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Investigation  
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E&C/I: PZ/YJC

DATE: March 14, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Christian Marsh *CM*  
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 Hot-Rolled Steel  
Flat Products from Brazil

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## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain hot-rolled steel flat products (hot-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 August 11, 2015, the Department received an antidumping duty (AD) petition covering imports of hot-rolled steel from Brazil,<sup>1</sup> which was filed in proper form on behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, SSAB Enterprises, LLC, Steel Dynamics, Inc., and United States Steel Corporation (collectively “the petitioners”). The Department initiated this investigation on August 31, 2015.<sup>2</sup>

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 hot-rolled steel from Brazil during the period of investigation (POI) under the Harmonized Tariff

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<sup>1</sup> See Petitions for the Imposition of Antidumping Duties on imports of Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom, dated August 11, 2015 (Petitions).

<sup>2</sup> See *Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 54261 (September 9, 2015) (*Initiation Notice*).



Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>3</sup> On September 1, 2015, the Department released CBP import data to interested parties.<sup>4</sup>

On September 29, 2015, we selected Companhia Siderúrgica Nacional (CSN) and Usinas Siderúrgicas de Minas Gerais S.A. (Usiminas) as mandatory respondents because, based on CBP data, they accounted for the largest volume of exports of subject merchandise during the POI.<sup>5</sup> On September 30, 2015, we issued the AD questionnaire to CSN and Usiminas.<sup>6</sup> 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 did not respond to sections B through D of the questionnaire. From November 2015 through February 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 hot-rolled steel to be reported in response to the Department's AD questionnaire.<sup>7</sup> During September through December 2015, the following interested parties from the investigations on this product submitted comments on the scope of these investigations: POSCO; Nippon Steel & Sumitomo Metal Corporation (NSSMC); Tata Steel IJmuiden BV; JFE Steel Corporation; and Blue Scope Steel Ltd (Blue Scope). On October 5, 2015, October 21, 2015, and November 5, 2015, the petitioners submitted rebuttal scope comments in response to the scope comments of each of the interested parties that submitted scope comments.

On September 16, 2015, in addition to the petitioners, BlueScope, CSN, Ereğli Demir ve Çelik Fabrikaları T.A.Ş., Hyundai Steel Company (Hyundai Steel), Nippon Steel & Sumitomo Metal Corporation, POSCO, Tata Steel IJmuiden BV, Tata Steel UK Ltd., and Usiminas submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.<sup>8</sup> On September 21, 2016, BlueScope filed rebuttal comments. On September 22, 2015, the petitioners, Colakoglu Metalurji A.S., Colakoglu Dis Ticaret A.S., and Hyundai Steel filed rebuttal comments.<sup>9</sup>

On September 25, 2015, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of hot-rolled steel from Brazil.<sup>10</sup>

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<sup>3</sup> *Id.* 80 FR at 54266.

<sup>4</sup> *See* Letter to All Interested Parties dated September 1, 2015.

<sup>5</sup> *See* Memorandum to Deputy Assistant Secretary Christian Marsh, "Antidumping Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil: Respondent Selection" dated September 29, 2015 (Respondent Selection Memo).

<sup>6</sup> *See* Letters from the Department to CSN and Usiminas dated September 30, 2015.

<sup>7</sup> *See Initiation Notice*, 80 FR at 54262.

<sup>8</sup> These companies are interested parties in the hot-rolled steel investigations, *i.e.*, Australia, Brazil, Japan, the Netherlands, Turkey, the Republic of Korea and the United Kingdom.

<sup>9</sup> *Id.*

<sup>10</sup> *See Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom: Determinations*, 80 FR 58787 (September 30, 2015).

On November 25, 2015, in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1), the Department postponed the preliminary determination of this investigation by 50 days to March 8, 2016.<sup>11</sup> Due to a closure of the Federal Government, the Department tolled all of its administrative deadlines by four business days.<sup>12</sup> The revised deadline for this preliminary determination is March 14, 2016.

