A-549-502
POR: 03/01/2010-02/28/2011
Public Document
O6: JA/AH

DATE: October 3, 2012

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Antidumping Duty Administrative Review of Circular Welded Carbon Steel Pipes and Tubes from Thailand: Issues and Decision Memorandum

I. Summary

We have analyzed the comments of the interested parties in the antidumping duty administrative review of circular welded carbon steel pipes and tubes (pipes and tubes) from Thailand. As a result, we have made changes to the margin calculation for the respondents, Saha Thai Steel Pipe (Public) Company, Ltd. (Saha Thai) and Pacific Pipe Public Company Limited (Pacific Pipe) since the preliminary results. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

II. Background

On April 6, 2012, the Department of Commerce (the Department) published the preliminary results of the antidumping duty administrative review of pipes and tubes from Thailand.[1] The period of review (POR) is March 1, 2010, through February 28, 2011.

The Department received timely case briefs from Saha Thai, Pacific Pipe, United States Steel Corporation (U.S. Steel), and Wheatland Tube Company (Wheatland Tube) on July 16, 2012. We also received timely rebuttal briefs from Saha Thai, Pacific Pipe, U.S. Steel, Wheatland Tube, and Allied Tube and Conduit and TMK IPSCO (collectively Domestic Interested Parties) on July 23, 2012. Based on our analysis of the comments received, the weighted average margins for Saha Thai and Pacific Pipe have changed from the calculated margins in the Preliminary Results. The revised margins are published in the accompanying Federal Register notice.

[1] See Circular Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of Antidumping Duty Administrative Review, 77 FR 20782 (April 6, 2012) (Preliminary Results).

List of the Issues

Below is the complete list of issues in this review on which we received comments from interested parties:

Comment 1: U.S. Date of Sale for Saha Thai
Comment 2: Adjustment for Duty Drawback Exemption for Saha Thai
Comment 3: Freight Revenue Cap for Saha Thai
Comment 4: Warehousing Expense for Saha Thai
Comment 5: Actual-to-Theoretical Conversion Factor for Saha Thai's Cost of Production
Comment 6: Production Quantities for Saha Thai
Comment 7: Treatment of Non-Prime Products for Saha Thai in Calculating the Cost of Production
Comment 8: Cost Reconciliation for Saha Thai
Comment 9: Treatment of Painting Services from Saha Thai's Affiliated Parties in the Cost of Production
Comment 10: Correcting an Error in the Calculation of the Freight Revenue Cap for Saha Thai
Comment 11: Duty Drawback Adjustment for Pacific Pipe
Comment 12: Pacific Pipe's Proposed Substitute Cost Methodology for Products Sold during the POR but Not Produced during the POR
Comment 13: Correcting the Programming Error in Pacific Pipe's Comparison Market Program

III. Discussion of the Issues

Comment 1: U.S. Date of Sale for Saha Thai

U.S. Steel's Arguments

- In the Preliminary Results, the Department used the contract date as the date of sale for Saha Thai's U.S. sales, but under the Department's regulations the invoice date is to be used as the date of sale unless a different date better reflects the date on which the material terms of sale are established
- The record demonstrates that the material terms of sale were established only at the time of shipment.
- Saha Thai negotiated sales to its customers and issued the sales invoices to its customers a few days before shipment.
- Sample documentation placed on the record contradicts Saha Thai's claim that its terms of sale are established in its sales contracts with U.S. customers.
- Allied Tube & Conduit Corp. v. United States, 132 F. Supp. 2d 1087, 1092 (Ct. Int'l Trade 2001) (Allied Tube) holds that "the existence of one sale beyond contractual tolerance levels suggest sufficient possibility of changes in the material terms of sale such that contract date should not be used as date of sale."

- Allied Tube involved the same facts as this particular case: changes in quantity beyond contractual tolerance level after the contract date.

Saha Thai's Rebuttal Arguments

- The Department should continue to use date of contract as date of sale.
- Although the Department did use Saha Thai's date of shipment as date of sale in earlier segments of this proceeding, for the last six administrative reviews conducted by the Department, it has used Saha Thai's date of contract as date of sale.
- During this POR, there was a single instance in which the quantity change exceeded the tolerance range. It was not repeated during the course of the review.
- In past reviews, where the Department has dealt with minor infrequent changes in sales terms, the Department has cited price as being the most important factor in determining the appropriate date of sale.
- In cases where the Department has dealt with minor infrequent changes in sales terms, the Department used the date of renegotiation as the date of sale.
- Contract prices with Saha Thai's principal U.S. customer are based on current period hot-rolled coil prices and are not an issue here.

Department's Position: While the Department's regulations favor using invoice date as date of sale, the Department will use a different date other than the invoice date if the facts of a particular case indicate that a different date best reflects the time at which the material terms of sale were established.[2] The facts in this case are similar to Steel Pipe from Korea, where the Department found that the terms of sale were set at the contract date and any subsequent changes were usually immaterial in nature or, if material, rarely occurred.

During the POR, there was no change in price for any of Saha Thai's sales to the United States. There was a change in quantity, below the specified tolerance, for one transaction, but that sale occurred under unusual circumstances.[3] Similar to Steel Pipe from Korea, "{t}here is no information on the record indicating that the material terms of sale change frequently enough on U.S. sales so as to give both buyers and sellers any expectation that the final terms will differ from those agreed to in the contract."[4]

This principle is reflected in Allied Tube. Allied Tube upheld the Department's date of sale determination in an earlier administrative review of this order in which we identified our practice as focusing "on whether changes are sufficiently common to allow us to conclude the initial

[2] See 19 CFR 351.402(i); see also Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Review, 63 FR 32833, 32836 (June 16, 1998) (Steel Pipe from Korea).

[3] The specific circumstances of that sale constitute business proprietary information and cannot be discussed in this memorandum. See "Date of Sale" section in Memorandum to the File from Jacqueline Arrowsmith, "Analysis of Saha Thai Steel Pipe (Public) Company, Ltd., for the Final Results of the Antidumping Duty Administrative Review of Circular Welded Carbon Steel Pipes and Tubes from Thailand for the period 03/01/2010 through 02/28/2011," dated October 3, 2012 (Final Saha Thai Analysis Memorandum).

[4] Steel Pipe from Korea, 63 FR at 32836. See also Final Saha Thai Analysis Memorandum.

agreements should not be considered to finally establish the material terms of sale."[5] In Thai Pipes 1997-1998 AR, the Department examined five sets of contracts, purchase orders, and invoices, and found a "pattern of material changes in quantity occurring in a significant number of sales when purchase order quantity is compared to invoice quantity."[6] On that basis, the Court of International Trade (CIT) sustained the Department's selection of invoice date as the appropriate date of sale based on record evidence specific to that administrative review.[7]

Contrary to U.S. Steel's argument, the facts on the record of this administrative review do not indicate that the material terms of sale changed in such a way that the Department should re-examine Saha Thai's date of sale which has been used consistently in the past several administrative reviews. Unlike in Allied Tube, there is no pattern of material changes in quantity occurring over a significant number of sales.[8] Because the record of this administrative review supports continuing the use of contract date as Saha Thai's date of sale for its U.S. sales, we are continuing to use this date in these final results.

