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Remand of 06-07ARP
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SeAH Steel Corporation v. United States
Court No. 09-00248 Slip Op. 10-60 (CIT May 19, 2010)

FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND

A. SUMMARY

The Department of Commerce (the Department) has prepared these final results of redetermination pursuant to a remand order from the Court of International Trade (the Court) in SeAH Steel Corporation v. United States, Slip Op. 10-60 (May 19, 2010) (SeAH). The Court remanded the Department's application of the statutory cost recovery test, ordering the Department to provide a "clear description and data that compare the results using its standard cost-recovery test to the quarterly indexed methodology." At the same time, the Court also granted the Department's request for a voluntary remand to address further stainless steel coil specification data provided by the respondent for purposes of its major input analysis.

As discussed further below, the Department has re-examined the cost recovery methodology employed for the Final Results as ordered by the Court. For the reasons set forth below, the Department has continued to employ the cost recovery methodology from the Final Results for purposes of these final remand results. The Department has also analyzed additional information obtained from SeAH regarding steel coil specification classification and has determined that it is appropriate to consider specification in applying our major input analysis. As a result of the revised major input analysis the dumping margin decreased from 9.05 percent in the Final Results to 7.92 percent.

B. BACKGROUND

On May 19, 2010, the Court remanded to the Department certain elements of its Final Results in the 2006-2007 antidumping duty review in this case. See SeAH, Slip Op. 10-60 and Certain Welded Stainless Steel Pipes form the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 74 FR 31,242 (June 30, 2009) and accompanying Issues and Decision Memorandum (Final Results).[1]

The matters at issue for this remand redetermination are 1) the Department's use of a cost recovery methodology that is adjusted using an indexing methodology, and 2) the application of the major input rule with regard to hot-rolled stainless steel coils purchased from SeAH's affiliate. In its brief to the Court, SeAH argued that the Department ignored the requirements of Section 773(b)(2)(D) of the Act to calculate a weighted-average cost for the period of investigation (POI) or period of review (POR) for purposes of the cost recovery test, and that the result was the exclusion from the calculation of normal value (NV) of all sales found to be below the restated indexed POR weighted-average cost, regardless of whether such sales were above the weighted-average cost for the entire period of review. In its remand order, the Court directed the Department to "provide clear descriptions and data that compare the results obtained using its standard cost-recovery test to the results obtained via the adjusted quarterly indexed methodology used in the Final Results." See SeAH, Slip Op. 10-60 at 34-35. Specifically, the Court ordered the Department to 1) calculate the NV of SeAH's home market sales using both the restated indexed weighted-average cost for the POR in the cost recovery test and alternatively using the ordinary weighted-average cost for the entire POR in the cost recovery

[1] The antidumping duty order in this proceeding was published in the Federal Register on December 30, 1992. See Antidumping Duty Order and Clarification of Final Determination: Certain Welded Stainless Steel Pipes From Korea, 57 FR 62,301 (December 30, 1992). The period of review (POR) covers the period December 1, 2006 to November 30, 2007.

test; 2) include in the record specific figures resulting from these calculations; 3) identify all those sales that are recovered using the ordinary weighted-average cost of production for the POR, but excluded from the normal value calculation under the indexing methodology of the cost recovery test; and 4) explain which of the two methodologies the Department adopts to conduct the cost recovery test, and the reason that methodology is appropriate in the context of the requirements of Section 773(b)(2)(D) of the Act. See SeAH, Slip Op. 10-60 at 59.

SeAH additionally argued that the Department failed to consider stainless steel coil specification differences in conducting its major input analysis. In its remand order, the Court granted the Department's request for a voluntary remand to collect and analyze additional information with respect to SeAH's and its affiliated producer's reported hot-rolled stainless steel coil specification data and determine whether it should use that data in its calculations in the context of its major input analysis. See SeAH, Slip Op. 10-60 at 59.

For purposes of this remand determination, we have considered anew the cost recovery methodology employed for the Final Results, and the appropriate basis upon which to conduct our major input analysis with respect to stainless steel coil purchased from SeAH's affiliate. As is fully described below, the Department has continued to use the cost recovery methodology employed in the Final Results, which, contrary to SeAH's arguments, uses a weighted-average per-unit cost of production (COP) in accordance with section 773(b)(2)(D) of the Act. Further, our analysis of the additional data regarding the specification of purchased stainless steel hot-rolled coils revealed physical differences between the specifications at issue. Therefore we have considered SeAH's specification differences in our major input analysis.

C. ANALYSIS

I. The Standard Cost Recovery Methodology, If Applied in This Case, Would Lead to Distortive Results

A. The Department's Standard Cost Recovery Methodology

Section 773(b)(2)(D) of the Act states the following:

> If prices which are below the per-unit cost of production at the time of sale are above the weighted-average per-unit cost of production for the period of investigation or review, such prices shall be considered to provide for recovery of costs within a reasonable period of time.

Pursuant to this provision, in calculating normal value, the Department will "recover" sales/prices that have been disregarded if they are found to be above the weighted-average per-unit cost of production for the period of investigation or review, even if those prices were below the "per-unit cost of production" at the time of the sale of that merchandise. In applying the cost recovery test, it is the Department's practice normally to calculate the cost of production using a single, weighted-average cost of production for the entire period of review. See Thai Pineapple Canning Indus. Corp. v. United States, 273 F.3d 1077, 1084 (Fed. Cir. 2001). Under this basic test, all prices for a given control number above the POR reported weighted-average per-unit cost of production would be "recovered" and used in the calculation of normal value. As the Department explained in the Final Results, "the purpose of (Section 773(b)(2)(D) is to allow for the recovery of costs within a reasonable period of time…As long as the producer's or exporter's sales prices are above the annual weighted-average per-unit cost, the costs are considered to be recovered." See Final Results and accompanying Issues and Decision Memorandum at Comment 1, Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review 74 FR 40,167 (August 11, 2009) and Stainless Steel Bar from India: Notice of Final Results of Antidumping Duty Administrative Review 74 FR 52,294 (September 9, 2008).

B. There Are Problems With Applying the Standard Methodology in This Case

In this case, however, the Department concluded in the Final Results that the application of its standard methodology for calculating the weighted-average per-unit cost would result in a flawed dumping margin. This is because during the POR, SeAH experienced significant changes in its total cost of manufacturing. These changes were primarily attributable to the price volatility for nickel, a major input consumed in the production of the hot-rolled stainless steel coil that was used to produce the merchandise under consideration. These cost changes were significant (i.e., the respondent's changes in costs during the POR were more than the threshold set by the Department) and sales during the shorter cost averaging period were reasonably linked with the COM during the same averaging period. See Final Results at Comment 1. The Department recognized that during a period of significant cost change, as was the case in this review, the reported unadjusted weighted annual average cost did not reasonably reflect costs associated with sales of the merchandise under review in accordance with Section 773(f)(1)(A) of the Act. In light of the foregoing, the Department determined that the facts of this case warranted treatment as an exception to its normal methodology of using the unadjusted, reported weighted-average per-unit cost for the period of review, and instead used a quarterly cost averaging period. In SeAH, the Court affirmed the Department's decision to depart from its practice of using an annual cost averaging period and to instead rely on quarterly costs for the sales below cost test. See SeAH, Slip Op. 10-60 at 24.

