster has not been used historically by AVISMA.

During the period of review, AVISMA changed its accounting policy. *See* AVISMA’s August 21, 2007, cost response at 5. For the first three quarters of the period of review (*i.e.*, April 1, 2006, through December 31, 2006), AVISMA treated chlorine gas produced at OPU-2 as a by-product of the market-quality magnesium production. All joint costs incurred at OPU-2, less an estimated value of chlorine gas, were assigned to market-quality raw magnesium. During this corresponding period, in its normal books AVISMA valued chlorine gas at RUR [] per metric ton when used as an input to OPU-1 and RUR [] per metric ton as an offset to the joint costs at OPU-2. *See* AVISMA’s January 29, 2008, supplemental cost response at Exhibit 7. For the fourth quarter of the period of review (*i.e.*, January 1, 2007, through March 31, 2007), AVISMA treated market-quality raw magnesium as a by-product of the titanium production even though market-quality raw magnesium is not produced from titanium production. All joint costs incurred at OPU-2, less the net value of market-quality raw magnesium (*i.e.*, the sales value of magnesium less selling expenses, post-split-off costs, less a five-percent profit), were assigned to titanium through the chlorine-gas input. *See* AVISMA’s August 21, 2007, cost response at 27. During this period, in its normal books AVISMA valued the chlorine-gas input into OPU-1 at RUR [] per metric ton and assigned a calculated cost to chlorine-gas output from OPU-2 at RUR [] per metric ton.

See AVISMA's January 29, 2008, supplemental cost response at Exhibit 7. All four of these chlorine values in AVISMA's normal books are less than the chlorine values of RUR [] per metric ton we used to perform the cost allocation at the *Preliminary Results* and the RUR [] per metric ton we used in the *Final Results*.

The valuation of chlorine gas and technical-quality raw magnesium produced at OPU-3 is not of importance to AVISMA because both of these joint products were used entirely for titanium production. As such, in its normal books and records, AVISMA allocated all the costs incurred at OPU-3 to titanium. See AVISMA's January 29, 2008, supplemental cost response at 4 and the Foster Affidavit at Exhibit 1.A. The petitioner and AVISMA are in agreement that the chlorine gas and technical-quality raw magnesium produced at OPU-3 are used only for titanium production and not for any other purposes. Under the method advocated by Dr. Foster, these costs are included in the comingled value allocation. See the Foster Affidavit at Exhibit 1.B.

The Department's practice with value allocations in antidumping duty proceedings has been cautious and limited. That is, we have recognized the inherent circularity of using prices to determine the appropriateness of those very prices we are investigating. In *Notice of Final Results of Antidumping Duty Administrative Review and Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products From Canada*, 69 FR 75921 (December 20, 2004), and accompanying I&D Memo at Comment 3, we stated:

We recognize that a value-based cost allocation method can be problematic in an antidumping context. The most obvious problem is the potential circularity of the analysis, whereby prices are used to determine the product-specific costs which in turn are either compared to those same product-specific prices or are used to determine prices (*i.e.*, through the sales-below-cost test and constructed value)... Other market factors may also create problems with using prices as a basis of allocation, such as volatile market prices (as alleged here by Abitibi), temporary surges in supply and

demand, and specific market preferences for specific products. In addition, the statute directs the Department to determine the actual cost to produce the merchandise under consideration and establishes that cost as a floor for the comparison prices. Thus, we believe the use of a value-based cost allocation method is appropriate in an antidumping context in only very limited instances.