Comment 2: Adjustment for Duty Drawback Exemption for Saha Thai

U.S. Steel's Arguments

- Saha Thai received import duty exemptions on imports of hot-rolled coil used in production of pipe for export.
- Saha Thai calculated a per-unit coil duty exemption amount based on the 1.0882 usage factor, which is the consumption rate of coil per metric ton as allowed by Thai Customs' authorities.
- The Department's established practice is to use a respondent's actual usage factor, rather than the factor established by a government authority, in the calculation of the duty drawback amount.
- The Department found in a previous administrative review that the Thai Customs yield factor was "overstated vis-à-vis Saha Thai's actual experience." The Department used "an actual yield loss factor which is a reasonable reflection of Saha Thai's actual experience."[9]
- Saha Thai's actual usage factor, as reported in its January 26, 2012 supplemental Section D response, would result in a different amount of duty drawback.

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[5] Certain Welded Carbon Steel Pipes and Tubes from: Thailand Final Results of Antidumping Duty Administrative Review, 64 FR 56759, 56768 (October 21, 1999) (Thai Pipes 1997-1998 AR) (quoting Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plates in Coils ("SSPC") from the Republic of Korea, 64 FR 15444, 15449-15450 (March 31, 1999)).

[6] Thai Pipes 1997-1998 AR, 64 FR at 56768.

[7] See Allied Tube, 132 F. Supp. 2d at 1091-92.

[8] See Final Saha Thai Analysis Memorandum.

[9] Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review, 73 FR 61019 (October 15, 2008) (Thai Pipes 2006-2007 AR), and accompanying Issues and Decision Memorandum at Comment 4.

- Consistent with its standard practice, the Department should rely on Saha Thai's actual usage factor to calculate its duty drawback amount in the final results.

Saha Thai's Rebuttal Arguments

- The Department examined this issue at length during the verification of the 2008-2009 administrative review and accepted the calculation based on the yield loss factor approved by the Thai Customs Department.
- Because the Thai Customs Department establishes the duty drawback, it would be methodologically incorrect to use any other amount in the calculation. This official exemption is the only one that reflects the actual benefit that Saha Thai receives.

Department's Position: The Department agrees with Saha Thai and continues to calculate the duty drawback adjustment for exempted duties based on the Government of Thailand's (GOT's) average yield loss factor. While it had been our practice to rely on Saha Thai's usage factor in calculating the duty drawback adjustment, the CIT found in the context of the administrative review covering the period between March 1, 2006, and February 28, 2007, that "the yield-loss ratios mandated by the GOT are Saha Thai's actual cost and revenue experience."[10] For that reason, the CIT directed the Department to redetermine Saha Thai's export price using the GOT's average yield loss factor to calculate the duty drawback adjustment for exempted import duties.[11] We have continued to use the GOT's average yield loss factor in subsequent administrative reviews of pipes and tubes from Thailand.[12] Because the record in this administrative review continues to show that the Thai Customs Department is the entity establishing the duty drawback/exemption regime and as a result the entity establishing the yield-loss ratios,[13] we have again calculated the duty drawback adjustment for exempted duties based on the GOT's average yield loss factor.[14]

[10] Saha Thai Steel Pipe Co. v. United States, Consol. Ct. No. 08/380, Slip Op. 09-116 (Ct. Int'l Trade October 15, 2009) (Saha Thai) at *19.

[11] See id. at *19-*20.

[12] See Circular Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review, 75 FR 64696 (October 20, 2010) (Thai Pipes 2008-2009 AR), as amended by Circular Welded Carbon Steel Pipes and Tubes from Thailand: Amended Final Results of Antidumping Duty Administrative Review, 75 FR 73033 (November 29, 2010).

[13] See Saha Thai's July 11, 2011, section C response at C-36-C-38 and Exhibits C-4-C-7.

[14] Saha Thai explains, "The relevant page from the Thai tariff schedules, which shows that the normal duty rate on hot-rolled coil during 2010 was 5 percent, is included in Exhibit C-5. As in the last review, this rate was multiplied by the average entered value of coil consumed during the POR, and by the consumption rate of coil per metric ton of pipe as allowed by the Thai Customs authorities, to arrive at coil duty exemptions amount per metric ton of pipe." Saha Thai's July 11, 2011, section C response at C-36-C-37.

Comment 3: Freight Revenue Cap for Saha Thai

Saha Thai's Arguments

- The Department should not apply its freight revenue cap methodology.
- The "freight revenue cap" presumes that the respondent is engaging in a deliberate pricing strategy of making profit on ancillary services, such as delivery or servicing, and not on the goods that are the subject of the antidumping proceeding.
- Saha Thai's practice of breaking out freight charges separately is not reflective of an entirely separate business line, but rather is a customer convenience. A cap should only be applied for revenues charged for ancillary services when customers are charged separately for those services. Otherwise there is no danger of conflating revenue from these ancillary services with revenue from sales of the subject merchandise.
- Saha Thai's freight charge break-outs differ from actual freight costs by very small amounts, in both positive and negative values.
- Saha Thai incurs freight costs in Thai baht, yet it must report a freight cost in dollars to its customers.
- Because Saha Thai does not bill its freight charges separately, the Department should not apply a freight revenue cap.
- In Orange Juice,[15] there was a specific charge for freight – the respondent's importer charged for freight and received reimbursements for port expenses from its ultimate U.S. customers.
- The record clearly shows that Saha Thai prices its product on a "CnF (freight included) basis" and does not bill separately for freight costs. Saha Thai bears the freight costs.
- Saha Thai's contract with its customer requests a break out of "the value" of freight on the cover sheet accompanying the invoice because the importers must deduct international freight charges and other port-related charges from the invoice price in order to calculate entered value.
- In Exhibit SR5-13 of Saha Thai's February 27, 2012, submission, the per-ton freight costs included in the attachment to the contract for particular categories of products are used only to calculate freight for customs purposes.
- Furthermore, the Department artificially created a line item freight charge when in fact there was no such charge per the invoice or the sales agreement.
- If the Department continues to cap freight revenue, it should do so on an average contract or annual average basis. Any cap should be calculated on the average difference over all reported U.S. sales and the average value should be applied to all transactions. The amounts the Department considers to be "revenue" are estimates of actual expenses. The differences between these estimates and the actual expenses are small when considered on an aggregate or average basis.

[15] See Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 2 (Orange Juice).

U.S. Steel's Rebuttal Arguments

- The Department followed its standard practice and capped freight revenue for Saha Thai's U.S. sales.
- Movement and transportation are covered under section 772(c)(2) of the Tariff Act of 1930, as amended (the Act), which only allows downward adjustments to U.S. price for movement charges.
- If the Department does not cap freight expense by the amount of freight revenue, the freight adjustment could increase export price. Accordingly, the Department should continue to cap freight expense in the final results as it did in the Preliminary Results.

Wheatland Tube's Rebuttal Arguments

- The Department correctly applied the freight cap to Saha Thai's U.S. sales data in the Preliminary Results.
- The Department should reject Saha Thai's attempt to interject a "motivation" test for application of the freight revenue cap, which is required by the statute and is consistent with the current Department practice.
- The Department should reject Saha Thai's argument that freight revenue should be capped only when freight is separately invoiced like it was in Orange Juice.
- The Department should reject Saha Thai's suggestion that freight revenue be applied on an aggregate annual basis.