We are issuing this preliminary determination in 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 August 2015.<sup>13</sup>

### **IV. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES**

On October 23, 2015, the petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from Australia, Brazil, Japan and the Netherlands.<sup>14</sup> On December 9, 2015, the Department published its preliminary critical circumstances determinations.<sup>15</sup> Pursuant to this determination, the Department preliminarily determined that critical circumstances exist for imports of subject merchandise from CSN and Usiminas.

### **V. SCOPE OF THE INVESTIGATION**

The products covered by this investigation are hot-rolled steel from Brazil. For a full description of the scope of this investigation, *see* this investigation's accompanying preliminary determination notice at Appendix I.

### **VI. SCOPE COMMENTS**

In accordance with the preamble to the Department's regulations,<sup>16</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, "scope").<sup>17</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation*

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<sup>11</sup> See *Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 73702 (November 25, 2015).

<sup>12</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement and Compliance, regarding, "Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm 'Jonas'" dated January 27, 2016.

<sup>13</sup> See 19 CFR 351.204(b)(1).

<sup>14</sup> See Letter from the Petitioners, "Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan and the Netherlands - Critical Circumstances Allegations" dated October 23, 2015.

<sup>15</sup> See *Antidumping Duty Investigations of Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, and the Netherlands and Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products From Brazil: Preliminary Determinations of Critical Circumstances*, 80 FR 76444 (December 9, 2015).

<sup>16</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>17</sup> See *Initiation Notice*, 80 FR at 54261.

*Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>18</sup> The Department is preliminarily not modifying the scope language as it appeared in the *Initiation Notice*.

## VII. 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 that is not zero or *de minimis*, and the rate 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 33.91 percent *ad valorem*.

## VIII. 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 LTFV, 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 CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to compare weighted-average NVs with the export prices (or CEPs) 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.

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<sup>18</sup> *See* Memorandum to Deputy Assistant Secretary Christian Marsh entitled, “Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, the Netherlands, the Republic of Korea, Turkey, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations” dated concurrently with this notice (Preliminary Scope Decision Memorandum).

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.<sup>19</sup> 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 CEPs) 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 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 CEP) 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

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<sup>19</sup> 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); *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 81.08 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>20</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time

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<sup>20</sup> See Memorandum to the File from Peter Zukowski to the File, "Less-Than-Fair-Value Investigation of Certain Hot-Rolled Steel Flat Products from Brazil: Preliminary Determination Analysis Memorandum for Companhia Siderúrgica Nacional (CSN)" dated March 14, 2016 (CSN Preliminary Analysis Memorandum) at 2.

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 because both rates are above the *de minimis* threshold and there is less than a relative 25 percent change in the rates.<sup>21</sup> 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 29, 2015,<sup>22</sup> and issued the AD questionnaire on September 30, 2015.<sup>23</sup> Usiminas responded to section A of the AD questionnaire in a timely manner,<sup>24</sup> 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 the remaining sections.<sup>25</sup>

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. Each time Usiminas requested an extension to respond to the AD questionnaire,<sup>26</sup> the Department granted the extension either in full or in part based on reasons stated in Usiminas's extension request.<sup>27</sup> However, when the twice-extended deadline for submitting the sections B, C, and D response approached,<sup>28</sup> Usiminas did not request an extension nor explain why another extension is necessary pursuant to 19 CFR 351.302. Instead, on the day before the deadline, Usiminas simply notified the Department that it would not respond to these three sections of the AD questionnaire.<sup>29</sup> Therefore, the Department was unable to evaluate Usiminas's ability to respond to these three sections of the AD questionnaire within the deadline before the deadline expired. Usiminas's failure to provide this necessary 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.

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<sup>21</sup> *Id.*

<sup>22</sup> See Respondent Selection Memo.

<sup>23</sup> See the AD questionnaire dated September 30, 2015.

<sup>24</sup> See Usiminas's section A response dated October 27, 2015.

<sup>25</sup> See Usiminas's letter to the Department dated November 18, 2015.

<sup>26</sup> See Usiminas's extension requests dated October 15, 2015, November 3, 2015, and November 9, 2015.

<sup>27</sup> See the extension grant letters to Usiminas dated October 19, 2015, November 4, 2015, and November 10, 2015.

<sup>28</sup> The deadline was November 19, 2015. See the extension grant letter to Usiminas dated November 10, 2015.