Our preference is to assign all costs that can be directly traced to a specific product to that product. If a respondent must use a price-based value allocation, then it is our preference to focus on the split-off point. Dr. Foster's statements support the concept that an allocation using prices at the split is preferred and that an NRV at the split is preferred in its absence. *See Foster Affidavit* at paragraphs 5.3 and 5.4. Of course, we must first consider the records of the respondent and the allocations used historically by a respondent. When we asked Dr. Foster to comment on the circularity problem he replied, "I do not understand what the Department meant by the 'circularity of using the NRV allocation method for the purpose of determining whether those same prices are appropriate.'" *See the Foster Response* at 7. From that statement, the Department concludes that Dr. Foster does not appear to understand fully the greater context of the antidumping duty analysis being undertaken as part of this remand proceeding. Nevertheless, his own textbook states as follows:

Physical measures are sometimes preferred to sales value methods in rate-regulation settings when the objective is to set a fair selling price. Why? Because it is circular reasoning to use selling prices as a basis for setting a selling price.⁸

Moreover, the U.S. Court of Appeals for the Federal Circuit has recognized the issue of circularity in the context of an antidumping duty analysis. *See IPSCO, Inc. v. United States*, 965 F.2d 1056, 1061 (Fed. Cir. 1992) ("Essentially, the trial court ordered an unreasonable circular methodology. The selling price of pipe became a basis for measuring the fairness of the selling

⁸ *See* Horngren and Foster, *Cost Accounting, A Managerial Emphasis*, 7th edition at 532.

price of pipe. This circular reasoning contradicted the express requirements of the statute which set forth the cost of production as an independent standard for fair value.”).

The Department’s method limits the allocation between only two products, chlorine gas and raw magnesium,⁹ and focuses on directly assignable costs. Dr. Foster’s and AVISMA’s method allocates costs associated with multiple split-off points among [] end products. *See* AVISMA’s January 29, 2008, supplemental cost response at Exhibit SD 5.E., the full schedule on which Exhibit 1.B. of the Foster Affidavit is based.

For the *Preliminary Results*, we treated market-quality raw magnesium and chlorine gas produced at OPU-2 as co-products. *See Preliminary Results*, 73 FR at 24545, and Preliminary Results Cost Memo at 1-2. We preliminarily calculated the value of market-quality raw magnesium by deducting the post-split-off-costs from the end values of magnesium metal products. *See* Preliminary Results Cost Memo at Attachment 1. We valued chlorine gas using AVISMA’s small-container purchases of liquid chlorine, less the estimated costs to convert chlorine gas to liquid chlorine. *Id.* As stated above, during the period of review AVISMA had excess OPU-2 chlorine gas that it processed into calcium chloride and then sold [], resulting in a negative NRV for chlorine at the OPU-2 split-off point. We decided that valuing chlorine at zero for purposes of the allocation would not reflect fairly the importance of the chlorine to the titanium production. Thus, we chose a positive value for chlorine gas. We treated the negative NRV of chlorine gas as disposal costs and, accordingly, we increased the OPU-2 joint costs by the excess chlorine gas-disposal costs. *Id.* We allocated the OPU-2 joint costs to market-quality raw magnesium and chlorine gas in proportion to their relative value at the OPU-2 split-off

⁹ Our method used the average of end values for [] magnesium metal products and a market value for liquid chlorine.

point. Specifically, the costs we assigned to market-quality raw magnesium and chlorine gas were RUR [] and RUR [] per metric ton, respectively. *See* Preliminary Results Cost Memo, and Attachment 3 to these final results of redetermination.

In his affidavit, Dr. Foster suggests that, if the Department continues to estimate a value for chlorine at the OPU-2 split-off point for the *Final Results*,¹⁰ the Department should estimate the value as if AVISMA were purchasing chlorine. *See* Foster Affidavit at paragraph 7.4. We came to the same conclusion as Dr. Foster in the *Final Results*. *See* Final Results Cost Memo at 1-2. Similar to our approach in the *Preliminary Results*, we calculated the value of market-quality raw magnesium by deducting the post-split-off costs from the end values of magnesium metal products. We valued chlorine gas, however, at the bulk-quantity market value of liquid chlorine, plus an amount for transportation, plus the estimated costs to convert liquid chlorine to chlorine gas. In doing so, we recognized that AVISMA was not a seller of chlorine but rather a bulk consumer of chlorine. Consistent with Dr. Foster's suggestion, in the *Final Results*, we valued chlorine gas based on what it would cost AVISMA to purchase liquid chlorine and convert it to gas for use at its titanium operations (*i.e.*, a replacement value for the chlorine gas it consumes at its titanium plant). In addition, we did not increase the OPU-2 joint costs by the excess chlorine gas-disposal costs as they were incurred after the split-off point. We allocated the OPU-2 joint costs to market-quality raw magnesium and chlorine gas in proportion to their relative values at the OPU-2 split-off point. As a result, the costs we assigned to market-quality raw magnesium and chlorine were RUR [] and RUR [] per metric ton, respectively. Thus, we assigned a cost to chlorine that was approximately [] percent higher in the *Final Results* ([])