Department's Position: In these final results, the Department is following its normal practice by treating freight revenue as an offset to freight costs rather than as an addition to U.S. price where freight revenue exceeds freight expenses.

Based on the plain language of the law and the Department's regulations, it has been the Department's stated practice to decline to treat freight-related revenue as an addition to U.S. price under section 772(c)(1) of the Act or as a price adjustment under 19 CFR 351.102(b)(38).[16] The term "price adjustment" is defined at 19 CFR 351.102(b)(38) as "any change in the price charged for subject merchandise or the foreign like product, such as discounts, rebates and post-sale price adjustments, that are reflected in the purchaser's net outlay." The Department has stated that, although we will offset freight expenses with freight revenue, where freight revenue earned by a respondent exceeds the freight charge incurred for the same type of activity, the Department will cap freight revenue at the corresponding amount of freight charges incurred because it is inappropriate to increase gross unit selling price for subject merchandise as a result of profit earned on the sale of services (i.e., freight).[17]

16 See Orange Juice.

17 See Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (October 18, 2011), and accompanying Issues and Decision Memorandum at Comment 39 (Wood Flooring); see also Orange Juice.

As we explained in the Preliminary Results, in reviewing the sales contracts,[18] we learned that the gross unit price contained freight revenue. Saha Thai would have us ignore this record evidence on grounds that the amount of freight revenue identified in the sales contracts does not reflect actual revenue, but was instead provided for the convenience of its customers. However, Saha Thai has argued, and we have agreed, that the material terms of sales were established at the time of contract. See Comment 1, above. This particular aspect of the sales contracts must therefore be given meaning as a material term of sale. Moreover, for certain sales, Saha Thai provided sample sales documentation, including commercial invoices. The freight amounts indicated on these sample invoices tied to the amounts stipulated in the sales contracts, thus providing further support for the conclusion that these are not estimates provided for the convenience of customers, but separately negotiated charges that the customer must pay.

For these reasons, we have continued to use the information contained in these sales contracts in conjunction with the sales database to derive an invoice-specific freight revenue amount for each transaction where freight revenue was incurred.[19] While Saha Thai seeks to introduce a test of intentions in applying the freight revenue cap, neither the Act nor the Department's regulations delineate or discuss such an exception. Specifically, Saha Thai's argument, that because it does not bill its freight charges separately the Department should not apply a revenue cap, is not contemplated by the statute or the regulations.[20] Moreover, Saha Thai identifies no legal authority to support its position.

Furthermore, Saha Thai's argument that its freight charge break-outs differ from actual freight costs by very small amounts in both positive and negative values is not accurate.[21] Where there is no cost, we have not made any deduction, and where the cost is greater than revenue, we have deducted the actual cost.[22]

We also disagree with Saha Thai's arguments with regard to applying the freight revenue cap on an aggregate annual basis because it also requires that we make an exception to our practice of capping freight revenue at the corresponding amount of freight charges for each sale. As noted in the preceding paragraph, Saha Thai's premise for using an alternative methodology – that the differences are small when considered on an aggregate or average basis and result from slight differences between estimates and actual amounts – is not accurate. Freight is incurred on a shipment-specific basis and adjusted for on a shipment-specific basis, not on an aggregate or

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18 See Saha Thai's February 27, 2012, submission at SR5-14.

19 See Preliminary Results, 77 FR at 20784. See also Memorandum to the File from Jacqueline Arrowsmith, "Analysis Memorandum of Saha Thai Steel Pipe (Public) Company, Ltd. for the Preliminary Results of the Antidumping Duty Administrative Review of Circular Welded Carbon Steel Pipes and Tubes from Thailand for the Period 03/01/2010 through 02/28/20011," dated March 30, 2012 ("Preliminary Saha Thai Analysis Memorandum") at 3.

20 See section 772(c)(1) of the Act and 19 CFR 351.102(b)(38).

21 See "Freight Revenue Cap" section of Final Saha Thai Analysis Memorandum.

22 See id.

average basis. The Department is thus adhering to our normal practice and we are continuing to make the freight revenue adjustment on a shipment-specific basis.[23]

Finally, we have corrected our calculations to use "the appropriate weight line items" for the allocation of the freight revenue in this calculation for these final results. See Comment 10 below for a summary of these arguments. This corrected revenue cap results in a freight revenue cap expressed on a theoretical weight basis, consistent with the basis on which the remaining freight variables are expressed.

Comment 4: Warehousing Expense for Saha Thai

Saha Thai's Arguments

- The Department should exclude the deduction of direct warehousing (DWAREHU) in its entirety because both the expense and the rental income (for third parties) are associated with a different line of business.
- The Department verified this expense in the most recently completed administrative review.
- If the Department decides to include the deduction of direct warehousing (DWAREHU), it should allow the rental income offset.

U.S. Steel's Rebuttal Argument

- Given the inconsistency in Saha Thai's statements and the lack of information on the record, Saha Thai failed to demonstrate its entitlement to an offset with respect to the warehouse expenses at issue.

Wheatland Tube's Rebuttal Arguments

- With respect to domestic warehousing costs incurred on exported goods, Saha Thai changed its statement three times during this proceeding. Saha Thai's evolving story demonstrates that claims about warehousing costs incurred on exported sales are unreliable.
- Saha Thai's claim that the income disallowed by the Department in the Preliminary Results was verified and accepted in the previous administrative review is wrong.

Department's Position: After further review, the Department has concluded that neither the warehouse expense, nor the rental income that was excluded for the Preliminary Results, apply to merchandise bound for the United States. Although Saha Thai's initial submissions did provide the warehousing expense and rental income, Saha Thai's supplemental questionnaire responses clarified that the warehousing expense, as well as the rental income, did not apply to its merchandise bound for the United States.[24] Thus, when the record of this administrative review is viewed in its entirety, the Department finds that substantial evidence supports finding that the

[23] See Wood Flooring and Orange Juice.

[24] See Saha Thai's October 25, 2011, submission at S-15 and Saha Thai's February 27, 2012, submission at 10.

warehousing expense and rental income were unrelated to US merchandise. Accordingly, we have made no adjustments for warehousing expenses or revenue to the U.S. sales price in the margin calculations for these final results.

Regarding parties' arguments concerning a previous administrative review, the Department does not believe that prior review is relevant. According to the verification report from the previous review (which covered the 2009-2010 POR), placed on the record of this review by Wheatland Tube on August 18, 2011, Saha Thai used three third-party warehouses during that review period, in addition to its own on-site facilities. While the expenses for the warehouse at issue were treated as a U.S. movement expense in that review, the Department does not appear to have inquired into the exact use of that particular warehouse in that review. Contrary to Wheatland Tube's assertion, we did not conclude in that prior review that the warehouse was used to "store exported subject merchandise."[25] The verification report simply states that Saha Thai "used" the warehouse in question.[26] By contrast, in this review, the Department did inquire into the exact relevance of the warehouse to U.S. sales of subject merchandise. As noted above, Saha Thai clarified unequivocally that the warehouse was not used for merchandise destined for the United States. Thus, both the expenses and revenue associated with this warehouse are properly excluded from our calculations.[27]

Comment 5: Actual-to-Theoretical Conversion Factor for Saha Thai's Cost of Production

U.S. Steel's and Wheatland Tube's Arguments

- Saha Thai reported the same per-unit coil cost on an actual basis for every product but then converted that actual per-unit cost to a theoretical value by using actual-to-theoretical conversion factors.
- The actual weights used in the reported actual-to-theoretical conversion factors are different from the shipping weights used for sales invoicing and shipping purposes.
- The actual-to-theoretical conversion factors vary among products of different lengths. Saha Thai should not have differentiated its reported per-unit coil costs based on length because length is not one of the physical characteristics specified by the Department.
- The Department has rejected cost reporting methodologies that create cost differences unrelated to the reported physical characteristics in prior cases.
- The actual-to-theoretical conversion factors used by Saha Thai to calculate the reported per-unit coil costs resulted in differences between the conversion factors applied to the costs of control numbers (CONNUMs) sold in the comparison market that match to U.S. sales and the conversion factors applied to CONNUMs sold in the comparison market that do not match to Saha Thai's reported U.S. sales.

