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Author: Carlo G. Cavagna
Office of Policy

Approved:________________________
Robert S. LaRussa
Assistant Secretary
for Import Administration

Introduction

The Department typically makes a circumstance of sale adjustment to normal value (NV) to account for differences in credit terms. To make this adjustment, the Department imputes a U.S. credit expense and a foreign market credit expense on each sale. The Department measures the credit expense on a sale by the amount of interest that the sale revenue would have earned between date of shipment and date of payment. To calculate the credit expense on U.S. sales, the Department generally uses the weighted-average borrowing rate realized by a respondent on its U.S. dollar-denominated short-term borrowings.

However, respondents do not always have short-term loans in U.S. dollars. In such cases, the Department has in the past employed several different approaches in selecting surrogate interest rates. Although various approaches may be reasonable, in the interest of consistency and predictability, the Department is now setting forth a methodology that should be applied in all future cases. Issue

The appropriate interest rate to use to impute credit expenses in cases where a respondent has no short-term borrowings in the currency of the transaction being examined. Background

The Department has long recognized that greater credit expenses are associated with longer terms of payment, and that these credit expenses are usually built into the price of the sale. For example, if a respondent requires U.S. customers to pay within 30 days of shipment but allows home market customers 120 days, the respondent incurs greater credit expenses in the home market, because money a company receives after 120 days has a lower present value than the same amount of money received within 30 days.[(1)] These credit expenses may also be thought of as the opportunity cost of money: they are the cost to the respondent for not receiving immediate payment for its sales.

Prior to a 1990 ruling by the Court of Appeals for the Federal Circuit (CAFC) in *LMI v. United States* (*LMI*), the Department had a practice of using respondents' home market borrowing rates to impute both U.S. and home market credit expenses.[(2)] In *LMI*, the CAFC overturned the Department's use of using home market borrowing rates to impute U.S. credit expenses because the respondent had actual U.S. dollar borrowings at a much lower interest rate, and ruled that the cost of credit "must be imputed on the basis of usual and reasonable commercial behavior."[(3)] However, the CAFC was silent on the issue of whether the U.S. borrowing rate would have been reasonable if it had been higher than the home market rate, whether a U.S. dollar rate is always more reasonable than a foreign market rate, or even whether a rate in a third currency could be reasonably used to impute U.S. credit expenses. However, in ruling on the specific facts of *LMI*, the CAFC did set forth certain general principles: it stated that "the imputation of credit cost... is a reflection of the time value of money," that it "must correspond to a... figure reasonably calculated to account for such value during the gap period between delivery and payment," and that it should conform with "commercial reality."

Since *LMI*, the Department has adopted a practice of measuring the value of this short-term loan by a short-term interest rate tied to the same currency as the sale.[(4)] Thus, in cases where the respondent (the seller) has short-term borrowings in the same currency as that of the transaction, we use the respondent's own weighted-average short-term borrowing rate realized in that currency to quantify the credit expenses incurred. For example, for U.S. dollar transactions, we impute credit expenses using the respondent's interest rate realized on U.S. dollar borrowings. This practice conforms to commercial reality because a company selling in a given currency is effectively lending that currency to its purchaser between the time it ships the merchandise and the time it receives payment. The short-term borrowing rate realized by the respondent in the relevant currency is the best measure of the time value of money and the cost incurred by the respondent in extending credit to its customers.[(5)]

During the less-than-fair-value (LTFV) investigations involving certain carbon steel butt-weld pipe fittings, the Department also proposed a new policy for selecting interest rates in situations where the respondent has no short-term borrowings in the currency of the transaction. In an internal *Memorandum*,[(6)] the Department stated that the Department can: 1) accept "external" information about the cost of borrowing in the relevant currency; or 2) adjust for the application of a single, observed interest rate to both home market and U.S. sales, taking into account movements in the exchange rate between the two currencies. The *Memorandum* gave preference to the first option; however, the Department acknowledged the acceptability of using borrowing rates incurred in a different currency from that of the transaction, provided that the rates are adjusted for exchange rate fluctuations. Nevertheless, the *Memorandum* made clear that the practice of using unadjusted home market rates to impute U.S. credit expenses is not acceptable because it does not account for movements or fluctuations in exchange rates over time. More precisely, the use of unadjusted home market borrowing rates to impute credit expenses on U.S. sales does not recognize the effect of currency changes between date of shipment and date of payment on repatriating revenue.[(7)] Therefore,

unadjusted home market borrowing rates are not an accurate measure of the value of the loan made by the seller to the purchaser if the sale (the loan) is made in dollars.

