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Investigation  
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DATE: February 22, 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  
Antidumping Duty Investigation of Heavy Walled Rectangular  
Welded Carbon Steel Pipes and Tubes from Mexico

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## **I. SUMMARY**

The Department of Commerce (the Department) preliminarily determines that heavy walled rectangular welded carbon steel pipes and tubes (HWR pipes and tubes) from Mexico are being, or are likely to be, sold in the United States at less-than-fair-value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying Federal Register notice.

## **II. BACKGROUND**

On July 21, 2015, the Department received an antidumping duty (AD) petition covering imports of HWR pipes and tubes from Mexico,<sup>1</sup> which was filed in proper form by Atlas Tube, a division of JMC Steel Group; Bull Moose Tube Company; EXLTUBE; Hannibal Industries, Inc.; Independence Tube Corporation; Maruichi American Corporation; Searing Industries; Southland Tube; and Vest, Inc. (collectively, the petitioners). The Department initiated this investigation on August 10, 2015.<sup>2</sup>

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<sup>1</sup> See Petitions for the Imposition of Antidumping Duties on Imports of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from South Korea, Mexico, and Turkey; and Countervailing Duties on Imports from Turkey, dated July 21, 2015 (the Petition).

<sup>2</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations, 80 FR 49202 (August 17, 2015) (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 August 19, 2015, 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. On August 24, 2015, we received comments from Productos Laminados de Monterrey S.A. de C.V. (Prolamsa), a producer/exporter of HWR pipes and tubes from Mexico.<sup>4</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 HWR pipes and tubes to be reported in response to the Department's AD questionnaire.<sup>5</sup> No parties submitted comments on the scope of this investigation within the allotted timeframe. However, subsequently, we received comments from Prolamsa and Maquilacero S.A. de C.V. (Maquilacero), another Mexican producer/exporter of HWR pipes and tubes, requesting that the Department find HWR pipes and tubes which are "further advanced" to be outside the scope.<sup>6</sup> For further discussion, see the "Scope Comments" section, below.

On September 4, 2015, 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. Accordingly, we selected Maquilacero and Prolamsa and issued the AD questionnaires to them.<sup>7</sup>

On September 8, 2015, Prolamsa submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. On September 10, 2015, the petitioners and Dong A-Steel Company (i.e., a respondent in the companion AD investigation on HWR pipes and tubes from Korea) filed rebuttal comments.

On September 11, 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 HWR pipes and tubes from Mexico.<sup>8</sup>

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<sup>3</sup> See Initiation Notice, at 49206.

<sup>4</sup> See Letter from Prolamsa, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico – Respondent Selection Comments," dated August 24, 2015.

<sup>5</sup> See Initiation Notice, at 49204.

<sup>6</sup> See Prolamsa's Section A response dated October 13, 2015 (Prolamsa Section A response), at A-14; and Maquilacero's December 1, 2015, submission, at 4-5.

<sup>7</sup> See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection for the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Mexico," dated September 4, 2015 (Respondent Selection Memo).

<sup>8</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea, Mexico, and Turkey: Determinations, 80 FR 54802 (September 11, 2015). See also the Memorandum to the File from Whitley Herndon, Analyst, entitled, "Placing the International Trade Commission Preliminary Report on the record for the Anti-Dumping Investigations of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea, Mexico, and Turkey, and the Countervailing Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey," dated February 10, 2016 (ITC Preliminary Report).

In October 2015, Maquilacero and Prolamsa submitted timely responses to section A of the Department's AD questionnaire (i.e., the section relating to general information). In October and November 2015, we issued supplemental section A questionnaires to Prolamsa and Maquilacero, respectively. We received timely responses in November 2015.

In November 2015, Maquilacero and Prolamsa 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). In this same month, 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 February 16, 2016.<sup>9</sup>

From November 2015 through February 2016, we issued additional supplemental questionnaires to Maquilacero and Prolamsa, and we received responses to these supplemental questionnaires during the same time period.