¹⁰ Dr. Foster signed the affidavit between publication of the *Preliminary Results* and *Final Results* in the underlying administrative review.

than we did for the *Preliminary Results*. See Final Results Cost Memo, and Attachment 3 to these final results of redetermination.

In addition, there appears to be a significant error in the NRV calculations by AVISMA upon which Dr. Foster relied. The total direct costs and the total factory overhead costs of raw magnesium and chlorine gas in finished products per AVISMA's books, as indicated in column "D" and "F" of the NRV calculation, are RUR [] and RUR [] respectively. See the Foster Affidavit at Attachment 1.B. AVISMA deducts these amounts from the factory-wide total direct costs and factory overhead costs indicated in column "C" and "E" to calculate the post-split-off costs in column "G." AVISMA deducts the post-split-off costs indicated in column "G" from the end values indicated in column "H" to calculate the NRVs in column "I." *Id.* Instead of allocating back the full direct costs of raw magnesium and chlorine gas in finished products of RUR [], AVISMA only allocates RUR [] as indicated in column "J" of the NRV calculation worksheet. *Id.* As such, AVISMA under-allocated its costs by RUR []

[]. Although this discrepancy would appear to increase the NRV of the titanium products, AVISMA allocates the full factory overhead costs of raw magnesium and chlorine in finished products of RUR [] properly as indicated in "K."

Factual Information from the 2008-2009 Review

On December 29, 2009, we received a submission from US Magnesium in which it attempted to place on the remand record certain information from the administrative review of this proceeding for the period April 1, 2008, through March 31, 2009, currently underway. US Magnesium contends that information from the 2008/2009 administrative review indicates that AVISMA has since abandoned the facility-wide managerial approach advocated by Dr. Foster in his affidavit. See the US Magnesium December 29, 2009, submission at 2. AVISMA has called

upon the Department to reject any factual information from the 2008/2009 administrative review.

US Magnesium's submission of factual information did not suffer from any filing defects, timing failures, or other deficiencies under the Department's regulations or the specific requirements established for this remand proceeding. *See* 19 CFR 351.301 and Memorandum from Laurie Parkhill to file, dated December 16, 2009. Accordingly, we find that we lack any grounds upon which to reject the petitioner's submission of factual information.

We have long held, however, that each segment of a proceeding stands on its own. *See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part*, 68 FR 53127 (September 9, 2003), and accompanying I&D Memo at Comment 6. Accordingly, we must base these final results of redetermination on the record of the 2006/2007 administrative review and this remand proceeding and arguments presented by interested parties specific to that record but without regard to facts that arose subsequent to the administrative proceeding at issue. Therefore, consistent with our practice and the Remand Order, we have focused our analysis in these final results only on the record evidence in the 2006/2007 administrative review, the Foster Affidavit, and the Foster Response.

