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MEMORANDUM TO: Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

FROM: Barbara E. Tillman  
Acting Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results of the  
Antidumping Duty Administrative Review of Carbon and Certain  
Alloy Steel Wire Rod from Indonesia for P.T. Ispat Indo

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### **Summary**

We have analyzed the comment and rebuttal comment from interested parties in the administrative review of carbon and certain alloy steel wire rod from Indonesia. As a result of our analysis of information and arguments on the record, including factual information obtained since the preliminary results, we have determined that the respondent in the above-captioned proceeding, P.T. Ispat Indo (Ispat Indo), did not make sales to the United States at less than normal value (NV) during the period of review (October 1, 2003 - September 30, 2004). We recommend that you approve the position developed in the "Discussion of the Issue" section of this memorandum. Below is the issue in this review for which we received a comment and rebuttal comment from interested parties:

Comment 1: Adjustment to Raw Material Cost

### **Discussion of the Issue:**

#### **Comment 1: Adjustment to Raw Material Cost**

Ispat Indo asserts that the Department's adjustment to direct material costs made for the preliminary determination in order to reflect the transfer price of raw materials between Ispat Indo and its affiliated supplier was unfair and excessive. Ispat Indo points out that its affiliate charges Ispat Indo a markup on the resale of raw materials. Ispat Indo argues that the raw material costs

reported to the Department is exclusive of the affiliate's markup because Ispat Indo believes that the markup is not a production cost.

Ispat Indo points out that the affiliate, which supplies Ispat Indo with raw material, also sells finished steel wire rod in the U.S. market, also with a markup. Ispat Indo draws a comparison between the affiliate's markup on the raw material acquisition price and the markup the affiliate charges U.S. customers on steel wire rod. Ispat Indo argues that the affiliate charges both types of markups for a reason which is proprietary, and that both the markups are not costs or expenses associated with the sale or production of steel wire rod. Ispat Indo agrees with the Department's treatment in the preliminary results of the markup on steel wire rod charged to U.S. buyers by including it in the calculation of U.S. price for dumping analysis. Ispat Indo argues then that, similarly, the markup charged on raw material should not be included in the calculation of Ispat Indo's cost of production.

Ispat Indo maintains that the affiliate's acquisition cost plus the cost of inward freight and handling are included in Ispat Indo's reported cost of raw materials. Ispat Indo proposes that the reported cost should only be adjusted by including the affiliate's sales expenses and general and administrative expenses (SG&A) and not the affiliate's markup on raw materials.

Petitioners argue that the Department's adjustment made for the preliminary results to reflect the transfer price of raw materials between Ispat Indo and its affiliated supplier was consistent with the statute and the Department's practice. Petitioners argue that Ispat Indo should have reported its material costs at the highest of market price, transfer price, or cost of production in order to comply with the instructions of the Department's standard section D questionnaire and with the Department's practice.

Further, petitioners argue that section 773(f)(1)(A) of the Tariff Act of 1930, as amended (the Act) requires cost of production to be calculated based on the records of the exporter or producer if such records are kept in accordance with the generally accepted accounting principles of the exporting country. Petitioners point out that Ispat Indo records the purchase of raw materials from its affiliate at the transfer price in its financial statements. Therefore, petitioners assert that Ispat Indo should report the raw material costs at transfer prices to the Department.

Finally, petitioners counter Ispat Indo's argument that the markup charged on raw material should not be included in the calculation of Ispat Indo's cost of production because the markup charged on finished goods is included in the U.S. sales price for dumping analysis. The petitioner claims that it is unclear how including the affiliate's markup in the U.S. prices leads to the conclusion that the affiliate's markup should be excluded from Ispat Indo's cost of production.

**Department's Position:**

We agree with petitioners. Section 773(f)(1)(A) of the Act states that "cost shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are

kept in accordance with the generally accepted accounting principles of the exporting country (or producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise.” According to the independent auditors’ report accompanying Ispat Indo’s 2004 financial statements, those financial statements are kept in accordance with Indonesian generally accepted accounting principles. The financial statements reflect raw materials at the actual price paid by Ispat Indo to its affiliated and unaffiliated suppliers.

We disagree with Ispat Indo’s argument that its material costs should be based on the affiliated party’s acquisition cost plus inward freight, handling and SG&A, and exclude the profit earned by the affiliated raw material supplier. Transactions between affiliates often involve an element of profit. Moreover, if the transactions in question were between unaffiliated parties, it would be reasonable to assume that the supplier would include an element of profit in the price of the raw material. The profit that a supplier earns on the sale of an input represents a cost to the buyer/producer, whether or not the supplier is an affiliate.

We note that the petitioners are incorrect in stating that the standard section D questionnaire requires the respondent to report at the higher of market price, transaction price, or cost of production. The standard questionnaire does not require that the respondent report at the highest of those elements; rather, it requests that the respondent report based on its normal books and records and to supply the market and cost of production information in order to test the transfer price. It is the Department’s practice to compare transaction price to market price or cost of production when applying Section 773(f)(2) or Section 773(f)(3) of the Act. In this case, because Ispat Indo did not report costs to the Department based on its normal records, we have adjusted Ispat Indo’s reported costs to reflect its normal records, which include the transfer price paid to its affiliated supplier. Additionally, because the transfer price is above cost and market price in this case, there is no need to make adjustments to Ispat Indo’s recorded costs under either Section 773(f)(2) or 773(f)(3) of the Act.

For the final results, for the reasons above, we continue to adjust Ispat Indo’s reported direct material costs to reflect the transfer price paid between Ispat Indo and its affiliated supplier.

**Recommendation:**

Based on our analysis of the comments received, we recommend adopting the above position. If this recommendation is accepted, we will publish the final antidumping margin and the final results of this antidumping duty administrative review in the *Federal Register*.

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Agree

\_\_\_\_\_  
Disagree

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Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

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Date