Similar distortions in the Final Results would have resulted from the use of the Department's standard methodology of using the unadjusted weighted-average per-unit costs for the POR, as reported, in SeAH's cost recovery test. This is because in times of significantly

changing costs, comparisons to individual prices are greatly influenced by differing levels of metal purchasing power at disparate points in time.[2]

Purchasing power represents the ability of a company to buy, for example, one metric ton of hot-rolled stainless steel coil for 50 Korean Won on January 1, but because of increasing prices for hot-rolled stainless steel coil during the year, being required to pay 70 Korean Won for the same one metric ton of stainless steel coil on December 31. The distortion created by comparing a sales price at any given point in time to unadjusted annual average costs during a period of significant cost change is perhaps best understood by way of example. Hypothetically, if price levels were rising at approximately 10 percent per quarter, the following chart would apply:

Chart 1

Quarter	Per-Unit Cost of Raw Material (a)	Multiplied By Units Purchased (b)	Extended Cost (a x b)
1	50	120	6,000
2	60	110	6,600
3	65	90	5,850
4	70	80	5,600
TOTAL		400	24,050

An unadjusted weighted-average per-unit cost for the combined POR quarters in this example would be computed as the total extended cost, divided by total units purchased (i.e., 24,050/400=60.13). Although correct in a mathematical sense, this figure is not an accurate reflection of the true average cost of purchases for this company throughout the year because each quarter represents significantly different levels of metal purchasing power. This is because the calculation is composed of Korean Won values (e.g., 6000 + 6600 + 5850 + 5600) which are

[2] As previously discussed, the significantly changing cost of stainless steel coil was driven by the price of nickel.

not stated in equivalent levels of metal purchasing power (i.e., it costs 50 per ton in the first quarter but 70 per ton in the fourth quarter, yet 6000 and 5600 are aggregated in the calculation of the simple single average).

Continuing with the example above, if a company prices a sale in the fourth quarter at 65 Won per metric ton, this sale price would be below the per-unit average cost for the quarter compared to the quarterly average per-unit cost of 70 Won. However, within the context of the standard cost recovery test, this sale would be recovered because the per-unit sales price of 65 Won is greater than the POR average per-unit cost of 60.13 and thus we would include it in the calculation of normal value. This is an inappropriate comparison, however, because the per-unit sales price of 65 Won is being compared to a weighted-average per-unit cost for the POR of 60.13 that does not take into consideration the different levels of metal purchasing power during each quarter (which is caused by the significantly changing costs of hot-rolled stainless steel coils).

Section 773(f)(1)(A) of the Act provides that the Department will use a company's costs as reported in their books and records, provided that the reported costs "reasonably reflect the costs associated with the production and sale of the merchandise." The Department concluded in the Final Results that it could not use its standard methodology for determining a weighted-average per-unit cost of production for the period of review without introducing known distortions into its cost recovery test. Thus, the Department not only conducted a quarterly cost analysis, but also modified its standard cost recovery methodology to reasonably reflect SeAH's costs of production and sales during that period and consider SeAH's differing levels of metal purchasing power throughout the period of review.

II. In Considering Appropriate Adjustments to its Calculations, the Department Considered its Methodology for Recovering Costs Incurred During Periods of High

Inflation and International Accounting Standards

Given the distortive effect of comparing individual sales prices to an unadjusted weighted-average per-unit cost for the period of review, the Department sought to adjust its standard cost recovery methodology in a manner that would mitigate these distortions while at the same time satisfying the requirements of Section 773(b)(2)(D) of the Act. In selecting a mechanism to mitigate the distortion caused by the calculation of an unadjusted weighted-average per-unit cost for the period of review, the Department looked to both its established practice in cases involving economies experiencing high inflation where purchasing power levels differ remarkably during periods of high inflation,[3] and International Accounting Standards ("IAS"). IAS 29 was developed to provide guidelines for enterprises reporting in the currency of a hyperinflationary economy so that financial information provided is meaningful. Essentially, IAS 29 establishes when it is appropriate for an entity to depart from normal IAS standards and adopt an alternative method, because the existing method (i.e., historical costing) will result in distortions.

When an economy is experiencing high inflation, the value of the country's currency is rapidly deteriorating, resulting in each local currency unit having substantially less real value over time. A greater amount of the currency is required to purchase a product at a later point in time than was needed at an earlier point in time. Minor price fluctuations are normal and do not

[3] See e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Indonesia, 64 FR 73164, 73169-73171 (December 29, 1999); Silicomaganese From Brazil: Final Results of Antidumping Duty Administrative Review, 69 FR 13813 (March 24, 2004), and accompanying Issues and Decision Memorandum at Comment 4; Certain Pasta From Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review, 69 FR 47876, 47878 (August 6, 2004), unchanged in Final Results, Certain Pasta from Turkey: Final Results of Antidumping Duty Administrative Review, 70 FR 6834 (February 9, 2005); Certain Steel Concrete Reinforcing Bar from Turkey; Final Results of Antidumping Duty Administrative Review and Determination to Revoke in Part, 73 FR 66218, and accompanying Issues and Decision Memorandum at Comment 2; and Light-Walled Rectangular Pipe and Tube from Turkey; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 69 FR 19390 (April 13, 2004), unchanged in Final Determination, Light-Walled Rectangular Pipe and Tube from Turkey; Notice of Final Determination of Sales at Less Than Fair Value, 69 FR 53675 (September 2, 2004).

normally have a significant effect on our margin calculations. However, significant changes in the cost of materials during the POI/POR can lead to distortive results. To address the distortions in our antidumping analysis caused by high inflation and rapidly escalating costs, it is the Department's practice to compute an indexed weighted-average per-unit COP and CV on a constant currency basis using inflation indices during the period.

"Price indexing" is defined as a "percentage number that shows the extent to which a price (or a basket of prices) has changed over a period (month, quarter, year) as compared with the prices in a certain year (base year), taken as a standard."[4] In the context of inflation, for example, using "price indexing" permits the Department to apply a cost recovery test that considers all of a company's costs over a POR, but also allows the Department to restate the COP average in terms of the currency value in each month. In this way, the reported monthly costs are adjusted for the cumulative effects of inflation to the end of the POI or POR. Once all monthly production costs have been expressed in common, inflation-adjusted currency values, the monthly costs and production quantities can be added together in order to compute a weighted-average per-unit cost for the period of review. This is done by dividing the total end-of-period extended production cost by the total production quantity of all merchandise under consideration. Finally, the Department restates the constant currency weighted-average per-unit cost for the POR using the inflation index – restating the values to the months in which the sales occurred.

