



A-523-812
Investigation
Public Document
AD/CVDOps/II/TKS

DATE: May 31, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation of Circular Welded Carbon-
Quality Steel Pipe from the Sultanate of Oman

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that circular welded carbon-quality steel pipe (CWP) from the Sultanate of Oman (Oman) 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 October 28, 2015, the Department received an antidumping duty (AD) petition covering imports of CWP from Oman,¹ which was filed in proper form by Bull Moose Tube Company; EXLTUBE; Wheatland Tube, a division of JMC Steel Group; and Western Tube and Conduit (collectively, the petitioners). The Department initiated this investigation on November 17, 2015.²

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties: Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam, dated October 28, 2015 (the Petition).

² See Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations, 80 FR 73708 (November 25, 2015) (Initiation Notice).



In the Initiation Notice, the Department stated that it intended to examine Al Jazeera Steel Products Co. SAOG (Al Jazeera), the only exporter/producer of CWP in Oman.³ Accordingly, we issued the AD questionnaire to Al Jazeera.⁴

Also in the Initiation Notice, the Department notified parties of an opportunity to comment on the scope of this and the concurrent CWP investigations, as well as the appropriate physical characteristics of CWP to be reported in response to the Department's AD questionnaire.⁵ On December 4, 2015, the petitioners submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. On December 11, 2015, Universal Tube and Plastic Industries, Ltd., Prime Metal Corporation USA and UTP Pipe USA Corporation (collectively, Universal) (i.e., a respondent in the concurrent AD investigation on CWP from the United Arab Emirates (UAE)) filed rebuttal comments.

On December 14, 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 CWP from Oman.⁶

On February 9, 2016, International Industries Limited (i.e., a respondent in the concurrent AD and countervailing duty (CVD) investigations on CWP from Pakistan) submitted comments to the Department regarding the scope of the CWP investigations.⁷ On February 19, 2016, the petitioners also submitted comments to the Department regarding the scope of the CWP investigations.⁸

In January 2016, Al Jazeera submitted timely responses to the Department's AD questionnaire.⁹ From February 2016 through April 2016, we issued supplemental questionnaires to Al Jazeera, and we received responses to these supplemental questionnaires during the same time period.

On March 10, 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

³ See Initiation Notice, 80 FR at 73713.

⁴ See December 15, 2015, Letter from the Department to Al Jazeera.

⁵ See Initiation Notice, 80 FR at 73709-73710.

⁶ See Circular Welded Carbon-Quality Steel Pipe from Oman, Pakistan, the Philippines, the United Arab Emirates, and Vietnam, 80 FR 79093 (December 18, 2015).

⁷ See March 15, 2016, Memorandum to the File regarding Antidumping Duty Investigations of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam and Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Scope Comments.

⁸ Id.

⁹ See January 5, 2016, Section A Response (Section A Response) and January 21, 2016, Sections B-D Response.

on the request, the Department published a postponement of the preliminary determination until no later than May 31, 2016.¹⁰

On May 16, 2016, the petitioners submitted comments for the preliminary determination.¹¹

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

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is October 1, 2014, through September 30, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was October 2015.¹²

IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act and 19 CFR 351.210(b)(2)(ii), on April 28, 2016, Al Jazeera requested that the Department extend the final determination deadline, and that provisional measures be extended.^{13 14} In accordance with sections 735(a)(2)(A) and 733(d) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because 1) our preliminary determination is affirmative, 2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, 3) the requesting exporter has requested extension of provisional measures to a period not more than six months, and 4) no compelling reasons for denial exist, we are granting the respondent's request 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.

¹⁰ See Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 81 FR 15039 (March 21, 2016). 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. 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.

¹¹ See Letter from the petitioners entitled, "Circular Welded Carbon-Quality Steel Pipe from Oman: Petitioners' Comments in Anticipation of the Preliminary Determination," dated May 16, 2016.

¹² See 19 CFR 351.204(b)(1).

