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Investigation
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DATE: February 29, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Less-Than-Fair-Value Investigation of Certain Cold-Rolled Steel
Flat Products from Brazil

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain cold-rolled steel flat products (cold-rolled steel) from Brazil are being, or are likely to be, sold in the United States at less-than-fair-value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On July 28, 2015, the Department received an antidumping duty (AD) petition covering imports of cold-rolled steel from Brazil,¹ which was filed in proper form on behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation (collectively, “the petitioners”). The Department initiated this investigation on August 17, 2015.²

In the *Initiation Notice*, the Department notified the public that the Department intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of cold-rolled steel from Brazil during the period of investigation (POI) under the Harmonized Tariff

¹ See Petitions for the Imposition of Antidumping Duties on imports of Certain Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, Korea, the Netherlands, Russia, and the United Kingdom, dated July 28, 2015 (Petitions).

² See *Certain Cold-Rolled Steel Flat Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Netherlands, the Russian Federation, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 51198 (August 24, 2015) (*Initiation Notice*).



Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.³ On August 25, 2015, the Department released CBP import data to interested parties.⁴ On September 1, 2015, the Department received comments on the CBP data from the petitioners.⁵

On September 21, 2015, we selected Companhia Siderurgica Nacional (CSN) and Usinas Siderurgicas de Minas Gerais S.A. (Usiminas) as mandatory respondents.⁶ On September 22, 2015, we issued the AD questionnaire to CSN and Usiminas.⁷ In October 2015, CSN and Usiminas submitted timely responses to section A of the Department's AD questionnaire (*i.e.*, the section relating to general information), and in November 2015, CSN responded to sections B, C, and D of the Department's AD questionnaire (*i.e.*, the sections relating to home market and U.S. sales and cost of production). Usiminas failed to respond to sections B through D of the questionnaire. From November 2015 through January 2016, we issued supplemental questionnaires to CSN, and we received responses to these supplemental questionnaires from December 2015 through February 2016 on behalf of CSN.

Additionally, in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of cold-rolled steel to be reported in response to the Department's AD questionnaire.⁸ During September through December 2015, the following interested parties submitted comments on the scope of the investigation: Caparo Precision Strip, Ltd.; Sumitomo Corporation of America; POSCO; Hitachi Metals America, Ltd.; Electrolux Home Products, Inc.; Electrolux Home Care Products, Inc.; Nippon Steel & Sumitomo Metal Corporation; Nissan North America, Inc.; the Ministry of Economic Development of the Russian Federation; JFE Steel Corporation; and Ameri-Source Specialty Products, Inc. On September 18, 2015, December 1, 2015, and January 6, 2016, the petitioners submitted rebuttal scope comments in response to the scope comments of each of the interested parties that submitted scope comments.

On September 9, 2015, the petitioners, Caparo Precision Strip, Ltd., Tata Steel UK Ltd., and Tata Steel IJmuiden BV, respondents in the companion AD investigations on cold-rolled steel from the United Kingdom and the Netherlands, submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. Then, on September 16, 2015, the petitioners filed rebuttal comments to comments on product characteristics comments filed by Caparo Precision Strip, Ltd., and Tata Steel UK Ltd. In addition, on September 16, 2015, Usiminas, JSW Steel Ltd. and JSW Steel Coated Products Ltd., respondents in this investigation and the companion AD investigation on cold-rolled steel from India, filed rebuttal comments to comments on product characteristics comments filed by the petitioners.

³ *Id.*, 80 FR at 51203.

⁴ See Letter to All Interested Parties, dated August 25, 2015.

⁵ See Letter from the petitioners, "Certain Cold-Rolled Steel Flat Products from Brazil: Comments on CBP Data and Respondent Selection," dated September 1, 2015.

⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Dana S. Mermelstein, Program Manager, for Antidumping and Countervailing Duty Operations, Office I, "Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from Brazil: Respondent Selection," dated September 21, 2015 (Respondent Selection Memo).