<sup>29</sup> See Usiminas's letter to the Department dated November 18, 2015.

## 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).<sup>30</sup>

## 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.<sup>31</sup> 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.<sup>32</sup> 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.<sup>33</sup> In this investigation, the dumping margin calculated for CSN is the only calculated dumping margin for a respondent in this investigation, and it is lower than the sole petition rate in this investigation. Thus, for the preliminary determination, we assigned to Usiminas the AFA rate of 34.28 percent, which is the petition rate.<sup>34</sup>

## 3. Selection and Corroboration of the AFA Rate

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the Petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.<sup>35</sup> The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value,<sup>36</sup> although under the TPEA, the Department is not required to corroborate any

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<sup>30</sup> 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.”)).

<sup>31</sup> See section 776(b) of the Act.

<sup>32</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 (SAA) at 870.

<sup>33</sup> See, *e.g.*, *Certain Uncoated Paper From Indonesia: Final Determination of Sales at Less Than Fair Value*, 81 FR 3101 (January 20, 2016).

<sup>34</sup> 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 and Decision Memorandum at 3.

<sup>35</sup> See SAA, H.R. Doc. No. 316, Vol. I, 103d Cong., 2d Sess. (1994), at 870.

<sup>36</sup> See SAA at 870; see also 19 CFR 351.308(d).

dumping margin applied in a separate segment of the same proceeding.<sup>37</sup> To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used, although under the TPEA, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.<sup>38</sup> Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.<sup>39</sup>

The AFA rate that the Department used is from the petition, as revised by the Department, and is thus secondary information subject to the corroboration requirement.<sup>40</sup> The petitioners’ methodology for calculating the export price and NV in the petition is discussed in the initiation notice.<sup>41</sup> To corroborate the AFA margin we have selected, we compared that margin to the control number-specific margins we found for CSN. We explain this comparison in more detail in our AFA memorandum for Usiminas, which contains CSN’s business proprietary information.<sup>42</sup> As a result, we find the AFA rate of 34.28 percent to be corroborated “to the extent practicable.”<sup>43</sup> There is no information on the record that calls into question the relevance or reliability of the petition rate, and Usiminas provided no company-specific sales information. Therefore, we preliminarily determine that the AFA rate is corroborated for purposes of this investigation.

## **IX. DATE OF SALE**

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.”<sup>44</sup> Additionally, “the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.”<sup>45</sup>

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<sup>37</sup> See section 776(c)(2) of the Act; TPEA, section 502.

<sup>38</sup> See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>39</sup> See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

<sup>40</sup> See *Initiation Notice*, 80 FR at 54264-65.

<sup>41</sup> *Id.*

<sup>42</sup> See the memorandum to the File entitled “Certain Hot-Rolled Steel Flat Products from Brazil: Corroboration of a Rate Based on Adverse Facts Available” dated concurrently with this Preliminary Decision Memorandum for more details which contain CSN’s business-proprietary information.

<sup>43</sup> See section 776(c) of the Act; SAA, at 870; 19 CFR 351.308(d).

<sup>44</sup> See 19 CFR 351.401(i).

<sup>45</sup> *Id.* 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.”).

CSN reported the date of invoice as the date of sale for all home market and U.S. sales.<sup>46</sup> 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.<sup>47</sup> Accordingly, for CSN, we used the invoice date as the date of sale for purposes of this preliminary determination.

## **X. PRODUCT COMPARISONS**

In accordance with section 771(16) of the Act, we considered all products produced and sold by CSN 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 CSN reported in the following order of importance: whether the product is painted, minimum specified carbon content, quality, minimum specified yield strength, nominal thickness, nominal width, form, whether or not pickled, and patterns in relief. For CSN’s sales of hot-rolled steel in the United States, the reported control number identifies the characteristics of hot-rolled steel, as exported by CSN.

CSN reported sales of non-prime hot-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.

## **XI. 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 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.<sup>48</sup> 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 foreign inland freight,

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<sup>46</sup> See Letter to the Secretary of Commerce from CSN, “Certain Hot-Rolled Steel Flat Products from Brazil: CSN’s Response to Questionnaire Section A” at 22, dated October 20, 2015 (CSN AQR).