In January, as explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary determination of this investigation is now February 22, 2016.<sup>10</sup>

In February 2016, Maquilacero, Prolamsa, and the petitioners requested that the Department postpone the final determination.<sup>11</sup> Maquilacero and Prolamsa also requested that provisional measures be extended.<sup>12</sup>

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

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<sup>9</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 80 FR 76269 (December 8, 2015).

<sup>10</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm Jonas," dated January 27, 2016.

<sup>11</sup> See letter from Prolamsa entitled, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Request to Postpone the Final Determination," dated February 5, 2016; and letter from Maquilacero entitled, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico; Maquilacero S.A. de C.V.'s Request for Postponement of Final Determination," dated February 11, 2016 (collectively, "Prolamsa and Maquilacero Final Postponement Requests"). See also letter from the petitioners, entitled, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Request to Extend Final Determination," dated February 4, 2016.

<sup>12</sup> See Prolamsa and Maquilacero Final Postponement Requests.

### III. PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2014, through June 30, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was July 2015.<sup>13</sup>

### IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on February 5 and 11, 2016, respectively, Prolamsa and Maquilacero requested that the Department postpone the final determination, and that provisional measures be extended.<sup>14</sup>

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because 1) our preliminary determination is affirmative, 2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and 3) no compelling reasons for denial exist, we are granting the respondents' requests and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the Federal Register, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

### V. SCOPE COMMENTS

As noted in the Initiation Notice, we set aside a period of time for parties to raise issues regarding product coverage.<sup>15</sup> On October 13, 2015, we received comments from Prolamsa in the context of its response to section A of the questionnaire.<sup>16</sup> In these comments, Prolamsa requested that the Department find that two types of HWR products are outside the scope of this investigation. Specifically, Prolamsa stated that it produces custom-designed, specially-produced parts and components dedicated for use in products made by one of its original equipment manufacturer (OEM) customers. These "parts" are made from HWR pipes and tubes that are either: 1) laser cut, perforated, and/or bent; or 2) cut to short lengths. Prolamsa argued that the products in the first category are not tubes because they undergo extensive further manufacturing.<sup>17</sup> Prolamsa asserted that the products in the second category could not be sold to distributors or other end uses as tubes due to their short length; however, it acknowledged that, because the parts were not manufactured beyond cutting, they might be considered tubes.<sup>18</sup>

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

<sup>14</sup> See Prolamsa and Maquilacero Final Postponement Requests.

<sup>15</sup> See Initiation Notice, at 49203; see also Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27323 (May 19, 1997).

<sup>16</sup> See Prolamsa Section A response, at A-14.

<sup>17</sup> See Prolamsa's Sections B and C response dated November 2, 2015 (Prolamsa Section BC response), at B-2; see also Prolamsa's supplemental Sections A and B response (Prolamsa Section AB Supp response) dated December 21, 2015, at 3.

<sup>18</sup> See Prolamsa's Section A response, at A-14. See also Prolamsa's Section AB Supp response, at 4.

Prolamsa noted that the scope stated in the Petition originally excluded HWR pipes and tubes which are not “threaded or further advanced,” but the petitioners removed this exclusion before the initiation of the investigation. According to Prolamsa, the Department should not have to guess what the petitioners intended by this language, and it requested that the Department require the petitioners to provide a clear, workable explanation of the scope as it relates to “further advanced” products.<sup>19</sup>

On December 1, 2015, we received a similar request from Maquilacero.<sup>20</sup> In its request, Maquilacero stated that it sold a small quantity of HWR pipes and tubes to an affiliated company which further worked the products by cutting holes in them and/or cutting them to size, cleaning, and deburring them.<sup>21</sup> According to Maquilacero, these products are not subject merchandise because they are “advanced,” and, thus, it asked that the Department reconsider its request that Maquilacero include sales of these products in its home market sales listing.<sup>22</sup>

On December 2, 2014, the petitioners objected to Maquilacero’s request, noting that Maquilacero is mistaken about the scope of the investigation.<sup>23</sup> The petitioners point out that they deleted the language cited by respondents from the scope prior to the initiation of the investigation, and the Department accepted the revised scope in the Initiation Notice.<sup>24</sup> Thus, the petitioners requested that the Department require Maquilacero to report the sales in question.

