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Investigation  
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AD/CVDOps/II/RB

DATE: November 4, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the  
Antidumping Duty Investigation of Certain Carbon and Alloy  
Steel Cut-To-Length Plate from the Federal Republic of Germany

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## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from the Federal Republic of Germany (Germany) is being, or is 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 April 8, 2016, the Department received an antidumping duty (AD) petition covering imports of CTL plate from Germany,<sup>1</sup> which was filed in proper form by ArcelorMittal USA LLC, Nucor Corporation (Nucor), and SSAB Enterprises, LLC (collectively, the petitioners). The Department initiated this investigation on April 28, 2016.<sup>2</sup>

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<sup>1</sup> See Petitions for the Imposition of Antidumping Duties on Imports of Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, Brazil, the People’s Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, South Africa, Taiwan, and Turkey; and Countervailing Duties on Imports from Brazil, the People’s Republic of China, and the Republic of Korea, dated April 8, 2016 (the Petitions).

<sup>2</sup> See Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People’s Republic of China, South Africa, Taiwan, and the Republic of Turkey: Initiation of Less-Than-Fair Value Investigations, 81 FR 27089 (May 5, 2016) (Initiation Notice).



In the Initiation Notice, the Department stated that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for certain of the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>3</sup> Accordingly, on May 5, 2016, the Department released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.<sup>4</sup> On May 12, 2016, we received comments on behalf of Nucor, and Salzgitter AG, Ilseburger Grobblech GmbH (ILG), Salzgitter Mannesmann Grobblech GmbH (MGB), and Salzgitter Mannesmann International GmbH (SMID) (collectively, the Salzgitter Group), a producer/exporter of CTL plate from Germany.<sup>5</sup>

Also 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 CTL plate to be reported in response to the Department's AD questionnaire.<sup>6</sup> The Department received a number of timely scope comments on the record this investigation, as well as on the records of the companion CTL plate investigations involving Austria, Belgium, Brazil, France, Italy, Japan, the Republic of Korea, the People's Republic of China, South Africa, Taiwan, and the Republic of Turkey.<sup>7</sup>

On May 24, 2016, the Department limited the number of respondents selected for individual examination to the two largest publicly-identifiable producers/exporters of the subject merchandise by volume, AG der Dillinger Huttenwerke (Dillinger) and SMID. Accordingly, we selected Dillinger and Salzgitter as mandatory respondents in this investigation and issued the AD questionnaire to them.<sup>8</sup>

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<sup>3</sup> See Initiation Notice, 81 FR at 27095.

<sup>4</sup> See Letter from Shawn Thompson, Program Manager, to All Interested Parties, dated May 5, 2016.

<sup>5</sup> See Letter from Nucor entitled, "Certain Carbon and Alloy Steel Cut-to-Length Plate from Germany: Nucor's Comments on Respondent Selection," dated May 17, 2016; see also Letter from the Salzgitter Group entitled, "Carbon and Alloy Steel Cut-To-Length Plate From the Federal Republic of Germany: Comments on Respondent Selection," dated May 17, 2016.

<sup>6</sup> See Initiation Notice, 81 FR at 27090, 27091.

<sup>7</sup> For further discussion of these comments, see Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, "Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the Republic of South Africa, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated September 6, 2016 (Preliminary Scope Decision Memorandum), and Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, "Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the Republic of South Africa, Taiwan, and Turkey: Additional Scope Comments Preliminary Decision Memorandum and Extension of Deadlines for Scope Case Briefs and Scope Rebuttal Briefs," dated October 13, 2016 (Additional Preliminary Scope Decision Memorandum).

<sup>8</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection for the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Federal Republic of Germany," dated May 24, 2016.

On May 27, 2016, 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 CTL plate from Germany.<sup>9</sup>

On June 2, 2016, one of the petitioners, *i.e.*, Nucor, and various other interested parties in this and/or the companion AD investigations submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. On June 8, 2016, Nucor and various other interested parties filed rebuttal comments

In June 2016, Dillinger, and ILG, MGB, SZFG, and SMID (collectively, Salzgitter) submitted timely responses to section A of the Department's AD questionnaire, *i.e.*, the section relating to general information. In July 2016, Dillinger and Salzgitter responded to sections B, C, and D of the Department's AD questionnaire, *i.e.*, the sections relating to home market sales, U.S. sales, and cost of production (COP)/constructed value (CV), respectively, and Salzgitter responded to section E of the AD questionnaire, *i.e.*, the section relating to further manufacture or assembly in the United States.