⁷ See Letters from Department to CSN and Usiminas, dated September 22, 2015.

⁸ See *Initiation Notice*, 80 FR at 51199.

On September 10, 2015, the U.S. International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of cold-rolled steel from the Brazil.⁹

On November 30, 2015, the Department published the notice of postponement for the preliminary determination in this investigation in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1).¹⁰ As a result of the 50-day postponement, the revised deadline for the preliminary determination of this investigation moved to February 23, 2016.¹¹ Due to a closure of the Federal Government, the Department tolled all of its administrative deadlines by four business days.¹² The revised deadline for this final determination is now February 29, 2016.

We are conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The POI is July 1, 2014, through June 30, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was July 2015.¹³

IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

⁹ See *Cold-Rolled Steel Flat Products From Brazil, China, India, Japan, Korea, Netherlands, Russia, and the United Kingdom: Determinations*, 80 FR 55872 (September 17, 2015).

¹⁰ See *Certain Cold-Rolled Steel Flat Products From Brazil, the People’s Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 74764 (November 30, 2015).

¹¹ *Id.*

¹² See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm ‘Jonas,’” dated January 27, 2016. Because the revised deadline falls on a weekend day, it is the Department’s practice to extend the deadline to the next business day. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

¹³ See 19 CFR 351.204(b)(1).

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (e.g., the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the

merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels;¹⁴
- Tool steels;¹⁵
- Silico-manganese steel;¹⁶
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in Grain-Oriented Electrical Steel From Germany, Japan, and Poland.¹⁷
- Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan.¹⁸

¹⁴ Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

¹⁵ Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

¹⁶ Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

¹⁷ Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances, 79 Fed. Reg. 42,501, 42,503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as "a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths."

¹⁸ Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders, 79 Fed. Reg. 71,741, 71,741-42 (Dep't of Commerce, Dec. 3, 2014). The orders define NOES as "cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied."

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

V. ALL-OTHERS RATE

Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act.

CSN is the only mandatory respondent in this investigation for which the Department calculated a company-specific rate and its rate is not zero or *de minimis*, and has not been determined under section 776 of the Act. Accordingly, for purposes of determining the “all-others” rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for CSN as the estimated weighted-average dumping margin assigned to all other producers and exporters of the merchandise under consideration. Specifically, for purposes of this preliminary determination, we are assigning as the “all-others” rate the rate of 38.93 percent *ad valorem*. When adjusted for the export subsidies identified in the companion countervailing duty investigation, the resulting cash deposit rate for all other companies is 34.95 percent *ad valorem*.¹⁹

¹⁹ See *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From Brazil: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 79569 (Dec. 22, 2015) and the accompanying preliminary decision memorandum, dated December 15, 2015; see also memorandum entitled, “Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from Brazil: Calculation of All-Others Rate,” dated concurrently with this memorandum.

VI. DISCUSSION OF THE METHODOLOGY

Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether CSN's sales of the subject merchandise from Brazil to the United States were made at less than normal value, the Department compared the constructed export price (CEP) to the normal value (NV) as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum.

A) *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.²⁰ The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, state) and are grouped into regions based upon standard definitions

²⁰ See, e.g., *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of investigation based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between export price (or constructed export price) and normal value for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two

calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

B) Results of the Differential Pricing Analysis

For CSN, based on the results of the differential pricing analysis, the Department preliminarily finds that 69.89 percent of the value of U.S. sales pass the Cohen's *d* test,²¹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for CSN.