We considered the requests noted above, as well as the petitioners’ responsive comments. While the Department does have the authority to define or clarify the scope of an investigation, the Department must exercise this authority in a manner which reflects the intent of the petition, and the Department generally should not use its authority to define the scope of an investigation in a manner that would thwart the statutory mandate to provide the relief requested in the petition.<sup>25</sup> Thus, absent an overarching reason to modify the scope in the petition, the Department accepts the scope as it is currently written.<sup>26</sup> Consequently, we made no change to the scope with

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<sup>19</sup> See Prolamsa’s Section AB Supp response, at 5. In this submission, Prolamsa also claims that the ITC did not consider OEMs that manufacture these types of products to be part of the HWR pipes and tubes industry. Id., at 7.

<sup>20</sup> See Maquilacero’s December 1, 2015, submission, at 4-5.

<sup>21</sup> Id.

<sup>22</sup> Id., at 5.

<sup>23</sup> See the petitioner’s December 2, 2015, submission, at 1-2.

<sup>24</sup> Id.

<sup>25</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products From Canada, 67 FR 15539 (April 2, 2002), and accompanying Issues and Decision Memorandum under Scope Issues (after Comment 49).

<sup>26</sup> Id.; see also Circular Welded Austenitic Stainless Pressure Pipe from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 73 FR 51788, 51789 (September 5, 2008), unchanged in Circular Welded Austenitic Stainless Pressure Pipe from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 4913 (January 28, 2009); Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium from the Russian Federation, 66 FR 49347 (September 27, 2001), and accompanying Issues and Decision memorandum, at Comment 12; and Mitsubishi Heavy Industries, Ltd. v. United States, 986 F. Supp. 1428, 1433-34 (CIT 1997).

respect to cut-to-length products, as well as HWR sold as “parts” because: 1) these products are clearly within the scope; and 2) the petitioners intended that these products be covered. We further note that this determination is consistent with the definition of the domestic like product for the HWR pipe and tubes industry, which includes “all HWR within the scope of the investigation.”<sup>27</sup>

## VI. DISCUSSION OF THE METHODOLOGY

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Maquilacero’s and Prolamsa’s sales of the subject merchandise from Mexico to the United States were made at LTFV, the Department compared the export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the “Export Price/Constructed Export Price,” and “Normal Value” sections of this memorandum.<sup>28</sup>

### 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 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 less-than-fair-value 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 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>29</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

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<sup>27</sup> See ITC Preliminary Report, at 7 and 8.

<sup>28</sup> In comments dated February 11, 2016, the petitioners requested that the Department base EP, CEP, and NV on theoretical rather than actual weights. See letter from the petitioners entitled, “Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Petitioners’ Pre-Preliminary Comments,” dated February 11, 2016. For the preliminary determination, we are comparing NVs with EPs and CEPs reported based on actual weight because we find this yields the most accurate results. See the Memorandum to the File from Blaine Wiltse, Senior Analyst, entitled, “Preliminary Determination Calculations for Maquilacero S.A. de C.V. (Maquilacero),” dated February 22, 2016 (Maquilacero Prelim Calc Memo), at 2; and the Memorandum to the File from David Crespo, Senior Analyst, entitled, “Preliminary Determination Calculations for Productos Laminados de Monterrey S.A. de C.V. (Prolamsa),” dated February 22, 2016 (Prolamsa Prelim Calc Memo).

<sup>29</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); and Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015).