In this way, in the context of high inflation, the Department is able to apply its cost recovery test fully consistent with the requirements of Section 773(b)(2)(D) of the Act, while at the same time using costs that "reasonably reflect the costs associated with the production and sale of the merchandise." See 773(f)(1)(A) of the Act.

[4] See Businessdictionary.com, last downloaded and placed on the record September 9, 2010.

The distortive impact of high inflation on the Department's standard weighted-average per-unit cost calculation methodology is similar to that resulting from a significant change in major input costs. Accordingly, the Department concluded in the Final Results that by adjusting its cost recovery methodology in a manner similar to that applied in the high-inflation scenario for costs of hot rolled stainless steel coils, it could appropriately address the different purchasing power levels that exist in each quarter of the POR during periods of rapidly changing costs.

Likewise, the Department also concluded that IAS provides further support for this approach. The IAS 29 (i.e., Financial Reporting in Hyperinflationary Economies) prescribes indexing for certain financial statement items as a means to correct for the distortive effect of rapidly increasing prices.[5] According to IAS 29, financial statement reporting is meaningless in a hyperinflationary environment without restatement of certain items because money loses purchasing power at such a rate that comparison of amounts from transactions and other events that have occurred at different times, even within the same accounting period, is misleading. IAS 29 therefore requires corporate financial statements of companies operating in a hyperinflationary environment to be restated through the application of a general price index so that items are expressed in terms of a current cost.

As noted, because significantly changing material input costs result in analogous distortions to those found in high inflation situations (i.e., namely, the calculation of an unadjusted weighted-average per-unit cost of production for cost recovery which is composed of historical quarterly costs from different time points in the period), the Department found that the IAS further supported its determination to apply price indexing in its calculation of a weighted-average per-unit cost of production for the period of review in the cost recovery test.

[5] See the International Accounting Standards Board's International Financial Reporting Standard 29 at http://eifrs.iasb.org/eifrs/bnstandards/en/ias29.pdf, last downloaded on July 12, 2010 and placed on the record on July 27, 2010.

Put another way, the Department concluded that without indexing, the agency would be required to weight-average costs from disparate periods which do not represent the same level of purchasing power. Such an analysis would result in a flawed normal value calculation, defeating the Department's objective of "calculating a margin as accurately as possible." See Rhone Poulenc, Inc. v. United States, 899 F.2d 1185, 1191 (Fed. Cir. 1990). Such a test would be inconsistent with its treatment of similar concerns in cases involving high inflation, and inconsistent with generally accepted international accounting standards.

Accordingly, the Department adjusted its cost recovery methodology to incorporate price indexing into its calculation of a weighted-average per-unit cost for the period of review in applying Section 773(b)(2)(D) of the Act.

III. The Department's Adjusted Methodology Applies a Weighted Average Per-unit Cost of Production For the Period of Review as Required by the Statute

The Court's decision in SeAH reflects a concern that the Department did not adequately explain in the Final Results how its methodology conforms with the requirement of Section 773(b)(2)(D) of the Act that it apply a "weighted average per-unit cost of production" for the "period of review" in its cost recovery test. See SeAH, Slip. Op. 10-60 at 31. Indeed, SeAH challenged this interpretation in the underlying litigation, and expressly claimed that by incorporating a price index into its methodology, the Department was not using a weighted-average per-unit cost of production for the period of review in its cost recovery test. SeAH's contention is simply untrue and inconsistent with other statutory requirements, as well as the legislative history of the Act. Therefore the Department explains now on remand its methodology in detail and explains how that methodology is consistent with the requirements of not only section 773(b)(2)(D) of the Act, but of section 773(f)(1)(A) of the Act as well.

There are three elements of the statutory provision that the Department must satisfy in applying the cost recovery test:

1) Does the Department's methodology cover the "period of review?"
2) Does the Department's methodology use a "per-unit cost of production?"
3) Does the Department's methodology calculate a "weighted average" of the total cost of production?

See 773(b)(2)(D) of the Act. If the answer to all three of these questions is in the affirmative, then the Department's methodology is consistent with the requirements of the statute. The Department respectfully submits that its methodology meets all of these requirements.

A. The Department's Methodology Covers the Period of Review

The methodology the Department applied in the Final Results uses all of the historic costs reported by SeAH on the administrative record. SeAH has not challenged this fact in the litigation, and there was no issue in the underlying administrative review with respect to the timing of the costs used in the Department's analysis. Accordingly, with respect to the first element required under section 773(b)(2)(D) of the Act, the Department has satisfied this requirement.

B. The Department's Methodology Uses A Per-unit Cost of Production

As explained above, the Department concluded in the Final Results that using the costs as reported by SeAH for hot rolled stainless-steel coils, without taking into consideration the significant changes in the costs of those coils, throughout the POR, would result in the calculation of a distorted COP, because such an analysis would not incorporate known differences in metal purchasing power. On the other hand, the Department concluded that with respect to all other costs (which were not significantly changing during the period of review), the use of SEAH's reported costs were appropriate.

Accordingly, the Department concluded that the application of a price index was warranted in its calculation of the costs pertaining to the major input, hot rolled stainless-steel coils. The Department applied SeAH's "per-unit cost of production" in its analysis, consistent with the requirements of section 773(b)(2)(D) of the Act. The fact that these costs were restated using a price index to account for known distortions in no way undermines this fact. Under the Department's analysis, those costs continue to be analyzed on a per-unit basis, and, unlike the methodology argued by SeAH to the Court, the Department's analysis reasonably reflects the costs associated with the production and sale of the merchandise, consistent with the requirements of section 773(f)(1)(A) of the Act.

In this case, the Department therefore calculated a weighted average per unit cost of production for the POR that addressed, and attempted to neutralize, the distortive effect of significantly changing hot-rolled coil costs. We have broken down the Department's cost recovery analysis for this remand into a six-step process pursuant to the Court's directive to adequately explain the cost recovery methodology and provide both clear descriptions and data used in the Final Results.

1) Step One – The Development of Numerical Indices

As a first step, the Department developed numerical indices to measure the relative changes between quarters of the POR in the cost of hot-rolled stainless steel coil used in the manufacture of subject merchandise. In this case, the Department used SeAH's grade-specific direct material consumption data as the basis for its quarterly indexing calculations. The Department measured the consumption cost changes of the hot-rolled stainless steel coil input, in terms of a percentage, to develop a direct material index for each quarter for each unique stainless steel grade. For illustrative purposes, the Department has provided a sample calculation

of SeAH's material cost indices for one particular grade of stainless steel coil. Index calculations for all grades of subject merchandise sold by SeAH have been included at Attachment 4 of Remand Calculation Memo.

Chart 2

	Quarter	Grade-Specific Per-Unit Material Consumption Cost[6]	Quarterly Index[7]	Factor[8]	
[					]
[					]
[					]
[					]

Chart 2 shows the consumption cost of a specific grade of hot-rolled stainless steel coil for each quarter which is the basis for the direct material indices calculated by the Department. The quarterly indices demonstrate the percentage change in cost from the first quarter while the factor is simply a ratio of the index for the last quarter of the POR to the index of each respective quarter. The factor is subsequently multiplied by the quarterly material costs for any given quarter (as discussed at step two below) in order to express those costs in terms of the cost levels of the last quarter of the POR (e.g., the quarter 1 factor, [ ] = [ ], is applied to direct material costs in the first quarter, resulting in equivalent end-of-period costs that are [ ] percent higher; similarly, the factor for quarter 3, [ ] = [ ], is multiplied by direct material costs in the third quarter to obtain end-of-period costs that are [ ] percent lower).