<sup>47</sup> *Id.*

<sup>48</sup> See CSN’s AQR at 16.

international freight, marine insurance, U.S. brokerage and handling, U.S. duties, 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.<sup>49</sup> We also recalculated CSN's inventory carrying cost using our standard formula.<sup>50</sup>

### Duty Drawback

CSN requested a duty drawback adjustment to U.S. price.<sup>51</sup> 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.<sup>52</sup> 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.<sup>53</sup> In this investigation, the record indicates that the 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 import duties are not relevant).<sup>54</sup> Specifically, CSN claimed an exemption from paying certain taxes for purchases of

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<sup>49</sup> See *Certain Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 46584 (August 11, 2008) (*Orange Juice from Brazil*), and the accompanying Issues and Decision Memorandum at Comment 7; *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009) (*Polybags from China*), and the accompanying Issues and Decision Memorandum at Comment 6. See also CSN Preliminary Analysis Memorandum.

<sup>50</sup> See CSN Preliminary Analysis Memorandum.

<sup>51</sup> See CSN's SQR at 26-30. See also CSN's February 18, 2016, second supplemental questionnaire response at S2-13 through S2-19 (SQR2).

<sup>52</sup> See, e.g., *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011).

<sup>53</sup> *Id.* See also *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 the accompanying Issues and Decision Memorandum at Comment 2, and *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61723 (October 19, 2006).

<sup>54</sup> See CSN's SQR at 26-30. See also CSN's February 18, 2016, second supplemental questionnaire response at S2-13 through S2-19 (SQR2).

inputs that were imported and domestically sourced.<sup>55</sup> 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.

## **XII. 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.<sup>56</sup> We also recalculated CSN's inventory carrying cost using our standard formula.<sup>57</sup>

### *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.<sup>58</sup> The Department excludes home market sales to affiliated customers that are not made at arm's-length 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, we have

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<sup>55</sup> 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 S2-13 through S2-19.

<sup>56</sup> 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 the accompanying Issues and Decision Memorandum at Comment 2 (use of affiliated party sales in viability determination).

<sup>57</sup> See CSN Preliminary Analysis Memorandum.

<sup>58</sup> See 19 CFR 351.403(c).

discretion to calculate normal value based on sales to affiliates if we are satisfied that the transactions were made at arm's length.<sup>59</sup>

CSN reported that it had sales of foreign like product to affiliated parties in the home market during the POI.<sup>60</sup> Pursuant to 19 CFR 351.403(c) and in accordance with our 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 parties were at arm's length.<sup>61</sup> 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.<sup>62</sup>

### 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).<sup>63</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>64</sup> 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),<sup>65</sup> we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.<sup>66</sup>

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 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

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<sup>59</sup> See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365, 1366-67 (CIT 2003).

<sup>60</sup> See CSN SBQR at 6 and CSN S1AQR at 13.

<sup>61</sup> 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).

<sup>62</sup> See 19 CFR 351.102(b).

<sup>63</sup> See 19 CFR 351.412(c)(2).

<sup>64</sup> *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 the accompanying Issues and Decision Memorandum at Comment 7 (*Orange Juice from Brazil 2010*).

<sup>65</sup> 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).

<sup>66</sup> See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>67</sup>

CSN reported that it sold hot-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 Cia. Metalurgica Prada (Prada) through distribution branches; and 4) sales from Prada through service centers.<sup>68</sup> A comparison of the selling activities in the four home-market channels of distribution shows little difference between these channels.<sup>69</sup> 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.<sup>70</sup>

All of CSN's U.S. sales were CEP sales.<sup>71</sup> 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.<sup>72</sup> A comparison of the degree of selling activity in the three U.S. market channels of distribution indicates that these channels do not differ significantly. Based on these circumstances, we preliminarily determine that the three U.S. channels of distribution constituted a single LOT.<sup>73</sup> 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, market research, advertising, distributor product training/orientation, procurement/sourcing services, and after-sales services.<sup>74</sup> Therefore, we considered the home-market sales to be at a different LOT and at more advanced stages of distribution than the CEP LOT.<sup>75</sup> Thus, for CSN's CEP sales, to the extent possible, we determined normal value at the same LOT 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

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<sup>67</sup> See, e.g., *Orange Juice from Brazil 2010*, at Comment 7.