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 consolidated customer codes reported by Maquilacero and Prolamsa. Regions are defined using the reported destination code (*i.e.*, zip code) 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 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 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*

##### Maquilacero

For Maquilacero, based on the results of the differential pricing analysis, the Department preliminarily finds that 78.37 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>30</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 there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Maquilacero.

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<sup>30</sup> See Maquilacero Prelim Calc Memo, at 1-2.

## Prolamsa

For Prolamsa, based on the results of the differential pricing analysis, the Department preliminarily finds that 67.92 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>31</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 there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Prolamsa.

## **VII. DATE OF SALE**

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>32</sup>

Maquilacero and Prolamsa reported the date of sale for all home market sales as the earlier of the date of shipment from the factory, or the date of invoice to the unaffiliated customer.<sup>33</sup> With respect to the U.S. market, Maquilacero reported the date of invoice to the first unaffiliated customer as the date of sale for all of its U.S. sales, while Prolamsa reported the earlier of the date of shipment or the date of invoice.<sup>34</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>35</sup> Therefore, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale in both markets, in accordance with our practice.<sup>36</sup>

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<sup>31</sup> See Prolamsa Prelim Calc Memo.

<sup>32</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>33</sup> See Maquilacero's Response to Sections B and C of the Questionnaire, dated November 2, 2015 (Maquilacero's Sections B and C Response), at B-19; Prolamsa's Section BC response, at B-20; and Prolamsa's Section A supplemental response, dated November 6, 2015 (Prolamsa Supp A response), at 7.

<sup>34</sup> See Maquilacero's Sections B and C Response, at C-15; Prolamsa Section BC response, at C-15; and Prolamsa Supp A response, at 7.

<sup>35</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>36</sup> Id.

## VIII. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents, Maquilacero and Prolamsa, in Mexico 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 comments dated September 4, 2015, Prolamsa submitted comments on the appropriate physical characteristics of HWR pipes and tubes to be reported in response to the Department’s AD questionnaire.<sup>37</sup> In these comments, Prolamsa argued that the Department should distinguish between HWR products, such as cut-to-length HWR, which are further processed after initially being placed into finished goods inventory. According to Prolamsa, the finishing processes for this merchandise are performed using different machinery at significantly higher processing costs.<sup>38</sup> Further, Prolamsa maintains that further-processed products are clearly different in a commercial sense because they cannot be used in most typical HWR pipe and tube applications. Prolamsa proposed putting the further processing criterion fifth in the product matching hierarchy.<sup>39</sup>

On September 10, 2015, the petitioners responded to Prolamsa’s product matching comments.<sup>40</sup> In these comments, the petitioners disagreed that further processing results in meaningful commercial differences that need to be addressed in the product matching criteria.<sup>41</sup> However, the petitioners argued that, if the Department includes a further manufacturing characteristic, this characteristic should be at the bottom of the matching hierarchy because of its relative unimportance.<sup>42</sup>

After evaluating these comments, the Department did not initially include further manufacturing status as part of its product matching hierarchy, and, thus, we did not solicit information from respondents as to whether in-scope products underwent further processing prior to sale in our AD questionnaire. Nonetheless, Prolamsa provided information in its initial questionnaire response to identify products which had been further manufactured and those which had not.<sup>43</sup> In

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<sup>37</sup> See letter from Prolamsa entitled, “Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Comments on Product Characteristics,” dated September 4, 2015.

<sup>38</sup> *Id.*, at 6-7.

<sup>39</sup> *Id.*, at 7.

<sup>40</sup> See letter from the petitioners entitled, “Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Rebuttal Comments on Product Characteristics,” dated September 10, 2015.

<sup>41</sup> *Id.*, at 3-4.

<sup>42</sup> *Id.*, at 3.