In August 2016, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation. Based on the request, the Department published a postponement of the preliminary determination until no later than November 4, 2016.<sup>10</sup>

From July through October 2016, we issued supplemental questionnaires to Dillinger and Salzgitter, and we received responses to these supplemental questionnaires in the same months.

On September 6, 2016, and October 13, 2016, the Department addressed the scope comments placed on the record of this investigation by interested parties.<sup>11</sup>

In October 2016, Dillinger and Salzgitter requested that the Department postpone the final determination, and Salzgitter also requested that provisional measures be extended.<sup>12</sup>

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<sup>9</sup> See Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, Korea, South Africa, Taiwan, and Turkey: Determinations, 81 FR 33705 (May 27, 2016). See also Memorandum to the File from Brittany Bauer, Analyst, entitled, "Placing the International Trade Commission Preliminary Report on the record for the Anti-Dumping Investigations of Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, South Africa, Taiwan, and the Republic of Turkey," dated October 7, 2016.

<sup>10</sup> See Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 81 FR 59185 (August 29, 2016).

<sup>11</sup> See Preliminary Scope Memorandum., and Additional Preliminary Scope Memorandum, respectively

<sup>12</sup> See letter from Dillinger entitled, "Certain Carbon and Alloy Steel Cut-To-Length Plate from the Federal Republic of Germany: Request for Extension of Final Determination," dated October 17, 2016 (Dillinger Final Postponement Request); and letter from Salzgitter entitled, "Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany ("Germany"): Request to Postpone Final Determination," dated October 20, 2016 (Salzgitter Final Postponement Request).

Also in October 2016, we preliminarily determined that it was appropriate to collapse SMID, ILG, MGB, and Salzgitter Flachstahl GmbH (SZFG) and treat them as a single entity, Salzgitter.<sup>13</sup>

On October 20, 2016, and October 24, 2016, we issued our final supplemental questionnaires to Salzgitter regarding sales in both markets, and further manufacture in the United States, respectively. On October 24, 2016, and October 31, 2016, respectively, we issued our final sales and cost supplemental questionnaires to Dillinger. Because the deadlines for the requested information is after the date of the preliminary determination, we intend to consider the information for purposes of the final determination.

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

### **III. PERIOD OF INVESTIGATION**

The period of investigation (POI) is April 1, 2015, through March 31, 2016. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was April 2016.<sup>14</sup>

### **IV. SCOPE COMMENTS**

In accordance with the Preamble to the Department's regulations,<sup>15</sup> the Initiation Notice set aside a period of time for parties to raise issues regarding product coverage, *i.e.*, scope.<sup>16</sup> Certain interested parties commented on the scope of this investigation as it appeared in the Initiation Notice, as well as on additional language proposed by the Department.<sup>17</sup> For discussion of changes to the scope from that identified in the Initiation Notice, see the "Scope Comments" section of the accompanying Federal Register notice.

### **V. 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 Dillinger's and Salzgitter's sales of subject merchandise from Germany to the United States were made at LTFV, the Department compared the export price (EP) or constructed export

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<sup>13</sup> See Memorandum to Melissa G. Skinner entitled "Whether to Collapse Salzgitter Mannesmann International GmbH and its Affiliated Producers in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate (CTL Plate) from the Federal Republic of Germany (Germany)," dated October 27, 2016.

<sup>14</sup> See 19 CFR 351.204(b)(1).

<sup>15</sup> See Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27323 (May 19, 1997) (Preamble).

<sup>16</sup> See Initiation Notice, 81 FR at 27090.

<sup>17</sup> For a summary of the product coverage comments and rebuttal responses submitted on the record of this investigation, and accompanying discussion and analysis of all comments timely received, see Preliminary Scope Memorandum and Additional Preliminary Scope Memorandum.

price (CEP), as appropriate, to the normal value (NV), as described in the “Export Price/Constructed Export Price,” and “Normal Value” sections of this memorandum.

*A) Determination of Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (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 EPs (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.

In recent investigations, the Department has 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>18</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 EPs 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 POI 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 EP (or CEP) and NV 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

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<sup>18</sup> See, e.g., Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 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).

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*

Dillinger

For Dillinger, based on the results of the differential pricing analysis, the Department preliminarily finds that 62.96 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>19</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the de minimis threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for this preliminary determination, the Department is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Dillinger.

Salzgitter

For Salzgitter, based on the results of the differential pricing analysis, the Department preliminarily finds that 10.26 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>20</sup> and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, the Department preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Salzgitter.

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<sup>19</sup> See Memorandum to the File from Ross Belliveau, International Trade Compliance Analyst, entitled, "Preliminary Determination Margin Calculation for AG der Dillinger Huttenwerke," dated November 4, 2016 (Dillinger Preliminary Analysis Memorandum).

