Two parties also argued that the Department should have excluded Indian and South Korean wage rates from the regression analysis because of subsidy programs in these countries. They contend that the Department's normal practice is to exclude surrogate data from countries with generally available subsidies and that India and South Korea are countries in which these subsidies are available.

One party argued that the Ordinary Least Squares (''OLS'') regression analysis used by the Department will inherently lead to inaccurate results when applying it to the dataset used in the expected NME wages calculation because the dataset exhibits heteroscedasticity. They argue that the Department should use a Generalized Least Squares regression to predict NME wages because this method would give more reliable results.

Department's Position

With respect to the use of the incorrect exchange rate in converting Madagascar's labor rate, the Department agrees that this is a clerical error and will change the 2007 calculation. The ILO wage data for Madagascar are reported in FMG per hour. The International Financial Statistics (''IFS'') exchange rate data do not specify the name of the currency; however, the IFS does say that the exchange rates are reported in units of the national currency per U.S. dollar. Moreover, the International Monetary Fund's 2007 Annual Report on Exchange Arrangements and Exchange Restrictions (''IMF Report'') states that, ''The currency of Madagascar is the ariary.'' Instead of converting the ILO wage data reported for Madagascar directly into U.S. dollars using the exchange rate suggested by the parties, the Department converted the Madagascar wage data from FMG to ariary, and then from ariary to US dollars, using the ariary/FMG rate in the IMF Report and the IFS ariary/dollar rate. The IMF Report notes that Madagascar's two currencies are convertible at the rate of 1 ariary per 5 FMG.

The suggestion that the wage rates from India and South Korea should be excluded from the expected NME wage rate analysis is a comment on the calculation methodology and not a clerical error. India and South Korea are countries for which the Department has reason to believe or suspect maintain generally available *export* subsidies; however, this practice has no bearing on the use of domestic prices, including labor rates, within these countries.

The argument that the Department should use a Generalized Least Squares regression instead of an Ordinary Least Squares regression is also a comment on the methodology and not a clerical error. The specific issue of heteroscedasticity has been recently addressed by the court, which concluded that, given (i) the inherent difficulties in identifying heteroscedasticity and (ii) the fact that the OLS estimators remain unbiased and consistent even in the face of heteroscedasticity, the Department's decision not to account for the possibility of heteroscedasticity was reasonable. *See* Dorbest Ltd., et al. v. United States, Slip Op. 2008–24 (CIT feb. 27, 2008) at 4–19.

Results

Following the data compilation and regression methodology described in the Antidumping Methodologies notice, and using Gross National Income and wage data for 2005, the regression results are: Wage = 0.2721729 + 0.0004477* GNI. The final expected NME wage rates, as calculated with the above mentioned change, are shown in Attachment 1.

Dated: May 6, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Attachment 1

Country	2005 GNI (USD per annum)	Expected NME wage rate (USD per hour)
Armenia	1,470	0.93
Azerbaijan	1,270	0.84
Belarus	2,760	1.51
China	1,740	1.05
Georgia	1,300	0.85
Kyrgyz Republic	450	0.47
Moldova	960	0.70
Tajikistan	330	0.42
Uzbekistan	530	0.51
Vietnam	620	0.55

The World Bank did not publish a GNI for Turkmenistan.

The final results and underlying data for the 2007 calculation have been posted on the Import Administration Web site at (http://ia.ita.doc.gov).

[FR Doc. E8–10525 Filed 5–8–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping Methodologies for Proceedings that Involve Significant Cost Changes Throughout the Period of Investigation (POI)/Period of Review (POR) that May Require Using Shorter Cost Averaging Periods; Request for Comment

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Request for comment.

SUMMARY: The Department of Commerce (Department) seeks public comment on its development of a predictable methodology for determining when the use of shorter cost averaging periods is more appropriate than the established practice of using annual cost averages due to the occurrence of significant cost changes throughout the POI/POR. Although the Department maintains that the established practice of using annual cost averages is the most appropriate methodology to use in a majority of proceedings, it may be preferable to use an alternative methodology in certain cases. The Department now seeks comments from the public on the factors to consider, the tests to apply, and the thresholds to adhere to in determining whether or not shorter cost averaging

periods (*e.g.*, quarterly) are more appropriate.