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25 Wheatland Tube's case brief at 8.

26 See Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, "Verification of the Sales Response of Saha Thai Steel Pipe (Public) Co., Ltd. in the Antidumping Review of Circular Welded Carbon Steel Pipes and Tubes from Thailand," dated August 18, 2010, at 17 (placed on the record of this review in Wheatland Tube's August 18, 2011, new factual information submission at tab 10).

27 Wheatland Tube appears to believe that the expenses and revenue at issue in this review involve two different third-party warehouses. However, there is only one third-party warehouse at issue.

- The Department should calculate a simple average actual-to-theoretical conversion factor for all CONNUMs and apply the simple average conversion rate to the actual coil costs reported for all products.

Saha Thai's Rebuttal Arguments

- The conversion factors it used to convert actual coil costs to theoretical costs have been subject to repeated verifications and have been accepted by the Department in numerous annual reviews.[28]
- Shipping weights are estimates that are not used to establish the total sales value, nor are they recorded in Saha Thai's official books and records. Therefore, the actual weights reflected in the company's production records should be used in the actual-to-theoretical calculations.
- The actual-to-theoretical conversion factor is not used to adjust for physical differences in the type of hot rolled coil that is used from product to product; rather, it adjusts for differences between the thickness of the coils used and the nominal thickness of the finished pipe produced.
- The use of a single average cost per metric ton for hot rolled coil bears no relationship to the applicability of the actual-to-theoretical conversion factor.
- American Society for Testing and Materials (ASTM) products have a tolerance range that allows producers to manufacture to as low as 90 percent of the total theoretical weight. As such, the conversion ratio should thus be relatively close to the 90 percent range for matching comparison market CONNUMs. There is a zero tolerance range for the wall thickness of the made-to-order non-matching comparison market CONNUMs and, as a result, the made-to-order CONNUMs have a conversion factor of 100 percent, or close to 100 percent.
- Costs have not been differentiated by length. The mix of the production quantities of products of differing lengths falling within a CONNUM can vary from CONNUM to CONNUM and minor differences in actual-to-theoretical production factors across CONNUMs are possible. The actual-to-theoretical conversion factors were weight-averaged using finished production in the same manner as Saha Thai's reported costs.

Department's Position: We have rejected Saha Thai's reported CONNUM-specific coil costs for these final results because the reported coil costs were not calculated on the same basis as Saha Thai's reported sales. Instead, we relied on one average coil cost that we calculated using a basis that closely approximates the basis on which Saha Thai reported its comparison market and U.S. sales.

Although Saha Thai correctly notes that the Department has relied on actual-to-theoretical conversion factors reported by Saha Thai in prior administrative reviews, concerns raised by U.S. Steel and Wheatland Tube have prompted us to reexamine this issue for these final results. In the normal course of business, Saha Thai's per-unit sales prices in the comparison market and the

[28] See Thai Pipes 2008-2009 AR; Thai Pipes 2006-2007 AR; Circular Welded Carbon Pipes and Tubes From Thailand: Notice of Final Results of Antidumping Administrative Review, 71 FR 54266 (September 14, 2006).

U.S. are based on pieces of pipe rather than the weight of the pipe sold.[29] Saha Thai's invoices to its U.S. customers reflect the price per piece as well as the nominal weight of the pipe sold.[30] Saha Thai calculates the nominal weight shown on its invoice by multiplying the number of pieces on the invoice by the theoretical weight per foot from the company's product brochure.[31] Saha Thai relied on the nominal weights shown on its U.S. sales invoices to report its sales data to the Department. To comply with the Department's reporting requirement that the U.S. and comparison market prices be reported on the same basis, Saha Thai converted the pieces of pipe for each sale transaction in the comparison market to nominal weight using the nominal weights reflected in the company's product brochure. [32]

Saha Thai calculated its reported CONNUM-specific coil costs by first calculating the average per-unit coil consumption cost for the POR by dividing the total consumption cost of coil for the POR by the total actual weight of pipe produced.[33] Saha Thai then calculated the actual-to-theoretical conversion factor for each pipe product as the ratio of the actual weight of the specific piece of pipe, per production records, to the calculated nominal weight of that pipe.[34] The conversion factors of each product classified within a particular CONNUM were weight-averaged using production quantities to determine the CONNUM-specific actual-to-theoretical conversion factor. The weighted-average conversion factor for each CONNUM was then multiplied against the POR average per-unit coil cost to determine the reported CONNUM-specific coil costs.[35]

We disagree with Saha Thai that the reported calculation results in per-unit coil costs that are comparable to the company's reported per-unit sales prices. Saha Thai's reported per-unit sales prices were calculated by dividing the sales price of the pipe sold (numerator) by the theoretical weight of that pipe (denominator). In contrast, coil costs were calculated in a multi-step fashion. First, Saha Thai divided the total cost of the coil consumed during the POR (numerator) by the total actual weight of the pipe produced during the POR (denominator).[36] Next, product-specific

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29 See Saha Thai's July 11, 2011, section B response at 24, and July 11, 2011, section C response at 23. See also Saha Thai's June 13, 2011, section A submission at Exhibit A-16 for the company's product brochure.

30 Nominal weight is also referred to as "theoretical" weight. See Saha Thai's July 11, 2011, section B response at 24.

31 See Saha Thai's July 11, 2011, section B response at 24, and July 11, 2011, section C response at 23. See also Saha Thai's June 13, 2011, section A submission at Exhibit A-16 for the company's product brochure.

32 Id.

33 Saha Thai's normal accounting system does not differentiate coil costs by specific product. See Saha Thai's July 11, 2011, section D response at 14.

34 See Saha Thai's April 10, 2012, response at 7-10.

35 Saha Thai's conversion costs, other than those costs associated with slitting coil, were calculated among products using allocation factors that most closely relate to the consumption of fabrication inputs at that stage (e.g., outer service area for the allocation of paint). Saha Thai calculated coil slitting costs/metric ton and assigned the resulting per-unit costs to all products.