<sup>43</sup> See Prolamsa Section BC response, at B-15; and Prolamsa’s Section D response dated November 6, 2015, at D4-D6.

response to a supplemental questionnaire, Prolamsa also described its further manufactured products in more detail and addressed why it believed that these products were not similar to standard HWR pipes and tubes.<sup>44</sup> Specifically, Prolamsa asserted that the products fall into two categories: 1) parts which are custom-designed, specially-produced parts which are laser cut, perforated, and/or bent using dedicated production machinery; and 2) parts which are cut to a short length.<sup>45</sup> Prolamsa characterized the further processing of the parts in the former category as “extensive,” and the further processing as “less” in the latter category.<sup>46</sup> In both cases, however, Prolamsa stated that the parts were dedicated to the production of a particular customer’s products and could not be sold to other OEMs as a result.<sup>47</sup> Prolamsa further noted that the prices for these parts were significantly higher than the prices for the HWR pipes and tubes from which they were made.<sup>48</sup>

We reviewed the information on the record with respect to parts, and we disagree with Prolamsa that cut-to-length products are so different from standard HWR that they should be treated differently in our analysis. These products appear to be the same as other, more “standard” HWR pipes and tubes, just cut to shorter lengths. Therefore, we preliminarily find it unnecessary to modify our existing product hierarchy to account for differences in products cut to different lengths. With respect to the remaining parts, however, after further consideration, we preliminarily find that these parts are commercially different from other types of in-scope merchandise with respect to their physical characteristics (*e.g.*, bending, perforating, etc.), and these differences result in significant differences in the pricing and cost structures of the products.

Therefore, in making product comparisons, where possible, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: steel input type, quality, metallic coating, painted, perimeter, wall thickness, scarfing, shape, and further processing.<sup>49</sup>

We invite interested parties to comment on this decision, and will take comments received on this topic into consideration in our final determination.

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<sup>44</sup> See Prolamsa’s Section AB Supp response, at 3-4.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*, at 4 and 6.

<sup>48</sup> *Id.*, at 6.

<sup>49</sup> Maquilacero indicated that one of its affiliates made a very small number of downstream sales of parts during the POI. See Maquilacero’s Downstream Sales response, dated December 21, 2015 (Maquilacero’s Downstream Sales Response), at 7. However, Maquilacero did not report its sales and cost information for parts and non-parts in a manner which would permit us to accurately apply the revised product matching hierarchy noted above. Because collecting additional information from Maquilacero would be administratively burdensome and these sales represent less than one percent of Maquilacero’s other sales in the home market, we excluded them from our analysis.

## **IX. EXPORT PRICE/CONSTRUCTED EXPORT PRICE**

We used EP for all sales made by Maquilacero, in accordance with section 772(a) of the Act, because the merchandise under consideration 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. We used CEP methodology for all of Prolamsa's sales, 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 the producer and EP methodology was not otherwise indicated.

### Maquilacero

We calculated the EP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for discounts, rebates, and billing adjustments. In certain instances, the value of Maquilacero's reported U.S. rebates differed from the amounts stated in the narrative of Maquilacero's questionnaire response. In those instances, we adjusted the reported amounts to base them on the figures contained in the written description.<sup>50</sup>

We also made adjustments, where appropriate for movement expenses (e.g., foreign inland freight, foreign brokerage and handling expenses, and international freight), in accordance with section 772(c)(2)(A) of the Act.

### Prolamsa

We calculated CEP based on packed, and either delivered or ex-works prices to unaffiliated purchasers in the United States. We made deductions, from the starting price, where appropriate, for discounts and billing adjustments. We also made adjustments, where appropriate, for foreign inland freight expenses from the factory to the customer, foreign inland freight expenses from the factory to the warehouse, foreign brokerage and handling expenses, insurance, U.S. inland freight from the warehouse to the customer, U.S. brokerage and handling expenses, in accordance with section 772(c)(2)(A) of the Act.