[6] These values were taken from Attachment 2 of the Remand Calculation Memo. They were revised to incorporate the major input adjustments.
[7] See Attachment 4 to the Remand Calculation Memo.
[8] See Attachment 2 to the Remand Calculation Memo. The Factor equals the Quarter 4 Index / Quarter 1 Index, Q4/Q2, Q4/Q3 and Q4/Q4.

2) Step Two – The Application of the Indices to Each CONNUM

Next, we applied the calculated indices to each CONNUM within each quarter of the POR. The result represents extended direct material costs stated at constant, end-of-POR values. This critical step restates each quarter's cost to a consistent end-of-POR purchasing power level and equates each quarter to the same level of metal purchasing power. The table below illustrates this step of our indexing methodology as implemented in the Final Results using data for the highest sales volume home market CONNUM. Data from our Final Results comparison market SAS program for the highest sales volume home and U.S. market CONNUMs is also provided at Attachment 2 of the Remand Calculation Memo.

Chart 3

CONNUM	Quarter	Reported Quarterly Direct Materials Cost (from submitted COP database)[9]	Quantity	Extended Direct Materials Cost	Factor	End-of-Period Equivalent Per-Unit Material Cost
		a	b	c=a*b	d	e=c*d
HM 1	1	[				]
HM1	2	[				]
HM1	3	[				]
HM1	4	[				]
TOTAL		[ ]	(x) [ ]	[ ]		(y) [ ]

To illustrate, using the first quarter information found in Chart 3 above, the Department multiplied the reported quarterly direct material cost of [ ] by the production quantity for that quarter [ ] to obtain the extended direct material cost of [ ]. This figure was then multiplied by the factor [ ], the same factor found in Chart 2, to obtain the indexed end-of-period equivalent material cost for the first

[9] As adjusted for the major input revisions.

quarter, which expressed the material costs in the purchasing power level at the end of the period.

3) Step Three – The Addition of the End-of-Period Costs and the Production Quantities for the Four Quarters of the POR

In the third step of the Department's analysis, on a CONNUM-specific basis, the Department then 1) summed the end-of-period extended direct material costs (i.e., y from chart 3) for all four quarters of the POR and 2) summed the production quantities for all four quarters of the POR (x from chart 3).

4) Step Four – The Division of Total Extended Material Costs by the Total Production Quantity

Next, the Department divided the total end-of-period extended material cost of hot rolled stainless-steel coils by the total production quantity of each CONNUM. The following table demonstrates this calculation using the data above. As previously noted, SeAH data for selected CONNUMs has also been provided at Attachment 2 of the Remand Calculation Memo. The result of this analysis is the weighted-average material cost of the hot rolled stainless steel coils that were used in the production of SeAH's merchandise during the POR (on a CONNUM-specific basis). As can be seen from the example below, this cost was calculated on a "per-unit" basis (which, if expressed in constant end-of-POR value terms, would be [ ] Won per ton).

Chart 4

	CONNUM	Total Extended End-of-Period Material Costs (y from Chart 3)	Total POR Production Quantity (x from Chart 3)	Weighted-average Material Cost for the POR (y/x)	
[					]

As Chart 4 shows, the Department divided the total extended end-of-period material costs [ ] by the total production quantity for the POR [ ] to obtain the weighted-average material cost for the POR of [ ].

5) Step Five – The Restatement of the Constant End-of-Period Weighted-Average Based on the Price Index to the Respective Quarter

In the fifth step of the Department's analysis, the Department took the constant end-of period weighted-average material cost for the hot rolled stainless steel coils and applied the indices, yet again, to that figure in order to reflect SeAH's actual purchasing power for each quarter during the POR. The result of this analysis was that for a given quarter, on a per-unit, CONNUM-by-CONNUM basis, the weighted-average cost of production was restated (i.e., single constant end-of-period POR weighted-average per-unit cost / (end-of-period index/index)) to reflect the metal purchasing power of that quarter. The single weighted-average cost calculated in step four was therefore restated into four values, depending on the price level of a given quarter, and these values were used to compare to contemporaneous sales in the given quarter. For example, as shown in the chart below, the constant end-of-period weighted-average material cost for the POR in Won per ton was restated to the first quarter by dividing the constant end-of-period weighted-average material cost for the POR [ ] by the factor [.] to arrive at the restated weighted-average material cost for the POR [ ], expressed in terms of the metal purchasing power of the first quarter. See Attachment 2 of the Remand Calculation Memo.

The weighted-average material cost for the POR was restated to quarter two by dividing the constant end-of-period weighted-average material cost for the POR by the factor to arrive at the restated weighted-average material cost for the POR. The same calculation was performed for quarters 3 and 4 to arrive at the values for those quarters.

Chart 5

CONNUM	Quarter	Weighted-average Material Cost for POR	Factor (rounded)	Restated Weighted-average Material Cost for POR
		a	b	a/b
HM1	1	[		]
HM1	2	[		]
HM1	3	[		]
HM1	4	[		]

6) Step Six – The Department Added Direct Labor, Fixed Overhead Expenses, and Variable Overhead Expenses, As Well As General & Administrative Expenses, and Financial Expenses, to the Restated Weighted-Average Per Unit Cost of Consuming Hot Rolled Stainless Steel Coil

In the final step of the Department's analysis, the Department took the restated POR weighted-average per-unit cost of hot rolled stainless steel coil from step five, and added to that figure the POR weighted-average direct labor, variable overhead, and fixed overhead expenses. In addition, the Department also added general & administrative expenses, as well as financial expenses, to determine the COP of the merchandise under consideration.

As shown by this detailed description of the Department's analysis, the final weighted-average cost of hot rolled stainless steel coils during the period of review was consistently applied on a per-unit basis. Thus, the Department's methodology satisfied the requirement that it apply a "per-unit cost of production" in its cost recovery methodology.

In response to the claim that a "per-unit cost of production for the period of review" cannot be interpreted to mean anything but a single non-indexed amount throughout the entire period of review, we disagree with that interpretation of the law. Nothing in the text of section 773(b)(2)(D) of the Act states that the Department must ignore the impact of significantly

changing costs and purchasing power during the period of review in its calculations, and nothing in the Act states that the Department must use costs as reported, if it believes that those costs do not adequately reflect a company's expenditures. Indeed, as noted above, section 773(f)(1)(A) of the Act provides that the Department is only required to use a company's reported costs if those costs "reasonably reflect the costs associated with the production and sale of the merchandise." See Uruguay Round Agreements Act, Statement of Administrative Action, 103d Congress, 2d Session, H.R. 103-316, Vol. 1 (September 27, 1994) (SAA) at 832 (indicating the Department has discretion to adjust a respondent's costs as appropriate, in response to significant variations in unit costs, such as temporary disruptions to production, for example).[10]

In this instance, the Department adjusted its calculations to account for the distortions it determined existed as a result of significantly changing costs in the major input during the period of review. This analysis was fully consistent with the requirement that the Department use a methodology that was based on a "per-unit cost of production for the period of review."