DATES: Comments must be submitted within thirty days from the publication of this notice.

ADDRESSES: Written comments (original and six copies) should be sent to the Secretary of Commerce, Attn: Import Administration, APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Ave., NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Neal M. Halper, Director, Office of Accounting, or Taija A. Slaughter, Lead Accountant, Office of Accounting, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2989 and (202) 482–3563, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department's methodology for calculating the cost of manufacture (COM) of subject merchandise in less–than-fair–value investigations and antidumping administrative reviews is based on the cost over the entire POI or POR (*i.e.*, on an annual basis). This yearly based methodology results in a normalized, weighted–average production cost that can then be compared to sales prices covering the same extended period of time. Therefore, the Department's questionnaire requests that all respondents report their costs of producing merchandise on an annual average basis over the entire POI or POR. *See, e.g., Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (Dec. 13, 2000) (*Pasta from Italy*), and accompanying Issues and Decision Memorandum at Comment 18 and *Notice of Final Results of Antidumping Duty Administrative Review of Carbon and Certain Alloy Steel Wire Rod from Canada*, 71 FR 3822 (Jan. 24, 2006) (*Wire Rod from Canada)*, and accompanying Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted–average cost for the entire period). This methodology is predictable and generally applied consistently in all proceedings.

The Tariff Act of 1930, as amended (the Act), and the Department's regulations describe the role of the cost of production (COP) in the Department's antidumping analysis. ''Dumping'' is defined in section 771(34) of the Act as the sale or likely sale of goods at less than normal value (NV) in the United States. A ''dumping margin,'' as defined by section 771(35)(A) of the Act, is the amount by which the NV exceeds the export price (EP) or constructed export price (CEP) of the subject merchandise. In calculating NV, section 773(a)(1)(B) of the Act states that the Department will consider only those sales in the comparison market that are made in the ''ordinary course of trade.'' Section 771(15) of the Act and 19 CFR 351.102 explain that sales are generally made ''in the ordinary course of trade'' if they are sold under ''conditions and practices which, for a reasonable period of time prior to the exportation of the subject merchandise, have been normal'' for sales of the foreign like product.[1] None of these provisions provides guidance on the methodology which the Department should use in calculating a respondent's COP.

Furthermore, section 773(b)(1) of the Act and 19 C.F.R. 351. 406 provide that sales may be disregarded if they have been made at prices which represent less than the COP of that product. Section 773(b)(3) of the Act defines the COP as:

> an amount equal to the sum of-
>
> (A) the cost of materials and of fabrication or other processing of any kind employed in producing the foreign like product, during a period which would ordinarily permit the production of that foreign like product in the ordinary course of business;
>
> (B) an amount for selling, general, and administrative expenses based on actual data pertaining to production and sales of the foreign like product by the exporter in question; and
>
> (C) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the foreign like product in condition packed ready for shipment.

Thus, although the Act states that the COP is calculated using a ''period which would ordinarily permit the production'' of the foreign like product, no guidance is given with regard to whether or not the Department should use only a single, weighted–average period of time, or multiple time periods within that ''production period'' for purposes of making comparisons and calculating a dumping margin.

The Department has established a practice of using a single weighted–average COP that applies to the entire POI/POR, which it has applied in the vast majority of its investigations and reviews. Factors such as erratic production levels, the extent to which and how accurately monthly accruals are made, periodic maintenance, inventory valuation methods, etc. all impact the timing and accuracy of per–unit costing over short periods of time. Relying on an annual average cost tends to smooth out these short–term per–unit cost fluctuations resulting in a normalized average production cost to be compared to sales prices over the same extended period of time. *See Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Review, 55 FR 26225*, 26228 (June 27, 1990) (where the Department stated that the use of quarterly data would cause aberrations due to short–term cost fluctuations) and *Grey Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Administrative Review*, 58 FR 47253, 47257 (September 8, 1993) (where the Department explained that the annual period used for calculating costs accounts for any seasonal fluctuation which may occur as it accounts for a full operation cycle).