36 See, e.g., Saha Thai's February 27, 2012, submission at Exhibit SR4-29(1).

actual-to-theoretical conversion factors were calculated.[37] These product-specific conversion factors for all products within a CONNUM were then weight-averaged and applied to the POR average per-unit coil cost to determine the reported per-unit coil costs.[38] Saha Thai's calculation of its per-unit coil cost factors in the product-specific actual weight of pipe while its calculation of its sales prices does not. In order for Saha Thai's reported coil cost to be on the same basis as its reported sales information, the denominator of the per-unit coil cost for all products should have been, in this case, the total theoretical weight of the pipe produced rather than total actual weight.

Therefore, we have revised Saha Thai's reported coil costs to approximate a per-unit coil cost based on theoretical weight that is comparable to the company's reported sales prices. Specifically, we divided the total extended actual coil costs of the CONNUMs reported by the total extended theoretical coil cost to determine the actual-to-theoretical conversion factor.[39] We multiplied the conversion factor against the per-unit consumption cost of coil to determine the per-unit theoretical coil cost. We then revised Saha Thai's reported per-unit total cost of manufacturing to reflect our revised per-unit theoretical coil cost.[40] To ensure Saha Thai's reported sales and costs are on the same basis, this methodology considers only the theoretical weight of the pipe produced (i.e., the reported costs considered the actual weight of each pipe produced while the reported sales prices did not).

Because we relied on the total coil costs reported in Saha Thai's cost data file to determine the revised per-unit coil cost, it is not necessary to revise the Department's reconciliation of Saha Thai's total cost of manufacturing from the company's accounting system to the summation of the total reported costs for this adjustment. Although the per-unit coil costs have changed, the total revised coil cost of all CONNUMs (summation of extended revised coil costs) is the same as the total reported coil costs (summation of extended reported coil costs).

Finally, we note that in previous administrative reviews of this case, the Department accepted Saha Thai's reported actual-to-theoretical conversion factors. In those proceedings, the parties did not raise this issue. Moreover, the record evidence for this case has permitted the Department to perform a more in-depth analysis of the actual-to-theoretical conversion factor than in past proceedings and, for the reasons describe above, this analysis indicates that we should reject Saha Thai's reported CONNUM-specific coil costs.

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[37] See id.

[38] See, e.g., id.

[39] See Memorandum to Neal Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Final Results – Saha Thai Steel Pipe (Public) Company, Ltd.," dated October, 3, 2012 ("Final Saha Thai Cost Memorandum").

[40] See id.

Comment 6: Production Quantities for Saha Thai

Wheatland Tube's Arguments

- Saha Thai inappropriately reported the POR quantity of products packed in its cost data file, rather than the quantity of products produced.
- Saha Thai has acknowledged in its February 27, 2012, submission at exhibit SR4-16 that packed production quantities are unrelated to the reported per-unit material, labor, and overhead costs and that the quantity produced during any period is the output quantity from the forming process.
- The comparison of the sum of Saha Thai's extended per-unit costs based on corrected production quantities and the total cost of manufacturing reflected in Saha Thai's accounting system reveals additional unreported costs.

Saha Thai's Rebuttal Arguments

- The total quantity of pipe output from the forming process is not equivalent to finished goods production and, as such, would be inappropriate to use to determine Saha Thai's total costs.
- Saha Thai's cost accounting system uses throughput quantities at each processing stage to allocate the labor and overhead costs of that processing stage in the normal course of business.
- The use of throughput quantities to allocate costs at each stage has been verified and accepted repeatedly by the Department.
- Packed production quantities are only used to identify how much finished product was completed during the POR for cost reconciliation purposes.
- Differences will occur when multiplying the per-unit costs by finished production quantities, since the total finished production quantities will never equal the total quantities produced at each stage.
- The Department, in the past two administrative reviews, has used its own method to reconcile total reported costs to the company's financial statements.[41]
- If the Department accepts Saha Thai's suggested adjustments to the Department's total reconciliation in this review, the total costs using Saha Thai's production quantities tie to the total costs in the financial statement.

Department's Position: We agree with Saha Thai. For these final results, we relied on those reported conversion costs which were calculated using the throughput, or output, quantities of each production stage. Saha Thai does not calculate product-specific conversion costs in its normal books and records.[42] In order to comply with the Department's reporting requirements, Saha Thai relied on its production records to determine its reported product-specific conversion

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[41] See, e.g., Memorandum to Neal Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Saha Thai Steel Pipe (Public) Company, Ltd.," dated March 30, 2012 ("Prelim Saha Thai Cost Memorandum") at Attachment 1.

[42] See Saha Thai's July 11, 2011, section D submission at 26.

costs. The reported conversion cost of each product is the summation of the conversion cost calculated for each production process through which the product passes. Saha Thai calculated the per-unit conversion cost of each production process based on the total throughput quantity of that process. For example, galvanizing costs for the POR were assigned only to the quantity of merchandise which passed through this process during the POR.[43] Under this allocation methodology, the costs of the galvanizing process are appropriately burdened by galvanized products only (e.g., zinc costs are not allocated to non-galvanized products). Saha Thai did not use packed quantities to determine the reported per-unit costs of each process because these quantities do not reflect the actual production experience within the POR.[44]

For purposes of reporting production quantities in the company's cost data file, Saha Thai relied on production quantities at the packing stage because, according to Saha Thai, these quantities are the only product-specific production quantities available.[45] The production records used by Saha Thai to determine the process-specific costs reflect only the quantities of the products passing through each process; these production records do not reflect the next processes through which the product will ultimately pass or the quantities of such products that are ultimately packed for shipment.[46] As such, Saha Thai relied on the only information available, packed quantities, to determine the product-specific quantities reported in the company's cost data file. Based on our examination of the record evidence,[47] we find this approach to be reasonable.

Saha Thai acknowledges that to the extent the output quantities at a production stage differ from the quantities of products packed in the POR, there will be a difference between the costs derived from the company's normal books and records and the total extended reported costs. We agree with Wheatland that, in this proceeding, as a result of differences between quantities produced and quantities packed, additional costs reflected in Saha Thai's accounting records should be allocated to Saha Thai's reported costs. The Department's reconciliation of Saha Thai's total cost of manufacturing from the company's accounting system to the summation of the total reported costs shows that not all of Saha Thai's costs of manufacturing were accounted for in Saha Thai's reported product-specific costs.[48] As such, we have adjusted Saha Thai's reported costs to include the difference between Saha Thai's total cost of manufacturing from the company's accounting system to the summation of the total reported costs. See Comment 8, below.

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[43] See Saha Thai's July 11, 2011, section D submission at D-22.

[44] The difference between production quantities and packed quantities are changes in finished goods inventory. See Saha Thai's January 26, 2012, submission at Exhibit SR3-44.

[45] See Saha Thai's February 27, 2012, submission at 11.

[46] See, e.g., Saha Thai's February 27, 2012, submission at SR4-19, SR4-21, and SR4-22 for copies of such production records for the forming, galvanizing, and threading stages, respectively.

[47] See, e.g., id.

[48] See Final Saha Thai Cost Memorandum.