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 (commissions and imputed credit expenses) and indirect selling expenses (inventory carrying costs and other indirect selling expenses). Finally, we made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Prolamsa and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

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<sup>50</sup> See Maquilacero Prelim Calc Memo, at 3.

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

As noted above, we disregarded Maquilacero's home market sales of "parts" for purposes of this segment of the proceeding because: 1) these sales constitute an insignificant portion of the company's home market sales; and 2) there is insufficient information on the record with respect to these sales to permit accurate product comparisons. For further discussion, see the "Product Comparisons" section, above.

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

During the POI, Maquilacero and Prolamsa made sales of 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, rebates, 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>51</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>52</sup>

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<sup>51</sup> See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186 (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>52</sup> See section 771(15) of the Act and 19 CFR 351.102(b)(35).

With respect to Prolamsa, sales of foreign like product to Prolamsa's affiliated distributors failed the arm's-length test. Therefore, Prolamsa reported its home market sales by these distributors, and we used Prolamsa's reported downstream home market sales data for these affiliates in our calculations for the preliminary determination.

Maquilacero reported sales to three affiliated resellers during the POI, two of which failed the arm's-length test. As noted above, although we collected the downstream sales data for one of these companies, we are not using these sales in our analysis. Regarding the second affiliate, we did not require this company to report its downstream sales information based on record evidence that all of its downstream sales were of non-prime merchandise.<sup>53</sup> Because sales to the third affiliate passed the arm's-length test, we included these sales in our analysis, rather than the affiliate's downstream sales.

### 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>54</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>55</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>56</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>57</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 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 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>53</sup> See Maquilacero's letter entitled, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico; Maquilacero S.A. de C.V.'s Request to Not Report Downstream Sales," dated December 1, 2015, at 2-4.

<sup>54</sup> See 19 CFR 351.412(c)(2).

<sup>55</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) (OJ from Brazil), and accompanying Issues and Decision Memorandum, at Comment 7.

<sup>56</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>57</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>58</sup>

In this investigation, we obtained information from Maquilacero and Prolamsa regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by the respondent for each channel of distribution.<sup>59</sup> Our LOT findings are summarized below.

### Maquilacero

In the home market, Maquilacero reported that it made sales through one channel of distribution (*i.e.*, direct sales to distributors and end users).<sup>60, 61</sup> According to Maquilacero, it performed the following selling functions for sales to its distributors and end user customers in the home market: sales forecasting; strategic/economic planning; advertising; sales promotion; packing; inventory maintenance; order input/processing; employment of direct sales personnel; performing market research; providing cash discounts, early payment discounts, and rebates; providing freight and delivery; traveling to customer locations; making collections; paying commissions, training/exchanging personnel; training distributors/dealers; sales/marketing support, and providing technical assistance.<sup>62</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 Maquilacero performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for its home market sales. Because we find that there were no differences in selling activities performed by Maquilacero to sell to its home market customers, we determine that there is one LOT in the home market for Maquilacero.

With respect to the U.S. market, Maquilacero reported that it made sales through one channel of distribution (*i.e.*, direct sales to its U.S. customers).<sup>63</sup> Maquilacero reported that it performed the following selling functions in Mexico for its EP sales: sales forecasting; strategic/economic planning; advertising; sales promotion; packing; inventory maintenance; order input/processing;

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<sup>58</sup> See, e.g., OJ from Brazil, at Comment 7.

<sup>59</sup> See Maquilacero's Section A response, dated October 13, 2015 (Maquilacero's Section A Response), at A-14 through A-18; Maquilacero's Supplemental Section A response, dated November 19, 2015, at 7-10; and Maquilacero's Downstream Sales Response, at Exhibit SB2-6.

<sup>60</sup> See Maquilacero's Sections B and C Response, at B-31.

<sup>61</sup> Maquilacero reported that downstream sales through an affiliated reseller were made through a different channel of distribution than its direct sales to distributors and end users in the home market. See Maquilacero's Downstream Sales Response, at B-16, B-25, and Exhibit SB2-6. However, as noted above, we are not including these downstream sales in our analysis. Therefore, we are not addressing Maquilacero's claim that these sales were made at a different LOT here.