C. The Department's Methodology Uses a Weighted Average Cost of Production

As explained above, the Department's methodology applied a weighted-average per unit cost of production test to all of SeAH's sales. A "weighted average" is defined as an "average that takes into account proportional relevance of each component rather than treating each component equally."[11] In this case, SeAH reported to the Department a weighted-average of all of its costs using a POR-wide annual weighted-average. The Department determined in the Final Results that the use of this unadjusted POR annual weighted-average would result in

[10] The SAA provides an illustration of when unit costs may be significantly changed during the period when major maintenance is performed and depressed in other years. While the list of illustrative examples in the SAA is not exhaustive, it shows that Congress believed the Department had the discretion to adjust annual weighted-average costs, as appropriate, to address significant variations in per-unit costs. See SAA at 832.

[11] See www.investorwords.com/5854/weighted_average.html, last downloaded, July 16, 2010 and placed on the record July 27, 2010.

distortions and used an adjusted POR annual weighted-average cost for the cost recovery test. As described above in step four, the Department calculated a weighted-average material cost consistent with the definition above because the average took into consideration the proportional relevance of production quantities in each quarter. For other components of the cost of production (e.g., direct labor, variable overhead, fixed overhead), the Department used these reported averages in its calculation of the COP of the merchandise under consideration. As noted in the Final Results at Comment 1e, this was because the only cost component experiencing significant change during the POR were those of the costs of consuming hot rolled stainless steel coils. Thus, for all other cost elements for which significant cost changes were not present (e.g., direct labor, and variable and fixed overhead), the Department used the reported POR weighted-average per-unit costs as reported by SeAH in conducting both the sales-below cost test and the cost recovery test.

However, with respect to the constant end-of-period weighted-average per-unit material cost for hot rolled stainless steel coils consumed in producing the subject merchandise, the Department restated the value of the constant end-of-period weighted-average per-unit material cost depending on the time period within which those costs were incurred (i.e., the quarter within which the coils were consumed), using a price index, which itself was based on the metal purchasing power of SeAH at the time those costs were incurred. In other words, one weighted-average cost of production was applied (step four), but the value of that cost was adjusted by quarter to avoid distortions as a result of the extreme changes in the cost of hot rolled stainless steel coils between those quarters (step five).

Thus, although the values of various costs may differ under this analysis through the application of a price index, the fact remains that the Department based all of these values on an

"average that took into account proportional relevance of each component rather than treating each component equally." Accordingly, the Department's methodology applied a "weighted-average cost of production."

D. The Department's Methodology Is Fully Consistent With the Text of the Statutory Cost Recovery Test

In SeAH, the Court stated that the statute does not give the Department discretion to compare prices to a weighted-average per-unit cost for a time span other than the period of investigation or review. See SeAH, Slip. Op. 10-60 at 32-33 at n 18. The Department agrees with the Court's description of the requirements of Section 773(b)(2)(D) of the Act. Had the Department disagreed, it would have simply broken the POR into quarters, averaged the costs within quarters, and conducted its analysis. Instead, the Department implemented an indexing methodology that compares prices to a weighted-average per-unit cost for the entire POR, although the value of that cost was raised or lowered throughout the POR depending on SeAH's metal purchasing power at a given point in time as a result of significantly changing costs in nickel (and therefore, coils). See Attachment 2 of the Remand Cost Calculation Memo.

The use of a price index is a well-known, commonly-applied accounting tool. The application of an index in this case results in the collection of four separate values throughout the POR that were used in the Department's cost recovery test. Although this may at first glance appear to be the application of four separate costs (as alleged by SeAH), this is not the case. As explained above, the Department calculated a weighted-average per-unit cost of production for the entire period of review, consistent with the requirements of Section 773(b)(2)(D).

IV. A Comparison of the Two Methodologies As Directed By the Court

In accordance with the Court's order in SeAH, the Department has included on the record of this proceeding the data resulting from our margin program recalculations upon which our

remand analysis is based. Specifically, we have identified the home market sales that were excluded from the calculation of normal value under the Department's indexed weighted-average per-unit cost recovery methodology that were recovered and thus included in the normal value calculation when tested against an unadjusted weighted-average per-unit cost for the period. These recovered sales are identified at Attachment 5 of the Remand Calculation Memo.

We have also prepared a chart that shows, by quarter, the quantity of disregarded below-cost sales using both the indexed weighted-average per-unit cost methodology and the unadjusted weighted-average per-unit cost in performing the cost recovery test. The chart also shows the percentage difference in non-recovered below-cost sales under the two methodologies for each quarter of the POR. In addition, the Department has included on the record complete printouts of the SAS programs and output of both the original final margin program and the program that incorporates an unadjusted annual average POR cost for purposes of the cost recovery test. See Remand Calculation Memo at Attachments 1,7, and 8.

As noted above, the calculation of a single, unadjusted weighted-average contains incomparable quarterly costs at different levels of metal purchasing power. This calculation results in a disproportionately higher number and quantity of sales being recovered when subjected to a test against this unadjusted COP, despite the fact that such sales were below the quarterly indexed cost at the time of sale. A chart summarizing the results of the two cost recovery methodologies has been provided at Attachment 1 of the Remand Calculation Memo.

A comparison of the methodology applied by the Department in the Final Results and the unadjusted methodology highlights the fact that a comparison of sales prices with an unadjusted annual average cost is distortive. On a quarterly basis, the difference in the number of home market sales recovered under the unadjusted annual average, but excluded from the normal value

calculation under the indexing methodology, shows that [ ] percent of the recovered sales occurred during the high-cost quarter (i.e., the third quarter of the POR). In the third quarter of the POR (i.e., the highest-cost quarter), the quantity of home market sales included in the calculation of normal value increased from [ ] metric tons under the indexed annual average cost methodology to [ ] metric tons when using an unadjusted annual average cost. In the other quarters of the POR, the difference in the quantity of sales included in the NV calculation when comparing the two methodologies was not nearly as dramatic because the difference between the lower cost quarters and the unadjusted weighted-average annual cost was smaller. See Attachment 1 of the Remand Calculation Memo.

As part of its analysis, the Department also calculated the total extended sales price (i.e., we multiplied the reported per-unit sales price for each individual sale by the reported quantity of that sale, then summed the result for all sales) for all home market sales. The Department then calculated the total extended cost for all home market sales. We found that the total extended cost for all of SeAH's reported home market sales ([ ] Won) exceeded the total extended sales value for those same sales ([ ] Won). See page 48 of the Comparison Market SAS program output (showing the calculation of these figures), included as Attachment 8 of the Remand Calculation Memo. The fact that the total extended cost for all sales exceeded the extended total price for SeAH's home market sales, indicates that, overall, SeAH incurred a loss on these sales (i.e., that SeAH did not recover its costs during the POR).