Comment 7: Treatment of Saha Thai's Non-Prime Products in Calculating the Cost of Production

Saha Thai's Arguments

- Grade B and C (non-prime) products should be treated as byproducts, rather than co-products. As such, the Department should offset Saha Thai's reported material costs by the revenues generated from the sale of these byproducts.
- Grade B and C products were treated as byproducts in Saha Thai's internal books and records. As such, manufacturing costs were not allocated to the non-prime products.
- The treatment of non-prime products as byproducts is consistent with Thai generally accepted accounting principles (GAAP) because the total production quantities of the non-prime products are small and the commercial value of the non-prime products are not the same as the commercial value of the prime products.
- Treating non-prime products as byproducts actually results in an overstatement of costs compared to the Department's preferred method of treating non-prime products as co-products.
- If the Department determines that Saha Thai's non-prime products are co-products, the Department should allocate costs to the non-prime products and the total scrap offset should also be recalculated. If the Department does not allocate costs to non-prime production, then the Department should grant Saha Thai an offset for its reported scrap revenues earned on the sales of the non-prime products.

U.S. Steel's and Wheatland Tube's Rebuttal Arguments

- Saha Thai's non-prime products are by-products rather than co-products under the factors considered by the Department in determining whether a product should be treated as a by-product or a co-product. As such, costs should not be allocated to these non-prime products.
- If the Department determines that the non-prime products are co-products, the Department cannot allocate costs to the non-prime products based on Saha Thai's proposed methodology because that methodology does not provide for product-specific costs.
- The manner in which the Department characterized limited-service oil country tubular goods in OCTG from Canada does not contradict treatment of the non-specification pipe in this case as byproducts.[49] In OCTG from Canada, the Department found that the limited-service merchandise is used as OCTG and can be very similar to prime merchandise. To the contrary, Saha Thai's treatment of non-prime pipe sales as scrap sales shows that the non-prime pipe is not sold for uses similar to that of subject merchandise.
- The Department should limit Saha Thai's scrap offset to sales of scrap that have been tied to production of subject merchandise.

[49] See Antidumping; Oil Country Tubular Goods From Canada; Final Determination of Sales at Less Than Fair Value, 51 FR 15029, 15036 (April 22, 1986) (OCTG from Canada).

Department's Position: We agree with the parties and have treated Saha Thai's grade B and C merchandise as an offset to the cost of manufacturing for purposes of the final results. The National Association of Accountants (NAA) defines a joint product as two or more products so related that one cannot be produced without producing the other(s), each having relatively substantial value and produced simultaneously by the same process up to a split-off point.[50] The NAA defines a byproduct as a secondary product recovered in the course of manufacturing a primary product whose total sales value is relatively minor in comparison with the sales value of the primary product.[51] Similarly, the products in a jointly produced group often vary in importance. Products of greater importance are called major products and products of minor importance are called byproducts. When two or more major products appear in the same group, they are called co-products. The term "joint product" includes major product, co-product, and byproduct because all are produced jointly.[52] Technically, the issue of whether to include the production quantity of the down-graded B and C pipe in the total production quantity of subject merchandise is not a joint product issue. The downgrade pipe is the same product as the merchandise under consideration until it undergoes a quality examination where it is determined not to meet grade A standards.[53] The issue here is whether the downgraded product can still be used in the same applications as the subject merchandise.

In this case, the record evidence is inconclusive whether the down-graded B and C pipe is sold for use in the same applications as the subject merchandise. It is clear, however, that Saha Thai does not allocate full costs to the grade B and C pipe in the normal course of business. Instead, Saha Thai offsets its production costs of the subject merchandise with the revenues received from the sales of the down-graded products.[54] We do not consider such treatment to be unreasonable because the costs associated with producing the downgraded pipe are included in the cost of the subject merchandise. As such, we have relied on Saha Thai's reported per-unit costs which were calculated using only the production quantities of prime merchandise.[55] Additionally, we limited the steel scrap offset to that which could have been produced during the POR, revised the overall reconciliation of Saha Thai's financial accounting records to its reported costs, and modified Saha Thai's general and administrative ratio calculation to include the scrap revenue offset in the denominator of the ratio.

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50 See Management Accountants' Handbook, Fourth Edition; Keller, Bulloch and Shultis at 11.6.

51 See id.

52 See id.

53 See, e.g., Saha Thai's May 11, 2012, submission at 3.

54 See Saha Thai's January 26, 2012, submission at 19 and Exhibits SR3-19 and SR3-22.

55 We relied on all reported components of Saha Thai's total cost of manufacturing, with the exception of coil costs and the steel scrap offset, as the basis for calculating Saha Thai's COP and CV. See Final Saha Thai Cost Memo for the Department's adjustments to Saha Thai's reported costs.

The Department's practice is to allow for a scrap offset related to the quantity of such scrap generated in the POR.[56] In response to the Department's requests, Saha Thai stated that the company does not track the quantity of scrap generated in its normal books and records and that the steel scrap produced is not weighed until it is shipped out for sale to steel scrap companies.[57] Because Saha Thai is not able to determine the quantity of scrap generated during the POR, we looked to the available record evidence to determine the amount of scrap that would reasonably represent the quantity of scrap generated during the POR. We agree with Wheatland Tube that the quantity of scrap that could reasonably be generated from Saha Thai's production during the POR would be limited to the total consumption of hot-rolled coil multiplied by Saha Thai's reported yield loss ratios for the slitting and forming manufacturing processes (i.e., those processes during which steel scrap is generated). Because Saha Thai's reported scrap offset exceeded the quantity of scrap that could reasonably be generated during production during the POR, we limited Saha Thai's scrap offset to the quantity of scrap that could reasonably be generated in production during the POR.[58] Further, because the revised scrap offset is an actual weight, rather than theoretical weight, and all other components of Saha Thai's reported costs are based on theoretical weight rather than actual weight, we have applied the actual-to-theoretical conversion factor discussed in Comment 5, above, to the revised actual per-unit scrap offset to determine the theoretical per-unit steel scrap offset.

We also revised the cost reconciliation prepared by the Department in the Preliminary Results.[59] Because steel scrap is generated in the production of both subject and non-subject merchandise,[60] Saha Thai's scrap offset applies to both subject and non-subject merchandise. However, in order to avoid any misallocation of scrap revenues between subject and non-subject merchandise, we revised our reconciliation to be exclusive of scrap offsets. Specifically, we compared Saha Thai's POR total cost of manufacturing of the subject merchandise exclusive of any scrap offset, per its books and records, to the total cost of manufacturing reported to the Department prior to any scrap offsets.[61] Finally, we revised the general and administrative (G&A) ratio calculation from the Preliminary Results to include the total offset for revenues received from the sales of scrap in the denominator of the ratio.[62]

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56 This practice was most recently upheld in Mid Continent Nail Corp. v. United States, Slip Op. 2010-47, Court No. 08-00224 (CIT May 4, 2010).

57 See Saha Thai's January 26, 2012, submission at 19.

58 See Final Saha Thai Cost Memorandum for the proprietary details of this calculation.

59 See Prelim Saha Thai Cost Memorandum at Attachment 1.

60 See Saha Thai's January 26, 2012, submission at 18.

61 See Comment 8, below.

62 See Final Saha Thai Cost Memorandum.

Comment 8: Cost Reconciliation for Saha Thai

Saha Thai's Arguments

- The Department's adjustment in the Preliminary Results for the un-reconciled difference between Saha Thai's costs in its normal books and records and the total costs reported to the Department failed to account for scrap revenues allocated to merchandise under consideration which was sold to third countries and for scrap revenues allocated to non-subject merchandise.
- If scrap revenues of non-reported products are included in the Department's analysis, the un-reconciled difference goes from a positive to a negative amount. As such, the Department should make an adjustment to decrease the reported costs. At a minimum, the Department should "zero-out" the un-reconciled difference.