<sup>20</sup> See the Memorandum to the File from David Goldberger, Senior International Trade Compliance Analyst, entitled, "Preliminary Results Margin Calculation for Salzgitter" dated November 4, 2016 (Salzgitter Preliminary Analysis Memorandum).

## VI. 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 Department 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 Department may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>21</sup>

Both Dillinger and Salzgitter reported the earlier of the shipment date or the invoice date as the date of sale for all home market and U.S. sales.<sup>22</sup> The Department has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.<sup>23</sup> Therefore, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale in both markets for both respondents, in accordance with our practice.<sup>24</sup>

## VII. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents, Dillinger and Salzgitter, in Germany during the POI that fit the description in the "Scope of Investigation" section of the accompanying Federal Register 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, or CV, as appropriate.

In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: quality, minimum specified carbon content, minimum specified chromium content, minimum specified nickel content, minimum specified yield strength, nominal thickness, heat treatment status, nominal width, form, painting, the existence of patterns in relief, and descaling.

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<sup>21</sup> See 19 CFR 351.401(i); see also Allied Tube & Conduit Corp. v. United States, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

<sup>22</sup> See Dillinger's Section A response, dated June 30, 2016, at A-17; and Salzgitter's Supplemental Section B & C response, dated September 15, 2016 (Salzgitter Supplemental Section B & C Response), at 15, 51-52.

<sup>23</sup> See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 72 FR 52065 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 11; see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>24</sup> Id.

## VIII. EXPORT PRICE/CONSTRUCTED EXPORT PRICE

For all sales made by Dillinger and certain sales made by Salzgitter, we used EP methodology, in accordance with section 772(a) of the Act, for sales where the subject merchandise was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted. For Salzgitter's remaining U.S. sales, we used CEP methodology, in accordance with section 772(b) of the Act, because the subject merchandise was sold in the United States by a U.S. seller affiliated with Salzgitter and EP methodology was not otherwise warranted.

### Dillinger

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for billing adjustments. We also made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight expenses, foreign brokerage and handling expenses, international freight expenses, marine insurance, U.S. brokerage expenses, U.S. duties, and U.S. movement expenses, in accordance with section 772(c)(2)(A) of the Act. With respect to foreign inland freight expenses, we relied on the amounts reported in the field DINLFTP<sub>U</sub>, rather the amounts reported in the field DINLFTP<sub>2U</sub>, because the expenses reported in the former field appear to contain obvious errors.<sup>25</sup>

### Salzgitter

With respect to Salzgitter's EP sales, we calculated EP based on packed prices to unaffiliated purchasers in the United States. We made adjustments, where appropriate, from the starting price, for billing adjustments. We also made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight expenses, foreign inland insurance, foreign warehousing, international freight expenses, foreign brokerage and handling expenses, marine insurance, U.S. brokerage expenses, and U.S. customs duties (including harbor maintenance fees), in accordance with section 772(c)(2)(A) of the Act. Salzgitter reported mill test reporting revenue, handling revenue, and toll charge revenue associated with certain EP sales. However, because Salzgitter provided no narrative explanation of these adjustments, we did not include them for the preliminary determination. We requested additional information on these revenue adjustments in a supplemental questionnaire and intend to consider this information for the final determination.

For Salzgitter's CEP sales, we calculated CEP based on packed prices to unaffiliated purchasers in the United States. We made adjustments, where appropriate, from the starting price for billing adjustments. We also made deductions, from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight expenses, foreign inland insurance, foreign warehousing, international freight expenses, foreign brokerage and handling expenses, marine insurance, U.S. brokerage expenses, international freight expenses, marine insurance, U.S.

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<sup>25</sup> For further discussion, see the Dillinger Preliminary Analysis Memorandum .

brokerage and handling expenses, wharfage expenses, U.S. customs duties (including harbor maintenance fees), and U.S. inland freight to the unaffiliated U.S. customer (offset by freight revenue) in accordance with section 772(c)(2)(A) of the Act. We capped freight revenue by the amount of U.S. inland freight expenses incurred on CEP sales, in accordance with our practice.<sup>26</sup>

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses, *i.e.*, commissions, imputed credit expenses, survey expenses, and other direct selling expenses,<sup>27</sup> and indirect selling expenses, *i.e.*, inventory carrying costs and other indirect selling expenses. Where appropriate, we also made an adjustment to price for the cost of any further manufacturing or assembly, in accordance with section 772(d)(2) of the Act. In addition, we made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act. We made adjustments to the further manufacturing costs incurred by Salzgitter's U.S. affiliate, Berg Steel Pipe Corporation (BSPC), as discussed below under "Calculation of COP." In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Salzgitter and BSPC, on their sales of the subject merchandise in the United States and the profit associated with those sales.