¹³ See Final Determination Extension Request. See Letter from Al Jazeera regarding, Circular Welded Carbon-Quality Steel Pipe From Oman; request to extend final determination, dated April 28, 2016 (Final Determination Extension Request)

¹⁴ On May 5, 2016, the petitioners requested that, in the event of a negative preliminary determination, the Department postpone the final determination. See Letter from the petitioners entitled, "Circular Welded Carbon-Quality Steel Pipe From The Sultanate of Oman, Pakistan, The United Arab Emirates, And The Socialist Republic of Vietnam: Petitioners' Request to Extend Final Determination," dated May 5, 2016.

V. SCOPE COMMENTS

As noted in the Initiation Notice, we set aside a period of time for parties to raise issues regarding product coverage.¹⁵

We received several comments concerning the scope of the AD investigations of CWP from Oman, Pakistan, the UAE, and the Socialist Republic of Vietnam and the CVD investigation of CWP from Pakistan. The Department evaluated these comments and addressed them in a separate memorandum, dated April 1, 2016, which is hereby adopted by this preliminary determination.¹⁶ As discussed in the Preliminary Scope Decision Memorandum, we revised the scope language to clarify the inclusion of multi-stenciled pipe.¹⁷ This modification applies to this and the concurrent AD investigations and CVD CWP investigations.¹⁸

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 Al Jazeera's sales of CWP from Oman to the United States were made at LTFV, we compared the export price (EP) to the normal value (NV), as described in the "Export Price" and "Normal Value" sections of this memorandum.¹⁹

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 constructed export prices (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 applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation

¹⁵ See Initiation Notice; see also Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27323 (May 19, 1997).

¹⁶ See Department Memorandum, "Antidumping Duty Investigations of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam and Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Scope Comments Decision Memorandum for the Preliminary Determinations," April 1, 2016 (Preliminary Scope Decision Memorandum).

¹⁷ Id.

¹⁸ Id.

¹⁹ See Memorandum to the File from Terre Keaton Stefanova, entitled, "Preliminary Determination Margin Calculation for Al Jazeera Steel Products Co. SAOG," dated May 31, 2016 (Al Jazeera Preliminary Calculation Memo).

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

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of 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.*, 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 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 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

²⁰ See, e.g., Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3; Steel Concrete Reinforcing Bar from Mexico: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination, 79 FR 22802 (April 24, 2014), unchanged in 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), and accompanying Issues and Decision Memorandum at "Margin Calculation."

is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

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

If both tests in the first stage (i.e., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the de minimis threshold.

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

B) Results of the Differential Pricing Analysis

For Al Jazeera, based on the results of the differential pricing analysis, the Department preliminarily finds that 86.96 percent of the value of U.S. sales pass the Cohen's *d* test 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 to all U.S. sales to calculate the weighted-average dumping margin for Al Jazeera.²¹

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's or producer's records kept in the ordinary course of business. The date of sale is generally the date on which the parties establish the material terms of the sale,²² which normally includes the price, quantity, delivery terms and payment terms.²³ 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.²⁴

Al Jazeera explained that in the home market, price and quantity are not determined until either the goods are shipped or the invoice is issued. Therefore, it reported the earlier of the invoice date or shipment date as the date of sale.²⁵ In the U.S. market, price and quantity are not determined until shipment is made; therefore, Al Jazeera reported shipment date as the date of sale.²⁶ Accordingly, we used the date of sale as reported for purposes of this preliminary determination.

VIII. PRODUCT COMPARISONS

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

In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: pipe specification, nominal outside pipe diameter, nominal pipe wall thickness, coating, and end finish.

²¹ See Al Jazeera Preliminary Calculation Memo.

²² See 19 CFR 351.401(i).

²³ See *USEC Inc. v. United States*, 498 F. Supp. 2d 1337, 1343-1344 (CIT 2007).

²⁴ 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)).

²⁵ See Section A Response at 14.