Comments from Interested Parties

Comment 1: Reasonable Value for Chlorine Gas at OPU Split-off Point

AVISMA argues that the Department's position contrasts with Dr. Foster's opinion in his affidavit at 4, paragraph 4.16, that the prices of chlorine gas are not available for valuation of the chlorine gas produced at the OPU-2 split-off point and consumed internally at AVISMA in the production of titanium and other products. AVISMA argues that the Department ignores the important role chlorine gas plays in the economics of the plant. AVISMA cites to Dr. Foster's

statement at paragraph 5.2 of his affidavit, “Third-party hypothetical extensions ... should be avoided unless the third party proposing the hypothetical ... presents a compelling economic case for its appropriateness.” In AVISMA’s opinion, there is no such compelling economic case. AVISMA argues that the Department ignores the economic factors and focuses entirely on physical ones, ignoring the economic reality of the plant.

Department’s Position

AVISMA’s assertion that the Department ignores the important role chlorine gas plays in the economics of the plant is without merit. As we said in the *Final Results*:

In fact, AVISMA would not have to use titanium prices in order to derive an NRV for chlorine; it could take the sale prices of calcium chloride, less the further-processing for that product. The excess chlorine exiting OPU-2 was further-processed and then sold as calcium chloride to outside parties. See January 29, 2008, section D supplemental questionnaire response at page 6. Thus, the value of the chlorine gas emerging from the joint process could be established based on the sales of these chlorine-derivative products. Such a methodology would be in keeping with the Department’s normal practice, but the use of the low calcium-chloride values would result in the assignment of little or no cost to chlorine. We find this is not an appropriate NRV for chlorine because we do not find that such a low price would reflect the benefit that the titanium production receives from the use of the chlorine gas nor the price AVISMA would have to pay to acquire the necessary chlorine.

See I&D Memo at 16.

During the period covered by this administrative review, AVISMA produced [] metric ton of chlorine gas net of the recycled quantity at OPU-1 and OPU-2. Of this amount, AVISMA consumed [] metric tons of chlorine gas, *i.e.*, [] of the net production of chlorine gas in the production of calcium chloride (CaCl₂), a de-icing compound also produced at the plant and sold by AVISMA. See *Final Results Cost Memo* at attachment 2. We could have calculated the estimated NRV of the chlorine gas by deducting the separable costs from the final sales values of calcium chloride. In this manner, the NRV of chlorine gas is

[]. It appears that Dr. Foster did not have access to these values. *See* the Foster Affidavit at paragraph 4.32. We did not advocate calculating the NRV of the chlorine gas using the final sales value of the titanium products because titanium products rely on chlorine as a catalyst.

In AVISMA's opinion, there is no compelling economic case for the Department to use "hypothetical extensions," because to do so ignores the economics of the plant. We disagree with AVISMA. As we have shown above, the value of chlorine derived using the AVISMA methodology results in a value for chlorine that is unreasonably high in light of the market price of liquid chlorine, the value assigned by AVISMA in its normal records, and by the [].

The methodology followed by the Department in the *Final Results* avoids the problems with subsuming titanium. We valued chlorine gas at the OPU-2 split-off point using a replacement value method. The replacement value estimates the costs that AVISMA would have incurred if it were to purchase chlorine for use in the production facility. A consumer of chlorine gas will have to buy bulk chlorine in liquid form and convert the liquid chlorine to chlorine gas. *See* I&D Memo at 18-19. We estimated the value of chlorine gas by taking the bulk-quantity market value of liquid chlorine plus an amount for transportation plus the estimated costs to convert liquid chlorine to chlorine gas. The estimated costs to convert liquid chlorine to chlorine gas were provided by AVISMA. The Department's methodology resulted in a value of chlorine gas of RUR [] per metric ton and the OPU-2 joint costs allocated to chlorine gas were RUR [] per metric ton.