Finally, Salzgitter sold a negligible quantity of CTL plate in the United States that was manufactured by an unaffiliated producer. Because of the small quantity of these transactions in the United States, we are excluding sales of CTL plate by that producer made in the United States from our analysis.<sup>28</sup>

## **IX. NORMAL VALUE**

### **A) *Home 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 each respondent was greater than five percent of the aggregate volume of

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<sup>26</sup> See, e.g., Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination, 77 FR 63291 (October 16, 2012), and accompanying Issues and Decision Memorandum at Comment 6.

<sup>27</sup> Salzgitter requested proprietary treatment for the identification of these other direct selling expenses. See Salzgitter Section C response at page C-58.

<sup>28</sup> See Salzgitter Preliminary Analysis Memorandum.

its U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for Dillinger and Salzgitter, in accordance with section 773(a)(1)(B) of the Act.

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

During the POI, Dillinger and Salzgitter made sales of the foreign like product in the home market to affiliated parties, as defined in section 771(33) of the Act. Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, where appropriate, we compared the unit prices of sales to affiliated and unaffiliated customers net of all billing adjustments, discounts, movement charges, direct selling expenses, and packing expenses. Pursuant to 19 CFR 351.403(c) and in accordance with the Department's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade (LOT), we determined that the sales made to the affiliated party were at arm's length.<sup>29</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>30</sup>

Dillinger reported sales to four affiliated resellers during the POI. Sales to each of these affiliates failed the arm's-length test. Dillinger reported that two of these affiliates' resales were of non-foreign like product; as a result, we did not require Dillinger to report downstream sales information for these products. However, Dillinger's two remaining affiliated resellers, Ancofer Stahlhandel GmbH (Ancofer) and Jebens GmbH (Jebens), further processed Dillinger-produced CTL plate, resulting in changes to the model matching characteristics and control numbers (CONNUMs) of the products sold. Because of gaps in Ancofer's and Jebens' reported downstream sales, for this preliminary determination we treated all of Ancofer's and Jebens' sales as being Dillinger-produced CTL plate. We requested additional information from Dillinger for consideration of these sales in the final determination. Further, in instances where Dillinger only reported the CONNUM of the further-processed sale of foreign like product (and not the CONNUM of the Dillinger-produced CTL plate), we assigned the Dillinger-produced CTL plate the same CONNUM as that of the further processed merchandise.<sup>31</sup>

With respect to Salzgitter, sales of foreign like product to Salzgitter's affiliated resellers failed the arm's-length test. Therefore, Salzgitter reported its home market sales by these resellers, and we used Salzgitter's reported downstream home market sales data for these affiliates in our calculations for the preliminary determination. Some of the downstream sales were further processed by the affiliated reseller and, in many cases, the further processing resulted in changes to the CTL plate that affected the model matching characteristics and the CONNUM. For these sales, Salzgitter reported the CONNUM after processing and did not report the CONNUM as

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<sup>29</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 and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation).

<sup>30</sup> See section 771(15) of the Act and 19 CFR 351.102(b)(35).

<sup>31</sup> For further discussion of the details of these adjustments, see Dillinger Preliminary Analysis Memorandum.

sold by the mill. These sales accounted for a relatively small percentage of prime merchandise sales made by Salzgitter. Because of the small quantity of these sales and the absence of data to properly adjust these sales for our NV calculation, we are disregarding these sales for the preliminary determination if the upstream sales did not pass the arm's length test.<sup>32</sup> We requested additional information from Salzgitter for consideration of these sales in the final determination.

In addition, Salzgitter did not report certain downstream sales by its affiliated reseller Salzgitter Mannesmann Stahlhandel GmbH (SMSD), where Salzgitter stated it could not identify the original manufacturer of the CTL plate sold without performing a burdensome manual check. We requested in two separate supplemental questionnaires that Salzgitter provide these unreported sales in the event that the sales to SMSD failed the arm's length test. In response, Salzgitter did not provide these sales, contending that, while it is able to do so for customers upon request, its accounting system does not track merchandise by manufacturer once placed into inventory and, thus, it would be "unreasonably burdensome" to obtain the requested information.<sup>33</sup>