Since *LMI*, the Department has used a variety of surrogate interest rates to impute U.S. credit expenses where respondents had no U.S. dollar borrowings. In *Brass Sheet and Strip from Germany*, as well as several other cases, the Department used the U.S. prime rate.[(8)] In *OCTG from Austria*, the Department used the New York prime rate plus one percent. In *Roses from Colombia*, the Department used an average of the publicly ranged interest rates reported by those respondents that had actual U.S. dollar borrowings during the period of investigation.[(9)] In *Certain Fresh Cut Flowers From Colombia*, the Department used respondents' actual home market borrowing rates, adjusted by the rate of appreciation of the U.S. dollar against the home market currency.[(10)] The *Memorandum* also raised the possibility of using "external information" such as a statement from a bank or an interest rate reported in a financial journal.

There have been very few cases in which a respondent did not have short-term borrowings in the currency of its foreign market sale. One such case was *Carbon Steel Plate from Sweden*, where the respondent's only home market borrowings were from a related party. The Department prefers to measure interest expenses using borrowings made from unrelated parties. However, in this case the Department used the respondent's internal borrowing rate anyway, partly because it was lower than the prevailing market rate in Sweden and thus produced a more conservative estimate of home market credit expenses.[(11)] Discussion

Although all the methodologies employed by the Department since *LMI* have been reasonable, each of the methodologies has certain flaws. A letter from a bank purporting to establish the rate at which the respondent would have borrowed is often difficult to substantiate. The methodology in *Roses from Colombia* can only be used if there is more than one respondent, and an average of publicly ranged interest rates produces only a rough estimate of a U.S. dollar borrowing rate. The methodology used in *Fresh Cut Flowers from Colombia* accounts for the exchange rate changes noted in the *Memorandum* and is based on respondents' actual borrowing experience; however, foreign market borrowing rates, even if adjusted to account for changes in the exchange rate, do not necessarily provide an accurate valuation of the loans extended by respondents to their U.S. customers in dollars. Interest rates and exchange rates do not always move in tandem. Furthermore, the methodology used in *Fresh Cut Flowers from Colombia* is cumbersome and complicated. The methodology used in *OCTG from Austria* has limited applicability because it was developed using facts specific to that particular case.[(12)] Finally, the practice of using the U.S. prime rate (as in *Brass Sheet and Strip from Germany*) is reasonable, but troubling for two reasons: 1) the prime rate usually represents the minimum borrowing rate available in the U.S. market, rather than an average rate, and 2) it does not necessarily represent a short-term borrowing rate that a given respondent would realize in the usual course of business.

In developing a consistent, predictable policy establishing a preferred surrogate U.S. dollar interest rate in all cases where respondents have no U.S. dollar short-term loans,

we have employed three criteria: 1) the surrogate rate should be reasonable; 2) it should be readily obtainable and predictable; and 3) it should be a short-term interest rate actually realized by borrowers in the course of "usual commercial behavior" in the United States.[(13)]

In *Carbon Steel Plate from Sweden* and in *Carbon Steel Flat Products from Australia*, the Department selected the average short-term lending rates calculated by the Federal Reserve as surrogate U.S. interest rates.[(14)] Each quarter, the Federal Reserve collects data on loans made during the first full week of the mid-month of each quarter by sampling 340 commercial banks of all sizes. The sample data are used to estimate the terms of loans extended during that quarter at all insured commercial banks. These Federal Reserve rates meet the three criteria discussed above. They represent a reasonable surrogate for respondents' U.S. dollar borrowing rates because they are calculated based on a variety of actual dollar loans to actual U.S. customers. Furthermore, they have none of the flaws of the other options discussed above. Finally, they are readily available to all interested parties and easy to obtain.