AVISMA valued chlorine gas produced at OPU-2 in its normal books and records without resorting to the estimated NRV cost-allocation methodology advocated by AVISMA and Dr. Foster in the review. During the first three quarters of the period of review (*i.e.*, April 1, 2006,

through December 31, 2006), AVISMA treated chlorine gas produced at OPU-2 as a by-product of the production of market-quality raw magnesium. *See* AVISMA's August 21, 2007, cost response at 4-5. All joint costs incurred at OPU-2, less an estimated value of chlorine gas, were assigned to market-quality raw magnesium. During this corresponding period, AVISMA valued chlorine gas at RUR [] per metric ton when used as an input to OPU-1 and RUR [] per metric ton as an offset to the joint costs at OPU-2. *See* AVISMA's January 29, 2008, supplemental cost response at Exhibit 7. For the fourth quarter of the period of review (*i.e.*, January 1, 2007, through March 31, 2007), AVISMA treated market-quality raw magnesium as a by-product of titanium production. All joint costs incurred at OPU-2, less the net value of market-quality raw magnesium (*i.e.*, the sales value of magnesium less selling expenses, post-split-off costs, less a five-percent profit), were assigned to titanium through the chlorine-gas input. *See* AVISMA's August 21, 2007, cost response at 27. During this period, AVISMA valued the chlorine-gas input into OPU-1 at RUR [] per metric ton and assigned a calculated cost to the chlorine-gas output from OPU-2 at RUR [] per metric ton. *See* AVISMA's January 29, 2008, supplemental cost response at Exhibit 7. All four of these chlorine values in AVISMA's normal books are less than the Department's chlorine value of RUR [] per metric ton used to perform the cost allocation in the *Final Results*. Dr. Foster's method as advocated by AVISMA assigns a cost of RUR [] per metric ton to chlorine gas produced at the OPU-2 split-off point. Higher costs assigned to OPU-2 chlorine gas results in the lower costs assigned to OPU-2 market-quality raw magnesium and *vice-versa*.

AVISMA is incorrect when stating that the Department used the price of liquid chlorine as a substitute for chlorine gas. We used the price of liquid chlorine only as a starting point. As explained above, we valued chlorine gas at the bulk-quantity market value of liquid chlorine plus

an amount for transportation plus the estimated costs to convert liquid chlorine to chlorine gas.

The estimated costs to convert liquid chlorine to chlorine gas were provided by AVISMA.

Comment 2: Facility-Specific Valuation of Co-Products

AVISMA argues that Dr. Foster is of the opinion that co-products can be meaningfully valued only in the context of the economics of a specific production facility, which AVISMA interprets as meaning that physically identical products produced at different plants, with different economic set-ups, would have different values. AVISMA contends that the Department did not account for such variations in its cost-allocation methodology.

Department's Position

We disagree with AVISMA and Dr. Foster that co-products can be meaningfully valued only in the context of the economics of a specific production facility. Dr. Foster states that “the preferred cost approach for allocating joint costs would follow the principles that the economics of the production facility should *guide* the allocation of costs among the jointly produced products.” See the Foster Affidavit at paragraphs 5.1 and 9.2 (emphasis added). Dr. Foster does not appear to prohibit looking to alternative means when a value cannot be obtained from a specific production facility. Rather, he seems only to suggest that a sound reason must be identified for such an approach. In fact, Dr. Foster recommends that, if the focus of the analysis is only on OPU-2, then the OPU-2 chlorine gas can be valued using replacement cost, just not as the Department did in the *Preliminary Results*. See the Foster Affidavit at paragraph 7.4.

Moreover, AVISMA's assertion is unreasonable. Under AVISMA's interpretation of the Foster Affidavit, any value derived based on the economics of a specific facility, no matter how absurd, must be relied upon. Section 773(f)(1)(A) of the Act states, “Costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such costs are

kept in accordance with the generally accepted accounting principles of the exporting country and *reasonably reflect* the costs associated with the production and sale of the merchandise.” *See* section 773(f)(1)(A) of the Act (emphasis added). The statute does not require the Department to make its costs findings on a facility-specific basis. Instead, the statute affords the Department some flexibility and permits it to make reasonable adjustments to a respondent’s cost-reporting methodology so that costs associated with the production and sale of merchandise are reasonably reflected.