Therefore, because Salzgitter did not comply with our requests for information, we find it appropriate to use the facts otherwise available, in part, pursuant to section 776(a)(2) of the Act. Specifically, pursuant to sections 776(a)(2)(A) and 776(a)(2)(B) of the Act, we find that by failing to comply with our requests for information, Salzgitter withheld information that has been requested and failed to provide such information by the deadline for submission, respectively. In addition, in accordance with section 776(a)(1) of the Act, we find that necessary information is missing from the record. Further, pursuant to section 776(b) of the Act, we find that by not complying with our request for information, Salzgitter has not cooperated to the best of its ability. Specifically, although Salzgitter contends that identifying all SMSD sales of Salzgitter-produced merchandise would be unreasonably burdensome, Salzgitter stated it could report SMSD's sales where the manufacturer could not be identified.<sup>34</sup> However, it failed to do so. Accordingly, we are applying facts available, in part, with an adverse inference, to account for SMSD's unreported downstream sales. As adverse facts available, we applied the highest net price among the reported sales made by SMSD to all of the sales made by SMSD.<sup>35</sup> We intend to examine this issue further at verification and for the final determination.

### 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 LOT as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>36</sup> Substantial differences in

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<sup>32</sup> For further discussion, see Salzgitter Preliminary Analysis Memorandum.

<sup>33</sup> See Salzgitter Supplemental Section B & C Response at pages 4-5 and Exhibit Supp. B-2; and Salzgitter's Third Sections B and C Supplemental Questionnaire Response, dated October 17, 2016, at pages 3-5.

<sup>34</sup> See Salzgitter's Supplemental Section B and C Response, dated September 15, 2016, at page 4.

<sup>35</sup> See Salzgitter Preliminary Analysis Memorandum.

<sup>36</sup> See 19 CFR 351.412(c)(2).

selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>37</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 EP and comparison market sales, *i.e.*, NV based on either home market or third country prices,<sup>38</sup> we consider the starting prices before any adjustments. For CEP sales, 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>39</sup>

When the Department is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales to 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 adjustment is possible, the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>40</sup>

In this investigation, we obtained information from Dillinger and Salzgitter regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution.<sup>41</sup> Our LOT findings are summarized below.

### Dillinger

In the home market, Dillinger reported that it made sales through two channels of distribution, *i.e.*, factory sales on a made-to-order basis and sales by affiliated services centers.<sup>42</sup> According

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<sup>37</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 accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

<sup>38</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 (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

<sup>39</sup> See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>40</sup> See, e.g., OJ from Brazil, at Comment 7.

<sup>41</sup> See Dillinger's Section A Response, dated June 29, 2016 (QRA Response), at A-12 – A-20; Dillinger's Supplemental Section A Response (SQRA Response), dated August 3, 2016, at Appendix S-2; Salzgitter's Section A response, dated June 29, 2016 (Salzgitter Section A Response), at A-19 – A-25; Salzgitter Supplemental Section A Response, dated June 15, 2016, at SA-7 and Exhibit SA-4.

<sup>42</sup> See Dillinger's QRA Response at A-12 to A-13, and at Appendix 8. While Dillinger has identified its home market sales of non-prime merchandise as a third channel of distribution, we note that Dillinger did not report U.S. sales of non-prime merchandise. Therefore, these home market sales will not be used for comparison purposes in the Department's margin calculations, and, as a result, we have not analyzed this channel of distribution.

to Dillinger, it performed the following selling functions for its made-to-order sales: order input/processing; sales forecasting, strategic/economic planning, and market research; sales/marketing support; advertising; direct sales personnel and sales promotion; technical assistance, after-sales services, and engineering services; guarantees/warranty services; freight & delivery arrangements; packing; pay commissions; provide rebates; and personnel training/exchange. For sales made by affiliated service centers, Dillinger reported that, in addition to each of the selling functions listed above, it performed inventory maintenance, but did not provide rebates or personnel training/exchange.<sup>43</sup>

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Dillinger performed sales and marketing, freight and delivery services, and warranty and technical support for all of its home market sales, and its affiliated service centers also performed inventory maintenance for home market sales.<sup>44</sup> Because we find that there were no significant differences in selling activities performed by Dillinger to sell to its home market customers, we determine that there is one LOT in the home market for Dillinger.

With respect to the U.S. market, Dillinger reported that it made sales through two channels of distribution, *i.e.*, factory sales on a made-to-order basis and sales made by affiliated service centers.<sup>45</sup> Dillinger reported that it performed the following selling functions for its made-to-order sales to the United States: order input/processing; sales forecasting, strategic/economic planning, market research; sales/marketing support; advertising; direct sales personnel, and sales promotion; technical assistance, after-sales services, and engineering services; guarantees/warranty services; freight & delivery arrangements; packing; and pay commissions. For sales made by affiliated service centers, Dillinger reported that it performed the following selling functions: order input/processing; packing; pay commissions; and guarantees/warranty services.<sup>46</sup> Further, although Dillinger reported that it did not perform freight and delivery arrangements or employ direct sales personnel for affiliated service center sales, we note that its reported data indicates that it performed these activities.