C) Application of Facts Available and Adverse Inferences

The Department selected Usiminas as a mandatory respondent on September 21, 2015,²² and issued the AD questionnaire on September 22, 2015.²³ Usiminas responded to section A of the AD questionnaire in a timely manner²⁴ but it did not respond to sections B, C, and D of the AD questionnaire. Instead, after requesting and receiving multiple extensions from the Department, Usiminas submitted a letter explaining that it was unable to respond to these three sections because the Department did not grant to Usiminas the full extensions it requested, which, according to Usiminas, left it with insufficient time to respond to these remaining sections.²⁵

In this investigation, Usiminas chose not to provide the information necessary to calculate a weighted-average dumping margin for the preliminary determination. Specifically, Usiminas failed to respond to three sections of the AD questionnaire, thereby withholding the data necessary to determine whether Usiminas sold subject merchandise to the United States at less than fair value, as required by section 773 of the Act. Usiminas' failure to provide this necessary

²¹ See Memorandum to the File from Hermes Pinilla, "Less-Than-Fair-Value Investigation of Certain Cold-Rolled Steel Flat Products from Brazil: Preliminary Determination Analysis Memorandum for Companhia Siderurgica Nacional (CSN)," dated February 29, 2016 (CSN Preliminary Analysis Memorandum) at 2.

²² See Respondent Selection Memo.

²³ See the AD questionnaire, dated September 22, 2015.

²⁴ See Usiminas' section A response, dated October 20, 2015.

²⁵ See Usiminas' letter to the Department, dated November 12, 2015.

information constitutes a failure to provide information that was requested and has significantly impeded this proceeding. Thus, pursuant to sections 776(a)(2)(A) and (C) of the Act, we are relying upon facts otherwise available to make our preliminary determination.

1. Application of Facts Available With an Adverse Inference

The Department preliminarily finds that Usiminas failed to cooperate to the best of its ability in providing the requested information. As explained above, despite numerous extensions, Usiminas declined to respond to sections B, C, and D of the AD questionnaire and, thus, failed to cooperate to the best of its ability in this proceeding. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to Usiminas, in accordance with section 776(b) of the Act and 19 CFR 351.308(a).²⁶

2. Selection of Information Used as Facts Available

In applying an adverse inference, the Department may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.²⁷ In selecting an adverse facts available (AFA) rate, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.²⁸ In an investigation, the Department's practice with respect to the assignment of an AFA rate is to select the higher of (1) the highest dumping margin alleged in the petition or (2) the highest calculated dumping margin of any respondent in the investigation.²⁹ In this investigation, the dumping margin calculated for CSN is the only calculated dumping margin for a respondent in this investigation, and it is higher than the highest petition rate. Thus, for the preliminary determination, we assigned Usiminas the AFA rate of 38.93 percent.³⁰ It is unnecessary to corroborate this AFA rate because we are relying on information obtained in the course of this investigation on which to base this rate, rather than on secondary information.³¹

VII. DATE OF SALE

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the

²⁶ See *Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (noting that the Department need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (i.e., information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.")).

²⁷ See section 776(b) of the Act.

²⁸ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 (SAA) at 870.

²⁹ See, e.g., *Certain Uncoated Paper From Indonesia: Final Determination of Sales at Less Than Fair Value*, 81 FR 3101 (January 20, 2016).

³⁰ See *1,1,1,2-Tetrafluoroethane From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 62597 (October 20, 2014), and the accompanying Issues & Decision Memorandum at 3.

³¹ *Id.* See also section 776(c) of the Act and 19 CFR 351.308(c) and (d).

Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.³²

CSN reported the date of invoice as the date of sale for all home market and U.S. sales.³³ In this case, CSN reported that the invoice date best represents the date of sale for both home market and U.S. sales because, prior to that point, the material terms of the sale can be altered, and as of that point, they cannot.³⁴ Accordingly, for CSN, we used the invoice date as the date of sale for purposes of this preliminary determination.³⁵

VIII. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in Brazil during the POI that fit the description in the “Scope of Investigation” section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: painted, minimum specified carbon content, quality, minimum specified yield strength, nominal thickness, nominal width, form, and heat treatment. For CSN’s sales of cold-rolled steel in the United States, the reported control number (CONNUM) identifies the characteristics of cold-rolled steel, as exported by CSN.