Comment 3: Dr. Foster’s Recommendation Concerning “Net Realizable Value”

AVISMA argues that Dr. Foster did not recommend any allocations based on “net sales values.” AVISMA argues that Dr. Foster stated several times that the allocation should be done proportionally to the NRVs of the co-products used in production. AVISMA refers to Dr. Foster’s recommendation in the affidavit at paragraph 5.6 that “one should make the allocation not in proportion to ‘their saleable value,’ but to their net realizable value.”

In addition, AVISMA takes issue with the Department’s statement at 4 in the draft remand results that AVISMA “does not actually allocate costs at specific split-off points but, instead, treats the majority of the facility as one combined split-off point.” AVISMA argues that the only difference is that, while the Department considers OPU-2 in isolation, AVISMA recommends considering the two OPUs together. AVISMA quotes Dr. Foster’s statement in the Foster Response at 3: “I advocate an approach using outputs of both OPU-2 and OPU-3 because that reflects the actual operational set-up of AVISMA. AVISMA uses raw magnesium and chlorine gas from OPU-2 and OPU-3 to make both (1) magnesium metal products, and (2) titanium sponge.”

AVISMA argues that the Department also appears to have based some of its conclusions on

an apparent misunderstanding of underlying data. AVISMA rejects the Department's assertion that some of the costs associated with the process of producing titanium are allocated to magnesium metal products. AVISMA asserts that the allocated costs did not include the cost of ilmenite ore, the main input for titanium production. Further, AVISMA disagrees with the Department's assertion that some of the cost of carnallite ore, used to produce magnesium and chlorine, are allocated to titanium. In support, AVISMA points to Dr. Foster's statement in the Foster Response at 4 that costs were not allocated to titanium but to the co-products used in production of titanium based on their NRVs.

Department's Position:

We used the term "net sales values" interchangeably with the term "net realizable value" in the draft remand results. We have revised the language from the draft remand results and are now exclusively using the term "net realizable value" or "NRV" as used by Dr. Foster in his affidavit. We also attempted to use simple language and few detailed accounting descriptions in the draft remand results, which might have led to confusion. We have revised our draft remand results accordingly in an attempt to avoid any such confusion.

After making these changes to our explanation, we continue to disagree with AVISMA's and Dr. Foster's approach of comingling the outputs of both OPU-2 and OPU-3 because that approach does not reflect the actual operational set-up of AVISMA. Moreover, the accounting problem of how to allocate the joint costs at OPU-2 can be resolved through our simpler approach. Dr. Foster appears to accept that AVISMA uses raw magnesium and chlorine gas from OPU-2 and OPU-3 to make magnesium metal products and titanium sponge. Using this approach, Dr. Foster combines two split-off points into one comingled split-off point.

The outputs of OPU-3 are chlorine gas and technical-quality raw magnesium. The outputs

of OPU-3 are used entirely in the production of titanium products. As stated above, technical-quality raw magnesium and market-quality raw magnesium are two different products. Technical-quality raw magnesium can only be used in the titanium production and not for the production of magnesium metal. None of the outputs of OPU-3 is used in the production of magnesium metal. The outputs of OPU-2 are chlorine gas and market-quality raw magnesium. As explained above, market-quality raw magnesium is used in the production of magnesium metal and chlorine is not used in the production of magnesium metal. Finally, by combining the OPU-2 and OPU-3 split-off points into one comingled split-off point, Dr. Foster allocates OPU-3 costs incorrectly to market-quality raw magnesium (used in the production of magnesium metal) through the overall value allocation. Dr. Foster's statement that costs were not allocated to titanium but to the co-products (*i.e.*, chlorine and raw magnesium¹¹) used in production of titanium (based on their NRVs), is misleading because the OPU-2 and OPU-3 costs are allocated to titanium through these co-products.