Accordingly, based on the selling function categories noted above, we find that Dillinger performed sales and marketing, freight and delivery services, and warranty and technical support for all of its reported U.S. sales. Because the selling functions performed for the two channels of trade do not differ significantly, such that we would consider these channels to be separate marketing stages, we determine that all U.S. sales are at the same LOT.

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<sup>43</sup> See Dillinger's Second Sections B and C Supplemental Response (SBC2QR), dated October 20, 2016, at Appendix SA-17.

<sup>44</sup> While Dillinger reported performing inventory maintenance only for certain home market sales made by its affiliated service centers, we find that this difference alone is insufficient to find that Dillinger's channel two sales in the home market are at a different LOT.

<sup>45</sup> See Dillinger's QRA Response at A-19 to A-20, and at Appendix 9; and Dillinger's SQRA Response at Appendix S-2.

<sup>46</sup> See Dillinger's SBC2QR at Appendix SA-17.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Dillinger performed for its U.S. and home market customers do not differ significantly. Therefore, we preliminarily determine that sales to the United States and home market during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

### Salzgitter

In the home market, Salzgitter reported that it made sales through five channels of distribution, *i.e.*, sales from the mill; sales from the mill through affiliated resellers; sales by affiliated resellers from their inventory; sales by affiliated resellers of material that are further processed (channel 4 sales); and sales that were further manufactured into non-subject merchandise. According to Salzgitter, it performed the following selling functions for sales to all home market customers: sales promotion and marketing, sales forecasting, solicitation of bids and orders, arranging for freight and delivery, inventory maintenance, product claim processing, provision of technical advice and service, quality control support, order processing and invoicing, and customer service.<sup>47</sup> Salzgitter states that sales by its affiliated resellers that are further processed constitute a more advanced level of trade than sales through the other four channels because Salzgitter performs the following selling activities at a high level of intensity for channel 4 sales and a low or medium intensity for sales through other channels: sales promotion and marketing, product claim processing, provision of technical advice and service, quality control support, order processing and invoicing, and inventory maintenance.<sup>48</sup>

As noted above, selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Salzgitter performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for all of its home market sales. Salzgitter claims that it performed sales promotion and marketing, inventory maintenance and warehousing, and warranty and technical support functions at a higher level of intensity for channel 4 sales than for other home market sales. However, we find that the information Salzgitter provided does not demonstrate that it performed each of these activities at a significantly higher intensity level for channel 4 sales.<sup>49</sup> Accordingly, because we find that there were no significant differences in selling activities performed by Salzgitter to sell to its home market customers, we determine that there is one LOT in the home market for Salzgitter.<sup>50</sup>

With respect to the U.S. market, Salzgitter reported that it made sales through three channels of trade, *i.e.*, EP sales from the mills through SMID or affiliated resellers; CEP sales made through Salzgitter's U.S. affiliate, Salzgitter Mannesmann International (USA) Inc. (SMIH); and CEP

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<sup>47</sup> See Salzgitter's Section A Response, at pages A-20 – A-21 and Exhibit A-3-c; and Salzgitter Section B Response, dated July 15, 2016 (Salzgitter Section B Response) at pages B-41 – B-42.

<sup>48</sup> See Salzgitter's Second Sections B and C Supplemental Questionnaire Response, dated October 12, 2016 (Salzgitter SQRBC2) at pages 3 – 6 and Exhibit 2<sup>nd</sup> Supp. BC-2.

<sup>49</sup> *Id.*

<sup>50</sup> As discussed further below, we are not including channel 4 sales in the calculation of NV for the preliminary determination.

sales through Salzgitter's joint venture affiliate BSPC that were further manufactured into pipe after importation.<sup>51</sup> Salzgitter reported that it performed the following selling functions at low-to-medium intensity for its EP sales: sales promotion and marketing, sales forecasting, solicitation of bids and orders, arranging for freight and delivery, product claim processing, provision of technical advice and service, order processing and invoicing, and customer service.<sup>52</sup> With respect to CEP sales, Salzgitter reported that it performed the following selling functions at low intensity in Germany for sales to U.S. customers: order processing and invoicing, and arranging for freight and delivery.<sup>53</sup>

Accordingly, based on the selling function categories noted above, we find that Salzgitter performed sales and marketing, freight and delivery services, and warranty and technical support for its EP sales. With respect to CEP sales, we find that Salzgitter performed a limited amount of sales and marketing, and freight and delivery services. The performance of the selling functions by Salzgitter for EP sales (channel 1) were of a broader range and higher level of intensity than the selling functions performed by Salzgitter in Germany for CEP sales (channel 2), and are sufficient to determine that Salzgitter's EP sales were at a more advanced LOT than its CEP sales. Accordingly, based on the totality of the facts and circumstances, we preliminarily determine that Salzgitter made sales at two LOTs in the U.S. market.