CSN reported sales of non-prime cold-rolled steel both in the home market and to the United States. For purposes of the margin calculation in this preliminary determination we are including CSN’s non-prime sales in both the home market and the U.S. sales databases.

IX. CONSTRUCTED EXPORT PRICE

In accordance with section 772(b) of the Act, we calculated CEP for all of CSN’s U.S. sales because the merchandise under consideration was sold in the United States by U.S. sellers affiliated with CSN.

In accordance with section 772(b) of the Act, CEP is the price at which the merchandise under consideration is first sold (or agreed to be sold) in the United States before or after the date of

³² See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (“As elaborated by Department practice, a date other than invoice date ‘better reflects’ the date when ‘material terms of sale’ are established if the party shows that the ‘material terms of sale’ undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.”).

³³ See CSN’s supplemental questionnaire response, dated January 14, 2016, at S1A-23 and S1A-24 (CSN’s SQR).

³⁴ See Letter to the Secretary of Commerce from CSN, “Certain Cold-Rolled Steel Flat Products from Brazil: CSN’s Response to Questionnaire Section A” at 20, dated October 13, 2015 (CSN’s AQR). See also, CSN’s SQR, at S1A-23 and S1A-24.

³⁵ Given the significance of this issue, we intend to examine thoroughly the date of sale for CSN at verification.

importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. CSN classified all of its sales of merchandise under consideration to the United States as CEP sales because all such sales were invoiced and sold by CSN's U.S. affiliate, CSN LLC, either as direct mill sales or from inventory maintained at U.S. warehouses.³⁶ We calculated CEP based on the packed, delivered prices to unaffiliated purchasers in the United States. We adjusted these prices for discounts, rebates, movement expenses, including international freight, marine insurance, U.S. brokerage and handling, domestic brokerage and handling related to economic activity in the United States, U.S. warehousing expenses, inland insurance, U.S. inland freight, domestic inland freight, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and indirect selling expenses, such as indirect selling expenses incurred in the United States, inventory carrying cost incurred in the United States, further manufacturing expenses, repacking expenses and warranty expenses. Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In addition, we capped reimbursements for freight and warehousing expenses by the amount of freight and warehousing expenses incurred on the subject merchandise, in accordance with our practice.³⁷

Duty Drawback

CSN requested a duty drawback adjustment for the duty drawback program.³⁸ Section 772(c)(1)(B) of the Act states that CEP shall be increased by “the amount of any import duties imposed by the country of exportation...which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether a respondent is entitled to duty drawback, we look for a reasonable link between the duties imposed and those rebated or exempted. We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our “two-pronged” test in order for this adjustment to be made to CEP.³⁹ The first element is that the import duty and its rebate or exemption be directly linked to, dependent upon, one another; the second element is that the company must demonstrate that there were sufficient imports of the imported material to account for the duty drawback or exemption granted for the export of the manufactured product.⁴⁰ In this investigation, the record indicates that the

³⁶ See CSN's AQR at A-14 through A-18.

³⁷ See *Certain Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 46584 (August 11, 2008), and the accompanying Issues & Decision Memorandum at Comment 7, and *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009), and the accompanying Issues & Decision Memorandum at Comment 6. See also CSN Preliminary Analysis Memorandum.

³⁸ See CSN's SQR at 26-30. See also CSN's February 10, 2016, second supplemental questionnaire response at S2-8 through S2-12 (SQR2).

³⁹ See, e.g., *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011).