<sup>62</sup> See Maquilacero's Downstream Sales Response, at Exhibit SB2-6.

<sup>63</sup> See Maquilacero's Section A Response, at A-15; and Maquilacero's Sections B and C response, at C-15.

employment of direct sales personnel; market research; providing cash discounts and early payment discounts; providing freight and delivery, traveling to customer locations, making collections, paying commissions; training distributors/dealers, sales/marketing support; and providing technical assistance.<sup>64</sup> Based on these selling function categories, we find that Maquilacero performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for its U.S. sales. Because we find that there were no differences in selling activities performed by Maquilacero to sell to its U.S. customers, we determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Maquilacero performed for its U.S. and home market customers are not significantly different. 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.

### Prolamsa

In the home market, Prolamsa reported that it made sales through four channels of distribution (i.e., direct sales to unaffiliated customers from the factory (channel 1), sales to unaffiliated customers from the warehouse (channel 2), sales by affiliated resellers (channel 3), and sales of custom-designed parts to OEMs (channel 4)).<sup>65</sup> Prolamsa classified sales in the first three channels as a single LOT and sales through channel 4 a second LOT. According to Prolamsa, it performed the following selling functions to sell to all home market customers: order input/processing; inventory maintenance; providing technical assistance; and after sale service for quality; sales promotion; attending industry events; market research; arranging for delivery; and employing in-house sales personnel.

Prolamsa reported that it also performed the following additional selling activities with respect to home market sales in channel 4: designing of special order products; qualification of the company's production operations; and just-in-time delivery.<sup>66</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 Prolamsa and its affiliates performed sales and marketing, inventory maintenance and warehousing, and warranty and technical support for its home market sales made through all sales channels. We further find that Prolamsa and its affiliates offered freight and delivery for all sales channels except channel 3.

Although Prolamsa reported differences in certain selling activities for customers in channel 4, we do not find these selling functions to be significantly different from those performed for its sales to customers in the other channels, such that they would constitute a different marketing stage. Moreover, we disagree with some of Prolamsa's claims that certain of its activities relate

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<sup>64</sup> See Maquilacero's Downstream Sales Response, at Exhibit SB2-6.

<sup>65</sup> See Prolamsa Section A response, at A-14.

<sup>66</sup> Id., at Exhibit A-10; and Prolamsa Supp A response, at 2-6.

to selling; rather, we find that these relate to production. Therefore, we preliminarily determine that sales to the home market during the POI were made at a single LOT.

With respect to the U.S. market, Prolamsa reported that it made sales to its U.S. affiliate, Prolamsa Inc. through two channels of distribution (*i.e.*, sales to Prolamsa Inc. which were shipped directly to Prolamsa Inc.'s unaffiliated US customers from the factory (channel 1) and sales shipped to Prolamsa Inc. itself (channel 2)).<sup>67</sup> Prolamsa reported that it performed the following selling functions in Mexico for both sales channels: preparing sales promotion materials; attending industry events; preparing market research, employing in-house sales personnel, arranging freight and delivery; and retaining external sales agents.<sup>68</sup> Based on the selling function categories noted above we find that Prolamsa performed sales and marketing, freight and delivery, and inventory maintenance and warehousing for its U.S. sales in both channels. Because we find that there were no significant differences in selling activities performed by Prolamsa to sell to Prolamsa Inc., we determine that all U.S. sales are at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT, and found that the types of selling functions Prolamsa performed for its home market customers are not significantly different from those performed for its sales to its U.S. affiliate, Prolamsa Inc., such that they would constitute a different marketing stage. Therefore, we preliminarily determine that sales to the home market during the POI were not made at a different LOT than sales to the United States. Because Prolamsa's home market LOT is not at a more advanced stage of distribution than Prolamsa's U.S. LOT, a CEP offset is not warranted.