Comment 4: Managerial Approach to Accounting

AVISMA takes issue with the Department's statement in the draft remand results at 13 that it must "consider factors beyond those contemplated under Dr. Foster's 'managerial approach.'" AVISMA argues that, whatever additional factors the Department considers, it must act consistently with the statute. While AVISMA agrees that the Department must exercise its authority in very specific ways which may result in its accounting practices differing from those used by the respondent, AVISMA argues that, when exercising such authority, section 773(f)(1)(A) of the Act requires that the cost used "reasonably reflect the costs associated with the

¹¹ Dr. Foster's approach does not differentiate market-quality raw magnesium produced at OPU-2 from the technical-quality raw magnesium produced at OPU-3.

production and sale of the merchandise.” AVISMA asserts that the “managerial” approach fulfills this objective because it takes into consideration the economic reality of AVISMA’s production process.

Department’s Position:

We disagree with AVISMA that application of Dr. Foster’s managerial approach in this segment of the proceeding fulfills the requirements of the statute. Section 773(f)(1)(A) of the Act states, “Costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such costs are kept in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise.” The managerial approach advocated by AVISMA and Dr. Foster does not meet the statutory requirements for the following reasons: (1) it is not used in AVISMA’s normal books and records; (2) it allocates an unreasonable cost of RUR [] per metric ton to the chlorine gas generated at OPU-2. This cost of RUR [] per metric ton is far in excess of the OPU-2 chlorine-gas values on the record which range from RUR [] per metric ton in AVISMA’s normal books and records to [] if based on the NRV of calcium chloride. *See* Attachment 2 to these final results of redetermination, AVISMA’s January 29, 2008, supplemental cost response at Exhibit 7, Preliminary Results Cost Memo at 2 and Attachment 1, and Final Results Cost Memo at 2 and Attachment 2. Because a higher cost assigned to OPU-2 chlorine gas results in a lower cost assigned to OPU-2 market-quality raw magnesium, an unreasonable and unreliable valuation for chlorine gas will necessarily affect the valuation of market-quality raw magnesium, the product used in the production of magnesium metal, the merchandise under examination in the antidumping proceeding.

In light of record evidence, the Department’s approach meets the statutory requirement to

calculate costs and values OPU-2 chlorine gas reasonably at RUR [] per metric ton, which is higher than the OPU-2 chlorine gas value derived from AVISMA's normal books and records, and recognizes both the economics of the facility and the marketplace for chlorine.

Final Results of Redetermination

In accordance with the Remand Order, we have reexamined our calculation methodology and, based on that examination, we have not recalculated the weighted-average dumping margin for AVISMA. These final results of redetermination are pursuant to the order of the CIT in *PSC VSMPO - Avisma Corp. v. United States*, Consol. Court No. 08-00321, Slip Op. 09-120 (CIT October 20, 2009).

/Ronald K. Lorentzen/

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

March 30, 2010

Date

AVISMA-VSMPO PRODUCTION PROCESS



Formula RuR Reference

Chlorine Gas Valuation per Dr. foster's Method

Step 1: Costs Allocated to Market Quality Raw Magnesium Produced at OPU-2

Allocation of Joint Direct Costs	a		Exhibit 1.B of the June 9, 2008 Affidavit
Allocation of Joint Overhead Costs	b		Exhibit 1.B of the June 9, 2008 Affidavit
Total Allocation of Joint Costs	c = a + b	_____	
Market Quality Raw Magnesium Input in Magnesium Metal in Metric Tons	d		Exhibit 1.A of the June 9, 2008 Affidavit
Cost of Market Quality Raw Magnesium per Metric Ton	e = c / d		
Total Production of Market Quality Raw Magnesium Produced at OPU-2 in Metric Tons	f		Exhibit 1.A of the June 9, 2008 Affidavit
Total Joint Cost Allocated to Market Quality Raw Magnesium Produced at OPU-2	g	_____	