²⁶ *Id.*

IX. EXPORT PRICE

For all sales made by Al Jazeera, we used EP 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 based the starting price on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for movement expenses (*i.e.*, foreign inland freight, foreign brokerage and handling, and international freight expenses), in accordance with section 772(c)(2)(A) of the Act.²⁷

In both the home market and cost databases Al Jazeera reports a system weight. In the U.S. database, Al Jazeera reports both a system weight and a commercial invoice weight. In order to ensure that our U.S. and home market price and cost comparisons are on an equivalent weight basis, we recalculated U.S. prices and U.S. movement expenses based on the system weight, as opposed to the commercial invoice weight as reported.²⁸

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 Al Jazeera 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, in accordance with section 773(a)(1)(B) of the Act.

B. *Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).²⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that

²⁷ See Preliminary Calculation Memo.

²⁸ *Id.*

²⁹ See 19 CFR 351.412(c)(2).

there is a difference in the stages of marketing.³⁰ 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),³¹ 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.³²

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 adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³³

In this investigation, we obtained information from Al Jazeera regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities it performed for each channel of distribution.³⁴ Our LOT findings are summarized below.

Al Jazeera reported that it sold CWP to home market customers through one distribution channel during the POI.³⁵ We preliminarily determine that there is one LOT in the home market, as all sales are made through a single distribution channel and the selling activities do not vary within the channel.³⁶ Similarly, we preliminarily determine that there is only one LOT in the U.S. market because all U.S. sales are made through a single distribution channel and the selling activities do not vary within the channel.³⁷

We compared the U.S. LOT to the home market LOT. Based on our review of Al Jazeera's questionnaire response,³⁸ we determined that the selling functions Al Jazeera performed for its home market sales are virtually the same as the selling functions performed for its U.S. sales.

³⁰ 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.

³¹ Where NV is based on constructed value (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).

³² See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

³³ See, e.g., OJ from Brazil, at Comment 7.

³⁴ See Section A Response, at 10-13 and Exhibit 11.

³⁵ Id., at Exhibit 11.

³⁶ Id.

³⁷ Id.

³⁸ Id.

The only difference is that warranty services are performed at a low level in the home market and not at all in the U.S. market. Therefore, we do not find the selling functions performed by Al Jazeera for its home market customers to be significantly different from those performed for its U.S. customers, 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, and a LOT adjustment pursuant to section 773(a)(7)(A) of the Act is not warranted.

C. *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 cost of production (COP).³⁹ The 2015 law 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 of the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.⁴⁰ 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. The TPEA requires the Department to request CV and COP information from respondent companies in all AD proceedings. Accordingly, the Department requested this information from Al Jazeera.⁴¹

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses.⁴² We relied on the COP data submitted by the respondent. We examined Al Jazeera'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.

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 (inclusive of billing adjustments, where appropriate) were exclusive of any applicable movement charges, actual direct and indirect selling expenses, and packing expenses.

³⁹ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. (2015).

⁴⁰ See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015) (Applicability Notice).

⁴¹ See AD Questionnaire, dated December 15, 2015.

⁴² See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling 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 specific products, more than 20 percent of Al Jazeera'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 as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

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

We calculated NV based on packed prices to unaffiliated customers. We made deductions from the starting price, where appropriate, for billing adjustments, in accordance with 19 CFR 351.401(c). We also made deductions for inland freight expenses, under section 773(a)(6)(B)(ii) of the Act. In addition, 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 imputed credit expenses, bank charges, and commissions. Where commissions were granted in the home market but not in the U.S. market, we made an upward adjustment to NV for the lesser of: (1) the amount of commission paid in the home market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the U.S. market.⁴³ We recalculated U.S. credit and U.S. indirect selling expenses using the system weight, as discussed in the "Export Price" section above.⁴⁴

For all price-to-price comparisons, we 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.⁴⁵ We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

⁴³ See 19 CFR 351.410(e).

⁴⁴ See Preliminary Calculation Memo.

⁴⁵ See 19 CFR 351.411(b).

XI. CURRENCY CONVERSION

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

XII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance



Date