The Department has, however, in a limited number of cases, deviated from its normal methodology of calculating costs on an annual average basis over the entire POI/POR and resorted to shorter cost averaging periods. Examples of instances where the Department departed from its standard cost averaging period include high technology products that experienced significant and consistent cost and price changes over a short period of time. *See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8926 (Feb. 23, 1998) (*SRAMS from Taiwan*) (where the Department determined that quarterly, rather than annual, averages resulted in a more accurate comparison of pricing behavior during the period of investigation (POI) given the significant decrease in the price and cost of static random access memory semiconductors throughout the POI) and *Final Determination of Sales at Less Than Fair Value: Erasable Programmable Read Only Memories from Japan*, 51 FR 39680, 39685 (Oct. 30, 1986) (*EPROMS from Japan*) (where the Department found that significant changes in the COP during a short period of time due to technological advancements and changes in the production process justified the use of quarterly weighted–average costs).

The Department also found that shorter period averages resulted in a more accurate comparison of pricing behavior where the respondent's COM changed significantly throughout the cost reporting period. In *Final Results of Antidumping Duty Administrative*

[1] Section 773(b)(1) of the Act states that if no sales *made in the ordinary course of trade remain, the normal value shall be based on the constructed value (CV) of the merchandise. See also* 19 CFR 351.405(a). CV is defined at section 773(e) of the Act as the cost of materials, plus fabrication expenses, selling, general and administrative expenses, profit and packing expenses.

Review and Determination Not to Revoke the Antidumping Duty Order: Brass Sheet and Strip from Netherlands, 65 FR 742 (Jan. 6, 2000) (*Brass Sheet and Strip from Netherlands*), the Department was able to make a contemporaneous comparison of metal values and sales prices which resulted in a more accurate calculation of the dumping margin in that instance because the respondent treated the cost of the input metals as a pass–through to its customers in its normal books and records. *See* id. at 747–748. Accordingly, in *Brass Sheet and Strip from Netherlands*, the Department determined it appropriate to deviate from calculating cost on an annual average basis over the entire cost reporting period because record evidence showed that the cost of metal inputs represented a significant percentage of the total cost of producing brass sheet and strip, the cost of the metal inputs dropped consistently and significantly throughout the POR, and prices and costs for the shorter periods could be accurately matched.[2]

Issues of Concern

In several recent proceedings, we have received requests from respondents to report costs using averaging periods of less than one year. *See Certain Steel Concrete Reinforcing Bars from Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 70 FR 67665 (November 8, 2005) (Rebar from Turkey), and accompanying Issues and Decision memorandum at Comment 1; *Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 71 FR 3822 (January 24, 2006); and *Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From France*, 71 FR 6269 (February 7, 2006). In these cases, we primarily relied on two factors in determining whether it was appropriate to deviate from our normal practice of using an annual average cost method: (1) whether the cost changes throughout the POI/POR were significant, and (2) whether sales during the shorter averaging periods could be accurately linked with the COP/CV during the same shorter averaging periods.

In these recent proceedings, we analyzed the significance of the cost changes throughout the POI/POR by conducting a comparative COM analysis between the annual average cost method and the suggested shorter period average cost method (*e.g.*, quarterly cost averaging period). *See, e.g., Rebar from Turkey*. In comparing the costs under the two methods, the Department examined the five most frequently sold models of the foreign like product (*i.e.*, control numbers or ''CONNUMs'') in the comparison market. For each of the five models, the Department compared the difference between the annual–average COM and the shorter period average COMs.[3]

In considering whether a shorter cost averaging period reflects a more accurate measure of dumping, we also explained in those proceedings that sales during the shorter averaging period must be closely linked with the COP of the shorter period. In certain cases there are various factors[4] which may affect the timing relationship between the purchase of the raw materials, the production of a product, and its subsequent sale. Therefore, arbitrarily relying on a shorter cost reporting period can create uncertainty as to how accurately the average costs during the shorter period relate to the sales that occurred during that same shorter period. Thus, we believe it is necessary for a respondent to provide evidence on the administrative record of a direct linkage between resulting costs and sales prices before we consider using a cost–averaging period that does not extend throughout the entire POI/POR. In the above–mentioned recent proceedings, in assessing whether sales can be accurately linked with the concurrent quarterly average costs, we analyzed the relationship of the cost and price trends throughout the POI/POR.