This is significant because we believe the cost recovery test allows for the "recovery" (i.e., the inclusion of sales in normal value) of sales made at a loss when, in the end, respondent's overall sales are found to have been made above the average cost of production for the review.

These are not, however, the facts of this case, as noted above. It simply makes no sense for the Department to "recover" sales in its calculation when the respondent had an overall loss on those sales during the period of review. Indeed, such an analysis would be contrary to the logic behind the cost recovery test in the first place. It would introduce, rather than mitigate, distortion into the Department's calculations, and we do not believe such an analysis is required under the statute.

Finally, we disagree with the claim that our indexing methodology somehow results in the erection of an artificially raised floor vis-à-vis the unadjusted POR weighted average per-unit COP. The results of our analysis show that this is clearly not the case. The Department compared the POR average costs computed under both the indexed average and unadjusted cost recovery methodologies, and found that there were several CONNUMs sold in the home market for which the POR indexed weighted average cost was actually lower than the unadjusted POR weighted average cost. Specific examples in which the indexed weighted average cost of home market sales was lower than the unadjusted POR weighted average cost of these sales are provided at Attachment 6 of our Remand Cost Memorandum. For example, for one particular product, the indexed average COP for the first quarter of the POR was [ ] Won/metric ton, while the unadjusted POR average cost for the same product was [ ] Won/metric ton. For another product, the first quarter indexed average cost was [ ] Won/metric ton and the unadjusted POR cost was [ ] Won/metric ton. Clearly, for these sales, the Department has not, as SeAH alleges, erected an "artificially raised floor" for cost recovery. Instead, the unadjusted POR average cost was higher than the indexed average cost calculated by the Department. Thus, the Department's methodology created no artificial "floor" or "ceiling" in its calculation.

CONCLUSION

The Department has carefully explained its use of a cost recovery methodology that incorporates a price index in calculating a weighted-average per-unit cost of production for the POR. As part of this reconsideration, as directed by the Court, the Department compared this methodology to a cost recovery test that does not take into consideration SeAH's changing purchasing power during the POR as a result of the significantly changing costs of the major input. The Department has concluded upon analysis of both methodologies, that the methodology it applied in the Final Results is consistent with the statutory requirements of sections 773(b)(2)(D) and 773(f)(1)(A) of the Act, while the use of a weighted-average cost of production that does not apply a price index would lead to distortions in SeAH's costs of production, in violation of requirements of section 773(f)(1)(A) of the Act. Accordingly, for these remand results, the Department has continued to apply the weighted-average per-unit cost of production for its cost recovery test that it did in the Final Results.

Application of the Major Input Rule

I. Background

During the POR, SeAH purchased several types of stainless steel hot-rolled coils from its affiliate POSCO. See SeAH's April 22, 2008 Section D Questionnaire Response. As discussed, the coils are a major input in the production of the stainless pipe which is subject to this antidumping duty order. See Final Results at Comment 2. Pursuant to section 773(f)(2) of the Act, in determining NV, certain transactions may be disregarded for consideration between affiliates:

> a transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that

element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration.

When the affiliated transactions involve a major input, section 773(f)(3) governs. Under that provision, if the Department "has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input," then the Department "may determine the value of a major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under the transaction disregarded rule." Pursuant to this provision, 19 CFR 351.407(b) provides that the Department "normally will determine the value of a major input purchased from an affiliated person based on the higher of: (1) the price paid by the exporter or producer to the affiliated person for the major input; (2) the amount usually reflected in sales of the major input in the market under consideration; or (3) the cost of the affiliated person of producing the major input." See, e.g., Notice of Final Determination of Sales at Not Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Taiwan, 70 FR 13454 (March 21, 2005).

SeAH reported the transfer and market prices, as well as POSCO's COP for the inputs, on the basis of both steel grade and the specification to which the steel was sold. See SeAH's April 22, 2008 Section D Questionnaire Response. These specifications included "STS" to denote stainless steel coil produced and sold to Japanese/Korean Industrial Standards (JIS/KIS),[12] as well as the American Society of Testing Materials (ASTM) standard.

For the Final Results, the Department compared the transfer price and the market price to POSCO's COP and adjusted SeAH's reported COM to reflect the highest of these amounts. The

[12] Japanese and Korean Industrial Standards are used interchangeably. The physical and chemical properties and testing requirements of grades of coil produced to these standards are the same. See SeAH's June 11, 2010 submission at Exhibit 1.

Department's price and cost analysis considered differences among the steel grades reported by SeAH, but did not take into account the different specifications identified by SeAH within each grade (i.e., for each grade type, the Department aggregated price and cost data for the ASTM and STS specifications). See Final Results Cost Memo at pages 6 and 7, and Attachment 5. In its Brief to the Court, SeAH argued that the Department improperly and unlawfully disregarded specification in applying the major input rule, especially given the importance of specification in the model-match hierarchy.

As previously noted, the Department requested a voluntary remand to gather and analyze additional data regarding the steel coil specifications to determine whether to consider both steel grade and specification in applying the provisions of the major input rule. On June 2, 2010, to facilitate this analysis, the Department issued a supplemental questionnaire requesting information about the specification classifications identified by SeAH. SeAH filed its response to the Department's questionnaire on June 11, 2010. The Department issued a second questionnaire to SeAH on June 21, 2010 requesting certain additional information, and SeAH submitted its response to that questionnaire on June 25, 2010.

On July 1, 2010, the domestic interested party filed a letter in response to SeAH's June 25, 2010 submission requesting that the Department continue to disregard the specification to which SeAH purchased the steel input in conducting its major input analysis. SeAH responded to the domestic interested party's comments on July 6, 2010, arguing that information on the record of this proceeding amply demonstrated that specification of hot-rolled coil is an important consideration in the Department's major input analysis.

II. Consideration of Both Steel Coil Input Grade and Specification Are Appropriate In Conducting the Major Input Analysis

After reexamining the evidence on the record of the underlying administrative review and analyzing the additional information obtained for purposes of this remand proceeding, the Department has determined that steel coil input specification should be factored into the major input analysis with respect to SeAH's purchases from its affiliate POSCO of hot-rolled stainless steel coil.

Information on the record shows that there are various physical and chemical differences between the KIS/JIS and ASTM specifications identified by SeAH. In terms of chemical composition, the specifications differ in the required levels of silicon, chromium, and nitrogen. The yield and tensile strength requirements between the two specifications also differ, as do the maximum hardness requirements. The two specification classifications differ most notably in terms of nickel levels – for KIS/JIS standards, the minimum nickel content is 9.0 percent, while for ASTM it is 8.0 percent. See SeAH's June 11, 2010 submission at Exhibit 1. In addition to the information published in the ASTM and KIS/JIS standards handbooks, POSCO's own production data reflects the differences in chemistry between the specifications. See, e.g., the POSCO mill test certificates for stainless steel input coils sold to SeAH provided at Attachments 2 and 3 of the June 25, 2010 submission, which show that, without exception, nickel levels of KIS/JIS coils are higher than those of ASTM coils. Because nickel is a very expensive raw material, the difference in nickel composition between the two standard groupings impacts both the cost of production and, consequently, prices charged for the steel input coil. Both COP data and pricing information provided by SeAH and POSCO support these assertions.