Finally, we compared the U.S. LOTs to the home market LOT, and found that the selling functions Salzgitter performed for its EP and home market customers do not differ significantly. Therefore, we preliminarily determine that sales to the home market during the POI were made at the same LOT as EP sales to the United States, and, thus, a LOT adjustment is not warranted. With respect to the U.S. LOT for CEP sales, we compared that LOT to the home market LOT and found that the selling functions Salzgitter performed for its home market customers are more advanced than those performed for its CEP sales. That is, there is a broader range of selling functions performed in the home market than for CEP sales in the U.S. market, and these functions are performed at a higher level of intensity than for the CEP sales in the U.S. market. Thus, we preliminarily determine that Salzgitter's U.S. CEP LOT is different from the home market LOT.<sup>54</sup> Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POI were made at a different LOT than CEP sales to the United States. Additionally, because Salzgitter's home market LOT is at a more advanced stage of distribution than its U.S. CEP LOT and no LOT adjustment is possible, a CEP offset is warranted. Accordingly, we granted a CEP offset pursuant to section 773(a)(7)(B) of the Act.

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<sup>51</sup> See Salzgitter's Section A Response at pages A-19 – A-20; and Salzgitter Section C Response at pages C-27 – C-28.

<sup>52</sup> See Salzgitter's Section A Response at Exhibit A-3-c; and Salzgitter SQRBC2 at pages 7 – 8 and Exhibit 2<sup>nd</sup> Supp. BC-3.

<sup>53</sup> *Id.*

<sup>54</sup> See, e.g., Welded Line Pipe From the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 80 FR 29620 (May 22, 2015), and accompanying Preliminary Decision Memorandum at page 16; unchanged in Welded Line Pipe From the Republic of Korea: Final Determination of Sales at Less Than Fair Value, 80 FR 61366 (October 13, 2015).

## 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 information on sales at less than COP.<sup>55</sup> The 2015 law does not specify dates of application for those amendments.<sup>56</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 in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>57</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 CV and COP information from respondent companies in all AD proceedings.<sup>58</sup> Accordingly, the Department requested this information from Dillinger and Salzgitter. We examined Dillinger's and Salzgitter'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 (G&A) expenses and interest expenses.

We relied on the COP data submitted by the respondents, except as follows:<sup>59</sup>

#### Dillinger

- We adjusted Dillinger's cost of non-prime CTL plate to reflect the values recorded in Dillinger's normal books and records, and then reallocated the cost differences to prime merchandise;
- We increased Dillinger's reported per-unit cost of manufacturing to account for the below market value transfer price of blast furnace coke purchased by Dillinger from an affiliated party;

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<sup>55</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>56</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>57</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>58</sup> Id., 80 FR at 46794-95.

<sup>59</sup> See Memorandum from Heidi K. Schriefer to Neal M. Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Dillinger Huttenwerke," dated November 4, 2016. See also Salzgitter COP Calculation Memorandum.

- We increased Dillinger’s G&A expense ratio to account for the below market value G&A services provided by an affiliated party; and
- We applied the revised G&A expense ratio and the reported financial expense ratio to the revised per-unit costs of manufacturing, net of the blast furnace coke transfer price adjustment.
- For CONNUMs reported in the home market data file for which Dillinger did not provide cost information, we used the CONNUM with the highest cost that was sold during the POI as a surrogate.

### Salzgitter

- We adjusted the cost of MGB’s non-prime CTL plate to reflect the values recorded in the company’s normal books and records, and then reallocated the cost differences to prime merchandise;
- We revised ILG’s G&A expense ratio to correct errors identified in the denominator of the ratio calculation;
- We revised the G&A expenses reported by MGB, ILG, and SZFG to fully account for their parent company’s G&A expenses; and
- After making the above-referenced adjustments, we weight averaged the three company-specific cost files and applied the reported consolidated financial expense ratio to the weight-averaged total cost of manufacturing.
- We revised the scrap offset reported in BSPC’s further manufacturing database to eliminate a double-counting of the offset and to reflect the scrap quantities generated rather than scrap quantities sold.
- We adjusted the denominator to BSPC’s general and administrative (G&A) expense ratio to exclude outbound freight costs and to include the adjusted total scrap offset.
- We revised BSPC’s financial expense ratio to reflect the highest level of consolidated financial statements in which BSPC’s results are included.
- We revised BSPC’s G&A and financial expenses to apply the ratios to the adjusted further manufacturing costs of each product plus the COP of the underlying CTL plate.