U.S. Steel's Rebuttal Arguments

- The Department should reject Saha Thai's proposed revisions to the total cost reconciliation because Saha Thai's reported costs are incorrect as a result of the difference between the packed quantities that were used to calculate the extended total cost of manufacturing (TOTCOM) and the actual production quantities that Saha Thai reconciled to its books and records.
- The Department should make a reconciling correction by simply reducing Saha Thai's total reported costs used in its preliminary cost reconciliation by the percentage difference between Saha Thai's total produced quantities reconciled to its books and records and total packed quantities.

Department's Position: We revised our reconciliation of Saha Thai's POR total cost of manufacturing of the subject merchandise per its books and records to the total cost of manufacturing reported to the Department. To avoid any misallocation of scrap revenues between subject and non-subject merchandise within our reconciliation, as alleged by Saha Thai, we revised our reconciliation from the Preliminary Results to be exclusive of scrap offsets. We recalculated the resulting adjustment to Saha Thai's total cost of manufacturing and applied that adjustment to the CONNUM-specific costs prior to any scrap offsets.[63] As such, Saha Thai's arguments regarding the treatment of scrap revenues for reconciliation purposes are moot. Because we find that Saha Thai appropriately based its reported costs on forming quantities, U.S. Steel's arguments regarding adjustments to the reconciliation for differences in quantities are also rendered moot.

[63] See id.

Comment 9: Treatment of Painting Services from Saha Thai's Affiliated Parties in the Cost of Production

Saha Thai's Arguments

- The adjustment made by the Department in the Preliminary Results to convert Saha Thai's transfer price for painting services to an arm's length value was inappropriately applied to all merchandise under consideration, whether or not the merchandise was painted.
- Information is available on the record that allows the Department to apply its adjustment to products that are painted rather than all products.
- The contemporaneous market price for painting services, placed on the record in the company's April 10, 2012, submission, should be relied on for purposes of the Department's analysis rather than the non-contemporaneous market price relied on in the Preliminary Results.

U.S. Steel and Wheatland Tube did not comment on this issue.

Department's Position: We agree with Saha Thai and have relied on the contemporaneous market price provided by Saha Thai, in response to the Department's request, in its April 10, 2012, submission for purposes of our analysis.[64] In accordance with section 773(f)(2) of the Act, we compared the affiliated per-unit transfer price included Saha Thai's reported costs to the contemporaneous market price and found that the transfer price reflects arm's length prices.[65] Therefore, we have not adjusted Saha Thai's painting costs for the final results.

Comment 10: Correcting an Error in the Calculation of the Freight Revenue Cap for Saha Thai

Saha Thai's Arguments

- The Department should correct certain errors in the Preliminary Results calculations.
- The Department overstated freight revenue in its Preliminary Results by not using the appropriate weight in line item allocation of the freight revenue.
- Saha Thai uses three different weights with regard to U.S. sales: 1) a gross weight to calculate international freight; 2) a net weight for the weight of the merchandise; and 3) the theoretical or standard weight, for reporting purposes. Saha Thai explains that the pricing structure on a per piece basis in the home market is tied to the theoretical weight.
- Saha Thai demonstrated in its fourth supplemental questionnaire response, dated February 27, 2012, at Exhibit SR4-30, how the theoretical weight ties to the U.S. invoices.

[64] See Saha Thai's April 10, 2012, submission Exhibit SR6-12.

[65] See Saha Thai's February 27, 2012, submission at Exhibit SR4-17.

- Saha Thai also demonstrated in its fourth supplemental questionnaire response that the estimated freight charges provided to the customer on the invoice cover page is calculated on the basis of gross weight.
- The Department has the contracts and the gross weight of every U.S. invoice in order to calculate the appropriate weight basis for conversion to the theoretical weight that Saha Thai used to report per unit movement expenses.

Wheatland Tube's Rebuttal Argument

- The Department should correct inadvertent errors in Saha Thai's margin program, which affect the calculation of U.S. net price. These expenses were supposed to be included with U.S. and international movement costs, as shown in the Department's Preliminary Saha Thai Analysis Memorandum,[66] because they are among delivery costs incurred to ship the product to the customer.

Department's Position: As noted in Comment 3 above, we have corrected our calculations for the freight revenue cap to use "the appropriate weight line items" for the allocation of the freight revenue in the calculation for these final results to ensure that freight revenue is determined on a consistent basis with other reported movement adjustments.

We agree with Wheatland Tube that there were certain expenses that were supposed to be included with the U.S. and international movement costs that were not as shown in the Preliminary Saha Thai Analysis Memorandum. We have corrected our calculations for these final results.[67]

Comment 11: Duty Drawback Adjustment for Pacific Pipe

Pacific Pipe's Arguments

- The Department erred by refusing to apply a duty drawback adjustment to its export price.
- It is undisputed that Pacific Pipe manufactures steel pipe in Thailand using inputs of hot-rolled coil that were imported into Thailand, and that Pacific Pipe paid an import duty upon importation of hot-rolled coil that was rebated upon exportation of the finished product.
- Contrary to the Department's preliminary finding, Pacific Pipe did not fail to meet the second prong of the test for a duty drawback adjustment (i.e., there were sufficient imports to account for the duty drawback granted for exports of subject merchandise).
- Further, the Department did not consider evidence placed on the record in Pacific Pipe's February 28, 2012, supplemental response that demonstrated that there were sufficient exports to cover imports of hot-rolled coil under the 19 BIS program, and that Pacific

[66] See Preliminary Saha Thai Analysis Memorandum at 7.

[67] See Final Saha Thai Analysis Memorandum.

Pipe put a wealth of information on the record concerning the 19 BIS duty drawback program.

Wheatland Tube's Rebuttal Arguments

- The Department appropriately rejected the claimed duty drawback adjustment because Pacific Pipe did not demonstrate how imported material was sufficient to account for the total of the import duties rebated for the relevant time period.
- Although Pacific Pipe references Attachment 1 to its February 28, 2012, supplemental response as support for a duty drawback adjustment, this exhibit does not include information indicating the amount of duties rebated during the POR. Furthermore, section C of Pacific Pipe's initial questionnaire response and section C of the first supplemental response also do not include information indicating the amount of duty rebated.
- The Department's regulations state, at 19 CFR 351.401(b), "The interested party that is in possession of the relevant information has the burden of establishing to the satisfaction of the Secretary the amount and nature of a particular adjustment." Pacific Pipe has failed to meet this burden, and so the Department appropriately rejected Pacific Pipe's claimed duty drawback adjustment.