For example, for one particular grade of stainless steel coil, the POSCO quarterly COP data that was verified by the Department in the underlying administrative review shows that

for every quarter, the cost to produce that grade to KIS/JIS standards was higher than the cost of producing the same grade to ASTM standards due to the higher nickel content, among other factors. See POSCO's September 4, 2008 Section D Supplemental response at Exhibits 4 and 5. Similarly, pricing data submitted by POSCO and SeAH show that the average price paid for KIS/KIS specification steel coil is greater than that of the same grade sold to ASTM standards. See SeAH Cost Verification Exhibit 16 at page 7 (showing prices for one particular grade of stainless steel coil sold to each of the specifications) and the September 4, 2009 POSCO submission at Exhibit 1 (showing pricing information for another grade of coil).

The primary objective of a major input analysis in cases where an affiliated party supplies production inputs to a respondent is to determine whether the respondent company received preferential pricing for such inputs such that the reported COP of subject merchandise is not reflective of the true production cost. The Department believes that it is accordingly appropriate in this proceeding to measure whether there was any preferential treatment accorded SeAH by its affiliate POSCO by comparing prices and costs separately of inputs for which there are demonstrated differences in physical characteristics that may impact COP and final sales prices. Here, record evidence clearly shows that there are physical differences between the two specifications identified by SeAH. For these remand results, the Department has therefore revised the major input calculations implemented for the final results and has used the revised adjustment factors to recalculate SeAH's dumping margin. See Remand Calculation Memo at Attachments 3 and 4.

D. COMMENTS

On August 6, 2010, we released the Draft Results to the parties to this proceeding, and solicited comments. Comments were received from SeAH August 19, 2010. The domestic

interested party did not submit comments. The Department has addressed SeAH's comments below.

Comment 1

SeAH argues that the Department has not demonstrated that its quarterly indexing methodology results in a single POR average unit cost, rather the methodology produces four unique quarterly average costs for each product which fails to comply with the cost recovery provision of the statute. SeAH claims that the Department believes that this is just an "optical phenomenon," when in fact it is four separate costs, and not one weighted-average per unit cost.

SeAH maintains that under this flawed methodology home market prices found to be below the quarterly average cost are excluded from normal value without any consideration of whether those sales prices are nevertheless above the ordinary weighted-average COP for the POR.

SeAH argues that the Department incorrectly asks if the costs used by the Department "cover" the POR, and says the statutory test applies to a single, unit cost "for" the POR.

SeAH concludes the Department should follow the plain language of the statute and apply the cost recovery test using SeAH's weighted-average per-unit COP for the POR.

Department's Position:

We disagree with SeAH that the Department has not demonstrated that its indexed weighted-average per-unit cost recovery methodology resulted in a single POR average cost. The Department determined in the Final Results that the use of an unadjusted POR annual weighted-average cost would result in distortion and used an adjusted POR annual weighted-average cost for the cost recovery test. As described in step four above, the Department calculated a POR weighted-average material cost. For the other components of the cost of

production (e.g., direct labor, variable overhead, fixed overhead), the Department used the reported POR averages. It is clear from steps four and five above that the single POR average cost for materials was [ ] and that from step six all other elements of the COM were the single POR average costs for the sample control number.

SeAH's expressed concerns pertain to the Department's restatement of the value of the constant end-of-period weighted-average per-unit material cost (i.e., [ ]) depending on the time period within which those costs were incurred (i.e., the quarter within which the coils were consumed), using a price index. We note that one POR weighted-average cost of production was applied in step four, but the value of the cost was adjusted by quarter to avoid distortions as a result of the substantial changes in the cost of hot rolled stainless steel coils between quarters (i.e., see step five). A single weighted-average overall per-unit cost is calculated in this case using indexing – a standard accounting tool prescribed by IAS and used in the United States for various purposes, including the well-known Consumer Price Index. As noted above, were the Department to calculate four separate cost recovery tests, it would not have applied an index in this case, but instead would have taken the much simpler and direct approach of doing just that – calculating the cost of production for each quarter and then applying the cost recovery test based on an average of costs in each quarter. We agree with SeAH that such an analysis would have been inconsistent with the requirements of Section 773(b)(2)(D). But, as noted above, this is not the analysis applied by the Department.

SeAH argues that the statute provides for only one outcome, and that even if the outcome results in a distorted, unreasonable application of the cost-recovery test, the Department is nonetheless bound to apply a methodology that conforms to that interpretation. We do not believe that this interpretation of the statute is logical. As explained, the Department concluded

in the Final Results that to not neutralize the impact of the significant changes in cost, throughout the POR, results in the calculation of a distorted COP, because such a calculation would not incorporate known differences in purchasing power. Thus, to avoid absurd results, the Department incorporated indexing into its methodology for calculating SeAH's weighted-average per unit costs, consistent with the requirements of the Act. Nothing SeAH argues undermines this point.

Further, we disagree with SeAH that our methodology does not provide for the calculation of a weighted-average per unit cost of production for the period of review. As outlined in step six above, the Department calculated a single weighted-average per unit cost of production. That per unit cost of production covered the entire period of review, not just individual quarters. Accordingly, SeAH is incorrect in its claim that the Department's methodology does not apply to the entire review time period.

Further, the Department disagrees with SeAH's contention that we have not performed a cost recovery test at all. We have compared the sales prices to the indexed weighted-average per-unit cost of production for the period of review in accordance with Section 773(b)(2)(D) of the Act. One weighted-average cost was applied in step four above, but the value of that cost was adjusted by quarter to avoid distortions as a result of the sizable changes in the cost of hot rolled stainless steel coils between those quarters (i.e., see step five above). Thus, although each quarter's cost differs under this analysis through the application of a price index, the fact remains that the Department based all of these values on a POR weighted-average per-unit cost of production. See step six above.

Comment 2

SeAH also contends that the Department's description of its quarterly indexing methodology demonstrates that the Department is not using the costs as reflected in SeAH's books and records, but rather constructs what amounts to hypothetical costs. SeAH asserts that the Department's quarterly indexing methodology has no relevance to the issue at hand in this review which is the significant change in the real cost of hot-rolled coil. SeAH claims the Department has mischaracterized the change in the cost of hot-rolled coils as a nominal change in cost rather than a real change in cost. SeAH states that in hyperinflation, costs and prices need to be restated in terms of a constant currency unit to distinguish between real cost changes and nominal cost changes that simply reflect the inflation of the currency.