<sup>68</sup> The record indicates that “Prada” is CSN's affiliated home-market resale customer. See CSN's section A questionnaire response at A-3.

<sup>69</sup> See CSN's AQR at Exhibit A-7-A and A-7-B.

<sup>70</sup> See CSN Preliminary Analysis Memorandum at 2.

<sup>71</sup> See CSN's AQR at Exhibit A-7-A and A-7-B.

<sup>72</sup> *Id.*

<sup>73</sup> See CSN Preliminary Analysis Memorandum at 2.

<sup>74</sup> See CSN's AQR at Exhibit A-7-A and A-7-B.

<sup>75</sup> See CSN Preliminary Analysis Memorandum at 3.

information on sales at less than cost of production (COP).<sup>76</sup> The 2015 law does not specify dates of application for those amendments.<sup>77</sup> 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.<sup>78</sup> 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 COP information from respondent companies in all AD proceedings.<sup>79</sup> 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.<sup>80</sup>

We relied on the COP data submitted by CSN, except as follows:<sup>81</sup>

- 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.
- We re-applied the reported financial expense ratio to the revised per-unit total costs of manufacturing net of the affiliated input adjustment.

On March 3, 2016, we issued a supplemental questionnaire, the response to which is due on March 17, 2016. We intend to verify this information for purposes of the final determination.

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<sup>76</sup> See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA).

<sup>77</sup> The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>; see also the Petitions.

<sup>78</sup> 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).

<sup>79</sup> *Id.*, 80 FR at 46794-95.

<sup>80</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

<sup>81</sup> 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.

## 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.<sup>82</sup>

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<sup>82</sup> See 19 CFR 351.411(b).

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, and 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. We made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the less of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP. In addition, we capped reimbursements for freight expenses by the amount of freight expenses incurred on the subject merchandise, in accordance with our practice.<sup>83</sup>

### **XIII. 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.

### **XIV. ADJUSTMENTS TO CASH DEPOSIT RATES FOR EXPORT SUBSIDIES IN THE COMPANION COUNTERVAILING DUTY INVESTIGATION**

Pursuant to section 772(c)(1)(C) of the Act, we made adjustments for countervailable export subsidies in determining cash deposit rates. These adjustments will be applied to the estimated weighted-average dumping margins calculated for CSN and Usiminas and to the “all-others” rate in the accompanying *Federal Register* notice to determine the cash deposit rates.

Section 772(c)(1)(C) of the Act directs the Department to increase CEP by the amount of the countervailing duty “imposed” on the subject merchandise “to offset an export subsidy.” The basic theory underlying this provision is that in parallel AD and CVD proceedings, if the Department finds that a respondent received the benefits of an export subsidy program, it is presumed the subsidy contributed to lower-priced sales of subject merchandise in the United States market. Thus, the subsidy and dumping are presumed to be related, and the imposition of duties against both would in effect be imposing two duties against the same situation.

In the preliminary determination for the companion CVD investigation, we calculated an aggregated export subsidies rate of 4.13 percent for CSN and 3.82 percent for Usiminas. The countervailable subsidies that were identified as export subsidies are the subsidies conferred by the Integrated Drawback Scheme and the Reintegra program.<sup>84</sup> We have used the

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<sup>83</sup> See *Orange Juice from Brazil* and the accompanying Issues and Decision Memorandum at Comment 7; *Polybags from China* and the accompanying Issues and Decision Memorandum at Comment 6. See also CSN Preliminary Analysis Memorandum.

<sup>84</sup> See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products From Brazil: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 81 FR 2168 (January 15, 2016), and the accompanying Preliminary Decision Memorandum.

countervailable subsidy rates from these programs for each respondent to calculate an average export subsidy rate of 3.98 percent for purposes of adjusting the dumping margin applicable to all other companies.

**XV. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

✓  
Agree

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Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

14 MARCH 2016  
Date