⁴⁰ See *id.*; Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 71 FR 7513 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 2. See also, *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR

Brazilian government grants exporting companies a rebate on duties or an exemption of taxes regardless of whether the inputs are imported (and import duties are due) or domestically sourced (when input duties are not relevant).⁴¹ Specifically, CSN claimed an exemption from paying certain taxes for purchases of inputs that were imported and domestically sourced.⁴² Thus, we preliminarily determine that the first prong of our two-prong test has not been satisfied because CSN has not demonstrated that the exemption granted by the Brazilian government's duty drawback program is dependent on duties paid. As such, we have not granted CSN a duty drawback adjustment for this preliminary determination. However, we intend to examine at verification whether the duty drawback adjustment reported by CSN is based solely on the exemptions of duties it receives for imports of raw materials, and to consider, for the final determination, whether a duty drawback adjustment to U.S. price is warranted.

X. NORMAL VALUE

A. *Comparison Market Viability*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we determined that the aggregate volume of home market sales of the foreign like product for CSN was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for CSN, in accordance with section 773(a)(1)(B) of the Act. Consistent with our practice, we also included CSN's sales to affiliated parties for purposes of determining home market viability.⁴³

B. *Affiliated Party Transactions and Arm's-Length Test*

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.⁴⁴ The Department excludes home market sales to affiliated customers that are not made at arm's-length

61716, 61723 (October 19, 2006).

⁴¹ See CSN's SQR at 26-30. See also CSN's February 10, 2016, second supplemental questionnaire response at S2-8 through S2-12 (SQR2).

⁴² CSN claimed a drawback adjustment for exemption of payment of the tax for the Renewal of the Merchant Navy. See CSN's SQR at 26. See also SQR2 at S2-8 through S2-12.

⁴³ See *Certain Oil Country Tubular Goods From Saudi Arabia: Final Determination of Sales at Less Than Fair Value*, 79 FR 41986 (July 18, 2014), and accompanying Issues and Decision Memorandum at Comment 2 (use of affiliated party sales in viability determination).

⁴⁴ See 19 CFR 351.403(c).

prices from our margin analysis because the Department considers them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, “the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm’s length.”⁴⁵

CSN reported that they had sales of merchandise under consideration to affiliated parties in the home market during the POI.⁴⁶ Pursuant to 19 CFR 351.403(c) and in accordance with the Department’s practice, where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to unaffiliated parties, we determined that sales made to the affiliated party were at arm’s length.⁴⁷ Sales to affiliated customers in the home market that were not made at arm’s-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.⁴⁸

C. *Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁴⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁵⁰ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for CEP and comparison market sales (*i.e.*, NV based on either home market or third country prices),⁵¹ we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.⁵²

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing CEP sales at a different LOT in the

⁴⁵ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003), *aff’d*, 306 F. Supp. 2d 1291 (CIT 2004) (citing *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011)).

⁴⁶ See CSN’s SQR at S1A-13 through S1A-16.

⁴⁷ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 percent and 102 percent in order for sales to be considered in the ordinary course of trade and used in the normal value calculation).

⁴⁸ See 19 CFR 351.102(b).

⁴⁹ See 19 CFR 351.412(c)(2).

⁵⁰ *Id.*; see also *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 7 (*Orange Juice from Brazil*).

⁵¹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

⁵² See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁵³

CSN reported that it sold cold-rolled steel in the comparison market through four channels of distribution: 1) CSN sales direct from the mills (UPV, Port Real, or Parana); 2) CSN sales through the CSN branches; 3) sales from Prada through distribution branches; and 4) sales from Prada through service centers.⁵⁴ We found that the four home-market channels of distribution did not differ significantly with respect to selling activities. Based on the degree of selling activities for each combination of distribution channel and customer category, we preliminarily determine that the four home-market channels of distribution constitute one LOT.