SeAH agrees that in hyperinflation costs and prices measured at different time periods cannot be compared because the currency is not stable. However, SeAH holds that Korea was not a hyperinflationary economy during the POR and the Korean Won was stable during the POR. SeAH does not find any distortion present in comparing selling prices to a POR average cost that includes costs from different quarters because the cost differences between quarters reflect real, not merely nominal cost changes. SeAH argues that the stated purpose of indexing in this case, to restate nominal costs on a consistent basis over time, simply does not apply here. SeAH maintains that, for the cost recovery test, the statute is clear that home market selling prices that may be below cost at the time of sale will nevertheless be considered to provide for the recovery of costs within a reasonable time so long as those prices are above the weighted-average cost for the POR.

SeAH disagrees that any distortion exists when a higher number of sales is found to be recovered when compared to a POR weighted-average cost. SeAH responds that this result simply reflects that the statute is operating exactly as Congress intended.

SeAH concludes that the Department's reliance on its hyperinflationary methodology in this case is entirely misplaced and cannot serve to rehabilitate a methodology that runs counter to the express terms of section 773(b)(2)(D) of the Act.

Department's Position:

The reported material costs used in the Department's analysis were derived directly from SeAH's books and records. Therefore, as a factual matter, SeAH is incorrect when it claims that the Department did not rely on SeAH's books and records as required by section 773(f)(1)(A) of the Act. The Department's methodology merely restated those costs, as reported on SeAH's books and records; the restatement of costs using an index is not the same as not using SeAH's costs as reflected in its books and records. Rather, the Department recognized that using the costs as reported, without an index, would result in unreasonable distortions to the cost recovery test. Accordingly, SeAH cannot claim a violation of section 773(f)(1)(A) exists in this case, because had the Department calculated a weighted-average per unit cost of production in the manner the respondent advocates, such an analysis would not have "reasonably reflected" costs for purposes of the cost recovery test.

With respect to SeAH's arguments about hyperinflation and the Department's methodology, it is true that a significant change in the cost of the major input, hot rolled stainless steel coil, is not the same as high inflation. Indeed, we have never claimed that Korea was hyperinflationary during the period of review. Nonetheless, we consider it instructive to look to our high inflation methodology for guidance on how to best neutralize the distortive effect of

such a significant cost change on computing a single annual weighted average cost of production in accordance with section 773(b)(2)(D) of the Act.

Inflation, defined as the overall general upward price movement of goods and services in an economy, is usually measured by the producer price index ("PPI").[13] For example, the U.S. PPI is made up of price indices for over 500 mining, forestry, utility, construction, and manufacturing industries including inputs for stainless steel pipe.[14] The idea is that if the PPI, which covers such a broad basket of cost elements, increases significantly throughout the year, the amount of currency used at the end of the period will not be able to buy as much as it did at the beginning of the period, which reflects the devaluation of a country's currency. This phenomenon, mentioned above, is known as "purchasing power," which is defined as "the value of currency, as measured by the quantity and quality of products and services it can buy."[15] As a result of inflation, the currency will have lost purchasing power.

In this case, the concept of purchasing power equally applies. From the beginning of the period to the end of the period, the cost of the main input, hot rolled stainless steel coil, changed significantly. The amount of Korean Won needed to acquire the same quantity and quality of hot rolled stainless steel coil at different times during the year therefore also, logically, fluctuated significantly. Thus, throughout the POR, the amount of currency it took for SeAH and other Korean purchasers of hot rolled stainless steel coil (and for that matter other nickel-based products), to purchase a given quantity of those products greatly fluctuated, just as in the case of an inflationary situation. Accordingly, we have concluded that it is perfectly reasonable for the

[13] See www.investorwords,com/2452/inflation.html (last downloaded August 31, 2010) and placed on the record September 2, 2010.
[14] See U.S. Department of Labor Bureau of Labor Statistics Handbook of Methods Chapter 14 Producer Prices at p. 1 available at www.bls.gov/opub/horn/pdf/hornch14.pdf (last downloaded August 31, 2010) and placed on the record September 2, 2010.
[15] See www.investorwords.com/3959/purchasing_power.html (last downloaded August 31, 2010) and placed on the record on September 2, 2010.

Department to look to IAS 29 and the Department's inflationary methodology for guidance in this case.[16]

However, as SeAH points out, this is not an inflationary case, and the Department recognized in the Final Results, that unlike in the high inflationary situation, the index used by the Department should only be applied to the cost component experiencing significant change during the POR, and not the product as a whole.

Finally, with respect to SeAH's argument that there was no distortion in the first place, we also disagree with this assessment of the administrative record. The calculation of a single, unadjusted weighted-average COP contains incomparable quarterly costs at different levels of metal purchasing power. Averaging these incomparable quarterly metal costs results in an annual average that means little when compared to individual sales throughout the year. Due to the law of averages, you would expect sales during the high cost quarters to recover costs, and sales during the low cost periods to not. Record evidence shows that using the unadjusted annual average COP resulted in virtually all of the recovered sales (i.e., [ ] percent) occurring in the third quarter of the POR, which is the highest cost quarter.

Furthermore, the number of home market sales included in the normal value calculation in the third quarter of the POR increased from [ ] metric tons when using the indexing methodology, to [ ] metric tons when using the unadjusted annual average cost. See Remand Calculation Memo at Attachment 1. As we explained in Section IV above, SeAH had an apparent overall loss on home market sales of the like product during the period of review (i.e.,

[16] In high inflation cases, we use an indexation methodology to compute the period-average COP and CV on a constant currency basis using general price (i.e., inflation) indices (e.g., PPI) during the period. A detailed description of the Department's high inflation indexation methodology appears in the 2009 Import Administration Antidumping Manual Chapter 9: Cost of Production and Constructed Value at pages 32-33, available at http://ia.ita.doc.gov/admanual/index.html last downloaded August 31, 2010, and placed on the record September 2, 2010.

SeAH did not recover its costs during the POR). "Recovering" more home market sales under the unadjusted weighted average methodology than under the methodology used by the Department would therefore be distortive. Accordingly, we conclude that because of the significant changes in the cost of hot-rolled stainless steel coils during the POR, there are distortions that would result if the Department were to apply its standard cost recovery analysis.

CONCLUSION

As directed by the Court, the Department has reexamined the methodology it used in calculating a weighted-average per-unit cost of production for the cost recovery test in the Final Results. The Department has determined that the indexing mechanism applied to that weighted-average cost of production appropriately controls for distortions arising from significantly changing raw material costs, in accordance with sections 773(b)(2)(D) and 773(f)(1)(A) of the Act. We have also analyzed the additional data submitted by SeAH regarding steel specification classifications and have determined that it is appropriate to consider both grade and specification for purposes of determining whether a major input adjustment is warranted. We have therefore recalculated SeAH's dumping margin to reflect this change. See Remand Calculation Memo at Attachments 3 and 4. Accordingly, for these final results, the weighted-average margin for SeAH for the period December 1, 2006 to January 20, 2007, is 7.92 percent.

___/s/_____

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

____9/17/2010_____

(Date)