In the case of foreign market sales, it is not possible to develop a single consistent policy for selecting a surrogate interest rate when a respondent has no short-term borrowings in the currency of the transaction. The nature of the available information will vary from market to market. However, any short-term interest rate used should meet the three criteria discussed above -- it should be reasonable, readily obtainable, and representative of "usual commercial behavior." In any case, we note that cases where a respondent has no short-term borrowings in the currency of its foreign market transactions are very rare. Statement of Policy

For the purposes of calculating imputed credit expenses, we will use a short-term interest rate tied to the currency in which the sales are denominated. We will base this interest rate on the respondent's weighted-average short-term borrowing experience in the currency of the transaction.

In cases where a respondent has no short-term borrowings in the currency of the transaction, we will use publicly available information to establish a short-term interest rate applicable to the currency of the transaction. For foreign currency transactions, we will establish interest rates on a case-by-case basis using publicly available information, with a preference for published average short-term lending rates. For dollar transactions, we will generally use the average short-term lending rates calculated by the Federal Reserve to impute credit expenses. Specifically, we will use the Federal Reserve's weighted-average data for commercial and industrial loans maturing between one month and one year from the time the loan is made. Implementation

In imputing credit expenses, the Department will apply the policy stated above in all future cases. In order to assist case analysts in implementing this policy, the Office of Policy will maintain a file containing the average short-term dollar lending rates calculated by the Federal Reserve from the beginning of 1996 to the present. In

addition, the **Office of Policy will make these lending rates available** on the Import Administration network as soon as practicable.

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footnotes:

1. In fact, the practice that many companies have of offering "early payment" discounts to their customers is an implicit acknowledgment of the fact that payment terms affect revenue.

2. An important exception was in situations where U.S. sales were made by a related U.S. party. In those instances, the related U.S. reseller's short-term dollar borrowing rate would be used to impute U.S. credit expenses.

3. *LMI-La Metalli Industriale, S.p.A. v. United States, 912 F.2d 455, 460-61 (Fed. Cir. 1990).*

4. See, *e.g., Final Determination of Sales at Less Than Fair Value; Oil Country Tubular Goods from Austria*, 60 FR 33551, 33555 (June 28, 1995) (*OCTG from Austria*).

5. For example, if a respondent were to borrow against its U.S. accounts receivable, a bank would extend a loan in the currency of the respondent's sales, *i.e.*, the U.S. dollar. The respondent's "collateral" is the dollar value of the invoice, not its value in some other currency. If a bank were to extend the loan in yen, for example, the bank would be hedging that the yen will not have lost value against the dollar when the loan matures. A bank would be unlikely to take such a risk. If a bank were to extend a foreign currency loan against a respondent's U.S. accounts receivable, the bank would only do so with a forward exchange contract locking in the exchange rate in effect at the time of the loan.

6. Memorandum from the Director of the Office of Countervailing Investigations to the Deputy Assistant Secretary for Investigations (September 6, 1994).

7. See also *OCTG from Austria*.

8. *Brass Sheet and Strip from Germany; Final Results of Antidumping Duty Administrative Review*, 60 FR 38542, 38545 (July 27, 1995).

9. *Final Determination of Sales at Less Than Fair Value; Fresh Cut Roses from Colombia*, 60 FR 6980, 6998 (February 6, 1995).

10. *Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part*, 59 FR 15159, 15164 (March 31, 1994); *Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833, 42848 (August 19, 1996).

11. *Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Antidumping Duty Administrative Review*, 61 FR 15772, 15779 (April 9, 1996).

12. In *OCTG from Austria*, the Department found that the New York prime rate plus one percent reflected the manner in which the respondent's related U.S. sales agent measured the time value of late revenue as an ordinary business practice.

13. The use of investment return or deposit rates is inappropriate, as stated in *Brass Sheet and Strip from Germany* and in *Final Determination of Sales at Less Than Fair Value; Antidumping Duty Investigation of Stainless Steel Angle from Japan*, 60 FR 16608 (March 31, 1995), at Comment 7. Investment return or deposit rates are not lending rates, and, therefore, are not a reasonable measure of the value of the loans extended by the respondent (the seller) to its customers.

14. *Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Antidumping Duty Administrative Review*, 61 FR 15772, 15780 (April 9, 1996); *Certain Corrosion-Resistant Carbon Steel Flat Products from Australia; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 14049, 14054 (March 29, 1996).