In addition, in a recent remand redetermination, filed with the Court of International Trade, we assessed how closely sales prices and costs tracked each other during the shorter cost calculation periods by analyzing the consistency of the shorter cost averaging period profit percentages on comparison market sales. *See Final Results of Redetermination Pursuant to Court Remand, Habas Sinai ve Tibbi Gazlar Istihsal ve Endustrisi A.S. v. United States, Court No. 05–00613, Slip Op. 07–167 (CIT Nov. 15, 2007)*, dated March 3, 2008 found at http://ia.ita.doc.gov. In that remand redetermination, to calculate the shorter cost averaging period profit percentages, we subtracted the shorter average cost of producing such sales from the shorter averaging period comparison market net sales revenue, and divided this figure by the same shorter average cost of producing such sales. Using this analysis, we concluded that the required linkage between sales and costs did not exist in that case such as to warrant using shorter time periods.

Request for Comments

We continue to regard our practice of using annual cost averages in proceedings as generally the most appropriate methodology, and we intend to deviate from this practice only under limited circumstances. The use of annual cost averages results in an approach that normally evens out swings in production costs that a respondent may have experienced over short periods (*i.e.*, months or quarters) of time, and reasonably reflects the COP for sales made throughout the year.

However, in certain cases, possible distortions may result when an annual–average cost method is used during a period of significant cost changes. Conversely, many factors, as noted above, may result in distortions when using shorter period average costs. Consequently, relying on a shorter cost reporting period can create uncertainty as to how accurately the average costs during the shorter period relate to the sales that occurred during that same shorter period. In light of these competing considerations, the Department requests comments and suggestions on the factors to consider, tests to apply, and thresholds to adhere to when deciding to rely on cost averaging periods of less than a year.

Below is a list of specific questions we would like parties to comment on:

[2] The Department also deviated from its practice of using POR average costs in *Notice of Final Results of Antidumping Duty Administrative Review: Canned Pineapple Fruit From Thailand, 63 FR 7392 (Feb. 13, 1998). In this case the POR covered an 18-month period. For purposes of calculating the dumping margin,* the Department initially used the POR-wide weighted-average cost. However, the Department later matched the sales and costs by segregating the POR into two fiscal years for purposes of its dumping analysis. *See Final Results of Redetermination Pursuant to United States Court of International Trade Remand Order Thai Pineapple Canning Industry Corp. Ltd. And Mitsubishi International Corp. Ltd. v. United States, Court No. 98–03–00487 (CIT Feb. 5, 2002)* , dated May 31, 2002, at 3 found at http://ia.ita.doc.gov. Although the Department matched sales prices to average costs for periods of time that were shorter than the span of the entire POR, it is important to note that the shorter averaging periods used were fiscal years, and not quarters or months.

[3] In each case, the analysis was conducted using the total COM and not the cost of an input or one element of the COM.

[4] For example, factors such as: 1) the raw material inventory turnover period; 2) the inventory valuation method used by the company (*e.g.*, last-in, first-out versus first-in, first-out versus weighted-average, etc.); 3) the extent to which raw materials are purchased pursuant to long-term contracts; 4) erratic production levels throughout the year; 5) sales made pursuant to long-term contracts; 6) the extent to which monthly accruals are made; and 7) year-end adjustments all affect the timing relationship between sales transactions and costs.

(i) Are there other factors relevant to the consideration of whether and when to rely on shorter cost averaging periods besides significant cost changes and the linking of sales and costs during the same shorter period? If so, identify the factor(s) and explain in detail why such factor(s) should be considered.

(ii) How should the significant cost changes factor be analyzed and what numeric threshold should we rely upon as a basis for resorting to shorter cost averaging periods? Provide the basis for your suggested threshold number. Should the nature of the industry (*e.g.*, steel, consumer electronics, perishable products, etc.) affect the analysis? If so, explain in detail how the analysis would be affected.