## 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 Dillinger's and Salzgitter'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*

##### Dillinger

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, early payment discounts, and rebates, in accordance with 19 CFR 351.401(c). Additionally, we made a deduction from the starting price for inland freight expenses and inland insurance under section 773(a)(6)(B)(ii) of the Act.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. We made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, commissions, bank charges, and credit expenses, made an adjustment for late payment fees charged to the customer, and added U.S. direct selling expenses, *i.e.*, commissions and credit expenses. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or the United States where commissions were granted on sales in one market but not in the other, also known as the "commission offset." Specifically, where commissions were incurred in only one market, we limited the amount of such allowance to the amount of either the indirect selling

expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

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>60</sup> Furthermore, we made additional adjustments to certain data in Dillinger's home market sales database because of inconsistencies in the data.<sup>61</sup>

### Salzgitter

We calculated NV based on delivered prices to unaffiliated customers. We made adjustments, where appropriate, from the starting price for billing adjustments, freight revenue, discounts, and rebates in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight (offset by freight revenue) and warehousing expenses, where appropriate, under section 773(a)(6)(B)(ii) of the Act. We capped freight revenue by the amount of inland freight expenses incurred on home market sales, in accordance with our practice, as discussed above under "Export Price/Constructed Export Price" section of this memorandum, above.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, commissions, bank charges, and credit expenses, made an adjustment for late payment fees charged to the customer, and added U.S. direct selling expenses, *i.e.*, repacking expenses, commissions, credit expenses, and certain other expenses.<sup>62</sup> We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or the United States where commissions were granted on sales in one market but not in the other, also known as the "commission offset." Specifically, where commissions were incurred in only one market, we limited the amount of such allowance to the amount of either the indirect selling expenses incurred in the one market or the commissions allowed in the other market, whichever was less.

As noted above, Salzgitter sold a negligible quantity of CTL plate in the United States manufactured by an unaffiliated producer, which we excluded from our analysis. We also excluded the sales of CTL plate made in the home market produced by an unaffiliated party from our analysis.<sup>63</sup>

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<sup>60</sup> See 19 CFR 351.411(b).

<sup>61</sup> See Dillinger Preliminary Analysis Memorandum.

<sup>62</sup> Salzgitter requested proprietary treatment for the identification of these expenses. See Salzgitter Section C response at page C-58.

<sup>63</sup> See Salzgitter Preliminary Analysis Memorandum.

Salzgitter reported that it made commission payments to an affiliated party.<sup>64</sup> Because Salzgitter was unable to demonstrate that these commissions were made at arm's length, we recalculated these commissions to base them on the affiliate's costs.<sup>65</sup> Furthermore, we made additional adjustments to certain data in Salzgitter's home market sales database because of inconsistencies in the data.<sup>66</sup>

For comparisons to CEP sales, we deducted home market credit expenses, commissions, and certain other direct selling expenses, pursuant to 773(a)(6)(C) of the Act. We capped our deduction for home market commissions by the amount of U.S. indirect selling expenses. 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 lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

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>67</sup>

#### F) *Price-to-Constructed Value Comparison*

For Salzgitter, where we were unable to find a home-market match of identical or similar merchandise, we based normal value on CV in accordance with section 773(a)(4) of the Act. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the respondent's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Calculation of Cost of Production" section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Salzgitter in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

For comparisons to Salzgitter's EP sales, we made circumstances-of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses, to CV, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We also made a commission offset, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or the United States where commissions were

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<sup>64</sup> See Salzgitter Section B Response at page B-52 and Salzgitter Preliminary Analysis Memorandum.

<sup>65</sup> See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From France, 71 FR 6269 (February 2, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>66</sup> See Salzgitter Preliminary Analysis Memorandum for further discussion of these adjustments.

<sup>67</sup> See 19 CFR 351.411(b).

granted on sales in one market but not in the other. We made no CV comparisons to Salzgitter's CEP sales.

**X. CURRENCY CONVERSION**

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

**XI. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

4 NOVEMBER 2016  
Date