All of CSN's U.S. sales were CEP sales.⁵⁵ CSN reported that its U.S. sales were made through three channels of distribution: 1) CSN's CEP direct sales presold; 2) CSN's CEP sales "direct position"; and 3) CSN's CEP further manufactured sales.⁵⁶ We found that the three U.S. market channels of distribution do not differ significantly with respect to selling activities. Based on these circumstances, we preliminarily determine that the three U.S. channels of distribution constituted a single LOT. We compared the selling activities at the CEP LOT with the selling activities at the home-market LOT and found, after deducting selling functions corresponding to economic activities in the United States (those performed by CSN's U.S. affiliate), that these levels were substantially dissimilar. For example, the CEP LOT involves little or no sales forecasting, freight and delivery arrangement, engineering services, distributor product training/orientation, advertising, personnel training/exchange, packing, direct sales personnel, sales/marketing support, marketing research, or inventory maintenance.⁵⁷ Therefore, we considered the home-market sales to be at a different LOT and at more advanced stages of distribution than the CEP LOT. Thus, for CSN's CEP sales, to the extent possible, we determined normal value at the same level of trade as the U.S. sale to the unaffiliated customer and made a CEP-offset adjustment, in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). Specifically, we calculated the CEP offset as the lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

D. *Cost of Production Analysis*

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for

⁵³ See, e.g., *Orange Juice from Brazil*, at Comment 7.

⁵⁴ The record indicates that "Prada" is CSN's affiliated home-market resale customer. See CSN's section A questionnaire response at A-3.

⁵⁵ See CSN's AQR at A-14 through A-18.

⁵⁶ *Id.*

⁵⁷ See CSN's AQR at Exhibit A-7-A and A-7-B.

information on sales at less than cost of production.⁵⁸ The 2015 law does not specify dates of application for those amendments.⁵⁹ On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC.⁶⁰ Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production information from respondent companies in all AD proceedings.⁶¹ Accordingly, the Department requested this information from CSN. We examined CSN's cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses ("G&A") and interest expenses.⁶²

We relied on the COP data submitted by CSN, except as follows:⁶³

- We adjusted the total cost of manufacturing to include net expenses CSN booked directly to the cost of sales, but excluded from the reported costs without adequate explanation by CSN as to why they were excluded.
- We adjusted the total cost of manufacturing for energy inputs in accordance with the transactions disregarded rule at section 773(f)(2) of the Act.
- We revised G&A to include other operating income and expenses and exclude other operating expenses related to investments.

⁵⁸ See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA).

⁵⁹ The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>; see also the Petitions.

⁶⁰ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (Applicability Notice).

⁶¹ *Id.*, 80 FR at 46794-95.

⁶² See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

⁶³ See Memorandum to Neal M. Halper, Director, Office of Accounting, from Heidi K Schriefer, Lead Accountant "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Companhia Siderurgica Nacional," dated concurrently with this memorandum.

We are in the process of collecting additional information regarding these adjustments and certain other items and we intend to verify this information for purposes of the final determination.

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, discounts and rebates, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and, 2) based on our comparison of prices to the weighted-average COPs for the POI, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain products, more than 20 percent of CSN's home market sales during the POI were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

E. *Calculation of NV Based on Comparison-Market Prices*

For those comparison products for which there were an appropriate number of sales at prices above the COP for CSN, we based NV on comparison market prices. We calculated NV based on packed, ex-factory or delivered prices to unaffiliated customers in Brazil.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR

351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.⁶³

The Department calculated NV based on delivered or ex-works prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, value-added taxes. We also made a deduction from the starting price for movement expenses, including inland freight, inland insurance, warehousing or freight revenue under section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses, credit revenue, and other direct selling expenses, such as warranty expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410. In addition, we capped reimbursements for freight expenses by the amount of freight expenses incurred on the subject merchandise, in accordance with our practice.⁶⁴

XI. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

XII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

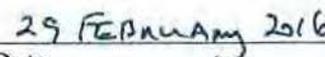


Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance



Date

⁶³ See 19 CFR 351.411(b).

⁶⁴ See *Certain Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 46584 (August 11, 2008), and the accompanying I&D Memo at Comment 7, and *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009), and the accompanying I&D Memo at Comment 6. See also CSN Preliminary Analysis Memorandum.