U.S. Steel's Rebuttal Arguments

- The quantity of imports of hot-rolled coil and letter of credit numbers reported by Pacific Pipe in its October 21, 2011, supplemental response differ with those originally reported in its July 11, 2011, section C response. Furthermore, Pacific Pipe did not provide any duty drawback claim form. Based on the lack of a claim form and the differences in imports of hot rolled steel reported by Pacific Pipe, it is impossible for the Department to determine which imports are the basis for Pacific Pipe's duty drawback claim, or if Pacific Pipe submitted a duty drawback claim for these sales at all.
- While Pacific Pipe reported that eligibility to claim duty drawback against imports of raw materials could expire, Pacific Pipe neither explained the circumstances under which this could occur, nor did it provide a worksheet calculating the amount of import duty for which it was no longer eligible. Without this information it is not possible to determine if Pacific Pipe's imports were sufficient to account for its claimed duty drawback.
- Pacific Pipe reported that it paid a "Fine to Thailand Customs" in its October 21, 2011, supplemental response, but did not explain why it was required to pay the fine, nor did it explain how it accounted for the fine in the per-kilo duty drawback that it reported to the Department.
- Pacific Pipe did not provide any documentation, nor in any other way substantiate its reported beginning balance inventory of imported hot-rolled coil.

Allied Tube and Conduit and TMK IPSCO's Rebuttal Argument

- The data placed on the record by Pacific Pipe in its February 28, 2012 supplemental response does not correspond to the POR. Furthermore, Pacific Pipe failed to describe how the beginning balance of imported coil it reported was calculated.

- Pacific Pipe did not establish that the imports it reported were eligible for the drawback it claimed, and also did not demonstrate that the duty drawback claimed was equal to or less than the amount it would have paid in duties.

Department's Position: We continue to find, as we did in the Preliminary Results, that Pacific Pipe has not demonstrated that a duty drawback adjustment should be made to the export price. While Pacific Pipe provided charts and worksheets in several questionnaire responses in order to justify why an adjustment is warranted, it did not provide a clear explanation of how these charts and worksheets demonstrate that it paid import duties on the imported coil and that these duties were rebated. Furthermore, Pacific Pipe did not demonstrate that it met the second prong of the Department's two pronged test, i.e. how the imported material was sufficient to account for the total of the import duties rebated or exempted for the export of the manufactured product during the relevant time period.[68] Contrary to Pacific Pipe's claim that the Department overlooked the chart provided in the February 28, 2012, response in the Preliminary Results, the Department finds that this chart, on its own, does not demonstrate that the imported material was sufficient to account for the total of import duties rebated for the exports during the POR. First, the chart is for 2010, not the POR.[69] While it may cover certain months of the POR, Pacific Pipe did not explain how this chart tied to other worksheets, charts, or underlying documentation in prior responses that, when viewed in their totality, might demonstrate that both prongs of the test had been met. Furthermore, as noted by U.S. Steel, there are inconsistencies in the responses concerning the quantity of imported material amounts and letter of credit numbers that call into question the reliability of Pacific Pipe's duty drawback claim. Given that the regulations place the burden on the party in possession of the relevant information to establish that an adjustment is warranted and to establish the amount of any such adjustment, the Department finds that Pacific Pipe has not met this burden and that an adjustment to export price for duty drawback is not warranted.

Comment 12: Pacific Pipe's Proposed Cost Methodology for Products Sold During the POR but Not Produced During the POR

U.S. Steel and Wheatland Tube's Arguments

- The Department should ignore Pacific Pipe's request to revise its model match criteria for determining the cost of products sold, but not produced during the POR.
- Pacific Pipe requested that the Department use costs from the most recent prior period to determine the cost of products sold but not produced.[70] Wheatland Tube argues that using costs from the prior period would be highly distortive for three reasons. First, these costs would be based upon a single month. Second, these costs have not been examined

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[68] See Preliminary Results, 77 FR at 20784; see also Wheatland Tube Co.. v. United States, 414 F. Supp. 2d 1271, 1286 (CIT 2006).

[69] See Pacific Pipe's February 28, 2012, response at Exhibit S4-7.

[70] Pacific Pipe's March 20, 2012, Response to Wheatland Tube's March 12, 2012, Pre-Preliminary Comments at 2-4.

by the Department. Third, pipe companies that reported costs to the Department in 2009 experienced "dramatically changing costs during that period."

- U.S. Steel and Wheatland Tube argue that the Department should also reject Pacific Pipe's alternative suggestion to change the model matching hierarchy by making surface finish the determining factor in selecting substitute costs for products sold, but not produced during the POR. U.S. Steel maintains that Pacific Pipe has failed to show a compelling reason for the Department to change its model match criteria. U.S. Steel and Wheatland Tube submit that the Department should continue to use its standard methodology for assigning costs to products sold but not produced during the POR.
- U.S. Steel points out that the application of the model match criteria for selecting a substitute cost may yield two home market products that are equally similar to the U.S. product. In these cases U.S. Steel argues that, consistent with the Department's established difference in merchandise (DIFMER) adjustment methodology, the Department should select one CONNUM over the other based on which has the smaller DIFMER adjustment when the product to which costs need to be assigned is matched to a U.S. sale.

Pacific Pipe's Rebuttal Arguments

- Contrary to U.S. Steel and Wheatland Tube's claims, Pacific Pipe has not asked the Department to make surface finish the determining factor for selecting substitute costs for products sold but not produced during the POR.
- Including the galvanizing process as a simple surface treatment achieves an unreasonable and inaccurate result.
- Pacific Pipe is not requesting a wholesale change to the model match criteria, but rather is urging the Department to recognize the distortion caused by the Department's standard model match methodology and to deviate slightly from this methodology to prevent the assignment of costs of galvanized products to non-galvanized products when determining the substitute cost for products that were sold but not produced during the POR.

Department's Position: We agree with Pacific Pipe that a distortion occurs in this case when the Department's model match criteria results in the selection of costs for galvanized products as the substitute for non-galvanized products (or vice versa) in those instances where costs are required for products that were sold but not produced during the POR.

The Department's preference in calculating and assigning substitute costs (where necessary) is to use the most similar product available in establishing those substitutes as long as it does not lead to distortions.[71] In the instant case, products that were galvanized incur significantly greater costs than products that were not galvanized,[72] and so these products are not reasonable

[71] See, e.g., Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review, 76 FR 2332 (January 13, 2011), and accompanying Issues and Decision Memorandum at Comment 1.

[72] See Pacific Pipe's March 20, 2012, Response to Wheatland Tube's March 12, 2012, Pre-Preliminary Comments at 3.

substitutes for one another. Therefore, we have used our normal model match criteria to determine substitute costs for products that were sold but not produced during the period, and, in the few instances where our methodology resulted in the selection of galvanized products as substitutes for non-galvanized products (or vice versa), we have adjusted for the cost of galvanizing, accordingly.[73]

Comment 13: Correcting the Programming Error in Pacific Pipe's Comparison Market Program

Wheatland Tube's Arguments

- There is an error in the Department's comparison market program related to the identification of the most similar CONNUM for the purpose of determining cost for products sold, but not produced, during the POR.

No other parties commented on this issue.

Department's Position: We have corrected the error in the program to ensure that the CONNUMs identified by Pacific Pipe as sold but not produced during the POR are selected as substitute cost CONNUMs.[74]

IV. Recommendation

We recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review and the final dumping margins for the reviewed companies in the Federal Register.

Agree ________ Disagree________

____
Paul Piquado
Assistant Secretary
for Import Administration

____
Date

[73] See Memorandum to Neal Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Final Results - Pacific Pipe Public Company Limited," dated October 3, 2012.

[74] See Memorandum to Mark Hoadley, "Final Analysis for Pacific Pipe Public Company Limited" dated October 3, 2012.