#### 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,<sup>69</sup> 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 cost of production. The TPEA does not specify dates of application for those amendments. 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>70</sup> Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire had not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production information from respondent companies in all AD proceedings.<sup>71</sup> Accordingly, the Department requested this information from Prolamsa and Maquilacero. We examined Prolamsa and Maquilacero's cost data and determined that our

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<sup>67</sup> See Prolamsa Section A response, at A-13.

<sup>68</sup> *Id.*, at A-13; and Prolamsa Supp A response, at 4-5.

<sup>69</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA).

<sup>70</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>71</sup> *Id.*, at 46794-95.

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 and interest expenses.<sup>72</sup>

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

#### Prolamsa

- Prolamsa reported its costs on a theoretical weight basis. We adjusted these costs to an actual weight basis, using quantity information contained in Prolamsa's home market and U.S. sales listings.<sup>73</sup>

#### Maquilacero

- Maquilacero purchases a portion of hot-rolled coil (HRC) from an affiliated party. We adjusted Maquilacero's reported HRC cost in accordance with section 773(f)(2) of the Tariff Act of 1930 to reflect the market prices for HRC.<sup>74</sup>

### 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

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<sup>72</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

<sup>73</sup> See Prolamsa Prelim Calc Memo.

<sup>74</sup> See Memorandum from Frederick W. Mines to Neal M. Halper "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Maquilacero S.A. de C.V.," dated February 22, 2016.

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 specific products, more than 20 percent of Maquilacero’s and Prolamsa’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*

Maquilacero

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for discounts, rebates, and billing adjustments, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight under section 773(a)(6)(B)(ii) of the Act. We capped freight revenue by the amount of inland freight expenses incurred, in accordance with our practice.<sup>75</sup> In certain instances, the value of Maquilacero’s reported home market rebates differed from the amounts stated in the narrative of Maquilacero’s questionnaire response. In those instances, we adjusted the reported amounts to base them on the figures contained in the written description.<sup>76</sup>

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 for home market and U.S. credit expenses and U.S. commissions. We reclassified certain expenses that Maquilacero reported as direct home market commissions but were unrelated to particular sales as indirect selling expenses.<sup>77</sup> Further, we made no adjustment for home market commission expenses because Maquilacero failed to respond completely to the Department’s requests for information with respect to these expenses.<sup>78</sup> However, we will examine these expenses at verification and reconsider this decision in the final determination, if appropriate.

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<sup>75</sup> See e.g., 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 (Aug. 18, 2010) (OJ from Brazil).

<sup>76</sup> See Maquilacero Prelim Calc Memo, at 3.

<sup>77</sup> Id., at 2-3.

<sup>78</sup> See Maquilacero’s supplemental section B questionnaire response, dated December 14, 2015, at 26 and SB-32.

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>79</sup>

### Prolamsa

We calculated NV based on the reported packed, and either delivered or ex-works prices to home market customers. We made deductions, where appropriate, from the starting price for discounts, rebates, and billing adjustments, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight expenses from the factory to the warehouse, warehousing expenses, inland freight expenses from the factory to the customer, inland freight expenses from the warehouse to the customer, and insurance expenses, under section 773(a)(6)(B)(ii) of the Act. We capped freight revenue by the amount of inland freight expenses incurred, in accordance with our practice.<sup>80</sup>

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 CEP sales, we made deductions for home market credit expenses, pursuant to 773(a)(6)(C) of the Act.

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>81</sup>

## **XI. CURRENCY CONVERSION**

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

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<sup>79</sup> See 19 CFR 351.411(b).

<sup>80</sup> See e.g., OJ from Brazil.

<sup>81</sup> See 19 CFR 351.411(b).

**XII. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

✓  
Agree

Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

22 FEBRUARY 2016  
Date