Step 2: Costs Allocated to Chlorine Gas Produced at OPU-2

OPU-2 Direct Joint Costs	h		Attachment 1 of the April 29, 2008 Preliminary Cost Calculation Memc
OPU-2 Overhead Joint Costs	i		Attachment 1 of the April 29, 2008 Preliminary Cost Calculation Memc
OPU-2 Total Joint Cost	j = h + i	_____	Attachment 2 of the September 2, 2008 Final Cost Calculation Memo
Total Joint Cost Allocated to Market Quality Raw Magnesium Produced at OPU-2	k		From Above
Total Joint Cost Allocated to Chlorine Gas Produced at OPU-2	l - j - k	_____	

Step 3: Calculating Cost per Metric Ton of Chlorine Gas Produced at OPU-2

OPU-2 Chlorine Gas used in Titanium Production in Metric Tons	m		Exhibit 1.A of the June 9, 2008 Affidavit
OPU-2 Chlorine Gas used in Calcium Chloride Production in Metric Tons	n		Exhibit 1.A of the June 9, 2008 Affidavit
OPU-2 Chlorine Gas used in Dehydrated Carnalite Production for Resale in Metric Tons	o		Attachment 2 of the September 2, 2008 Final Cost Calculation Memo
Total OPU-2 Chlorine Gas Production net of Recycled Quantity in Metric Tons	p = m + n + o	_____	
Total Joint Cost Allocated to Chlorine Gas Produced at OPU-2	q		From Above
Cost of OPU-2 Chlorine Gas per Metric Ton	r = q / p	_____	

	Formula	RuR	Reference
<u>Calculation of Per-Unit Cost for OPU-2 Chlorine Gas for the Second Review Preliminary Results</u>			
Total NRV of Raw Mg in Mg metal products	a	<div style="border: 1px solid black; width: 100px; height: 100px; margin: 0 auto;"></div>	Attachment 1 of the April 29, 2008 Preliminary Cost Calculation Memo
Total NRV of OPU-2 Raw Mg in Ti and other products	b		Attachment 1 of the April 29, 2008 Preliminary Cost Calculation Memo
Total market value of OPU-2 Cl consumed in TiCl4+other+ dehydr. carnallite sold	c		Attachment 1 of the April 29, 2008 Preliminary Cost Calculation Memo
Total NRV/market value of OPU-2 joint products	$d = a + b + c$		Attachment 1 of the April 29, 2008 Preliminary Cost Calculation Memo
Market value of OPU-2 Cl consumed in TiCl4+other+ dehydr. carnallite sold % to Total NRV	$e = c / d$		
Total OPU-2 joint costs	f		Attachment 1 of the April 29, 2008 Preliminary Cost Calculation Memo
OPU-2 Joint Costs Allocated to OPU-2 Cl consumed in TiCl4+other+ dehydr. carnallite	$g = f \times e$		
Total OPU-2 Chlorine consumed in TiCl4+other+ dehydr. carnallite sold in Metric Tons	h		Attachment 1 of the April 29, 2008 Preliminary Cost Calculation Memo
Cost of OPU-2 Chlorine Gas per Metric Ton	$l = g / h$		
<u>Calculation of Per-Unit Cost for OPU-2 Chlorine Gas for the Second Review Final Results</u>			
Chlorine to Titanium Production in Metric tons	a	<div style="border: 1px solid black; width: 100px; height: 100px; margin: 0 auto;"></div>	Attachment 2 of the September 2, 2008 Final Cost Calculation Memo
Chlorine to Dehydrated Carnallite Production for Resale in Metric tons	b		Attachment 2 of the September 2, 2008 Final Cost Calculation Memo
Total Chlorine Consumed in Other Products in Metric Tons	$c = a + b$		Attachment 2 of the September 2, 2008 Final Cost Calculation Memo
OPU-2 Joint Costs Allocated to Total chlorine Consumed	d		Attachment 2 of the September 2, 2008 Final Cost Calculation Memo
Cost of OPU-2 Chlorine Gas per Metric Ton	$e = d / c$		