(iii) How should the correlation between prices and shorter cost averaging periods be analyzed to reasonably assess that the prices and shorter period average costs are accurately linked?

(iv) Should it matter whether costs are trending consistently up, consistently down, or up and down throughout the POI/POR in the decision to use shorter cost averaging periods? Explain in detail why or why not.

(v) If shorter cost averaging periods are used based on the argument that it is distortive to rely on a single average cost when costs have changed significantly throughout the year, should the recovery of cost test be modified in any way? That is, should sales that are below the shorter cost averaging period still be considered to provide for the recovery of costs within a reasonable period time if they are above the annual average cost? *See* section 773(b)(2)(D) of the Act.

(vi) To what extent should the costs from the window periods[5] in reviews affect the overall analysis?

(vii) If we were to gather information at the outset of every segment of a proceeding in order to determine early on whether a respondent needed to provide cost information for shorter cost averaging periods, what information should we request? Provide specific questions that could be incorporated into the section A questionnaire.

(viii) Should shortening the cost averaging period affect price comparisons? For sales comparison purposes, should prices be compared across cost–averaging periods?

(ix) Are there other points you deem relevant to the issue at hand?

Submission of Comments

Persons wishing to comment should file a signed original and six copies of each set of comments by the date specified above. The Department will consider all comments received by the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially due to business proprietary concerns or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in its development of a methodology for when it is appropriate to deviate from the annual average cost reporting method to shorter cost averaging periods. The Department requires that comments be submitted in written form. The Department also requests submission of comments in electronic form to accompany the required paper copies. Comments filed in electronic form should be submitted either by e–mail to the webmaster below, or on CD–ROM, as comments submitted on diskettes are likely to be damaged by postal radiation treatment

Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Internet at the Import Administration website at the following address: http:/ia.ita.doc.gov.

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, email address: webmaster–support@ita.doc.gov.

Dated: May 5, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

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[5] In administrative reviews of existing antidumping orders, the Department normally compares the export price (or constructed export price) of an individual U.S. sale to an average normal value for a contemporaneous month. The preferred month is the month in which the particular U.S. sale was made. If, during the preferred month, there are no sales in the foreign market of a foreign like product that is identical to the subject merchandise, the Department will then employ a six-month window period for the selection of contemporaneous sales. For each U.S. sale, the Department will calculate an average price for sales of identical merchandise in the most recent of the three months (90 days) *prior to* the month of the U.S. sale. If there are no such sales, the Department will use sales of identical merchandise in the earlier of the two months (60 days) *following* the month of the U.S. sale.

DEPARTMENT OF COMMERCE

International Trade Administration

Clean Energy and Environment Trade Mission to China and India

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: Clean Energy and Environment Trade Mission to China and India.

DATES: September 1–12, 2008.

FOR FURTHER INFORMATION CONTACT: Brian O'Hanlon at *brian.ohanlon@mail.doc.gov* or Debra Delay at *debra.delay@mail.doc.gov* or visit the mission Web site at *http://www.export.gov/cleanenergymission.*

SUPPLEMENTARY INFORMATION:

Mission Description: The United States Department of Commerce, International Trade Administration, is organizing a Clean Energy and Environment Trade Mission to China and India, September 1–12, 2008. The trade mission will target a broad range of clean energy and environmental technologies such as renewable energy, biofuels, energy efficiency, clean coal, distributed generation, waste handling and treatment, wastewater treatment, packaging recycling, and drinking water treatment. The mission will make stops in Beijing, Jinan, and Shanghai, China as well as New Delhi, Hyderabad, and Mumbai, India. It will be led by Assistant Secretary of Commerce David Bohigian.

Through this mission, ITA seeks to match participating U.S. companies with prescreened partners, agents, distributors, representatives, licensees, or retailers in each of these important sectors. In addition to one-on-one business meetings, the agenda will also include meetings with national and local government officials, networking opportunities, country briefings, seminars, and site visits.

Background: This mission builds on two previous U.S. Clean Energy Technologies Trade Missions, which took place in April 2007 and January 2008. Each brought 17 U.S. companies to China and India. This trade mission takes place within the context of both the President's international framework