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**International Trade Administration**  
Washington, D.C. 20230

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Investigation  
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February 14, 2014

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative  
Determination in the Antidumping Duty Investigation of Certain  
Oil Country Tubular Goods from the Republic of the Philippines

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## SUMMARY

The U.S. Department of Commerce (the Department) preliminarily determines that certain oil country tubular goods (OCTG) from the Republic of the Philippines (the Philippines) are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Preliminary Determination" section of the accompanying *Federal Register* notice. Interested parties are invited to comment on this preliminary determination.

## BACKGROUND

On July 2, 2013, the Department received an antidumping duty (AD) petition<sup>1</sup> concerning imports of OCTG from the Philippines filed in proper form on behalf of United States Steel Corporation, Vallourec Star L.P., TMK IPSCO, Energex (division of JMC Steel Group), Northwest Pipe Company, Tejas Tubular Products, Welded Tube USA Inc., Boomerang Tube LLC, and Maverick Tube Corporation (collectively, the petitioners).

On July 22, 2013, the Department initiated the AD investigation on OCTG from the Philippines.<sup>2</sup> The Department set aside a period of time for parties to raise issues regarding product coverage

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<sup>1</sup> See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam, dated July 2, 2013 (petitions).

<sup>2</sup> See *Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 78 FR 45505 (July 29, 2013) (*Initiation Notice*).



and encouraged all parties to submit comments within 20 calendar days of the date of signature of the *Initiation Notice*.<sup>3</sup> On August 12, 2013, WSP Pipe Co., Ltd. (WSP) submitted Scope Comments.<sup>4</sup> Specifically, WSP requested that the Department exclude “pierced billets” from the scope of the investigations. On August 22, 2013, the petitioners filed rebuttal comments to WSP’s Scope Comments.<sup>5</sup>

The Department also set aside a period of time for parties to comment on product characteristics for use in the AD questionnaire.<sup>6</sup> Between August 5, 2013 and August 12, 2013, we received comments from the petitioners and the producers/exporter of OCTG from various countries subject to the investigations. After reviewing all comments, we adopted the characteristics and hierarchy as explained in the “Product Comparisons” section of this notice, below.

On August 16, 2013, 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 OCTG from the Philippines.<sup>7</sup>

On August 20, 2013, we selected HLD Clark Steel Pipe Co., Inc. (HLD) and Toyota Tsusho Corporation (Toyota Tsusho), as mandatory respondents in this investigation.<sup>8</sup> On August 21, 2013, we issued the AD questionnaire to HLD and Toyota Tsusho.<sup>9</sup> We received a questionnaire response from HLD.<sup>10</sup> We also received certain factual information from Toyota Tsusho.<sup>11</sup> On September 24, 2013, we selected Thyssenkrupp Mannex Asia Pte Ltd. (Thyssenkrupp) as an additional mandatory respondent in this investigation.<sup>12</sup> On September 25, 2013, we issued the antidumping questionnaire to Thyssenkrupp.<sup>13</sup> We received certain factual information from Thyssenkrupp.<sup>14</sup>

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, 2013, through October 16, 2013. Therefore,

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<sup>3</sup> See *Initiation Notice*, 78 FR at 45506.

<sup>4</sup> See Letter from WSP to the Department of Commerce entitled “*Comments on scope of investigations: Antidumping Duty Investigations of Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam; Countervailing Duty Investigation of Oil Country Tubular Goods from India and Turkey*” dated August 12, 2013 (Scope Comments).

<sup>5</sup> See Letter from the petitioners to the Department of Commerce entitled “*Certain Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam: Rebuttal Comments on Scope of Investigation*” dated August 22, 2013 (Scope Rebuttal Comments).

<sup>6</sup> See *Initiation Notice*, 78 FR at 45506-45507; see also the Department’s letter to all interested parties dated July 29, 2013.

<sup>7</sup> See *Certain Oil Country Tubular Goods From India, Korea, the Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam: Determinations*, Investigation Nos. 701-TA-499-500 and 731-TA-1215-1223 (Preliminary), 78 FR 52213 (August 22, 2013).

<sup>8</sup> See the “Selection of Respondents” section of this memorandum.

<sup>9</sup> See Letters from Department to HLD and Toyota Tsusho, dated August 21, 2013.

<sup>10</sup> See Section A response from HLD dated September 18, 2013, and Section B, C, and D response from HLD dated October 28, 2013.

<sup>11</sup> See the “Selection of Respondents” section of this notice.

<sup>12</sup> *Id.*

<sup>13</sup> See Letter from Department to Thyssenkrupp, dated September 25, 2013.

<sup>14</sup> See the “Selection of Respondents” section of this notice.

all deadlines in this segment of the proceeding have been extended by 16 days.<sup>15</sup> On October 24, 2013, the Department postponed the preliminary determination of this investigation by 50 days, to February 14, 2014, pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(b)(2).<sup>16</sup>

We sent supplemental questionnaires to HLD on November 14, 2013, December 18, 2013, and January 7, 2014.<sup>17</sup> We received responses from HLD to the supplemental questionnaires on December 9, 2013, and January 9, 2014, and January 16, 2014.<sup>18</sup>

On January 7, 2014, the petitioners filed amendments to the petition, pursuant to section 733(e)(1) of the Act, alleging that critical circumstances exist with respect to imports of OCTG.<sup>19</sup> In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted 20 days or more before the scheduled date of the preliminary determination, the Department will issue a preliminary finding not later than the preliminary determination.

On January 8, 2014, the Department requested that HLD report their shipment data for a three-year period ending in February 2014, the month of the preliminary AD determination.<sup>20</sup> On January 15, 2014, HLD submitted their shipment data.

On January 28, 2014, HLD submitted comments for consideration in the preliminary determination. On January 29, 2014, the petitioners submitted comments with respect to HLD for consideration in the preliminary determination.<sup>21</sup>

On February 7, 2014, HLD requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and extend the

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<sup>15</sup> See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013).

<sup>16</sup> See *Certain Oil Country Tubular Goods From India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 78 FR 65268 (October 31, 2013). Due to the closure of the Federal Government on February 13, 2014, Commerce completed this determination on the next business day (*i.e.*, February 14, 2014). See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

<sup>17</sup> See Letters from Department to HLD, dated November 14, 2013, December 18, 2013, and January 7, 2014.

<sup>18</sup> See supplemental questionnaire responses from HLD dated December 9, 2013, January 9, 2014, and January 16, 2014.

<sup>19</sup> See Letter from the petitioners, “Amendment to Petition for the Imposition of Antidumping Duties: Oil Country Tubular Goods from the Philippines” (January 7, 2014).

<sup>20</sup> See the Department’s letter entitled “Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of the Philippines: Request for Quantity and Value Shipment Data” dated January 8, 2014.

<sup>21</sup> One of the petitioners’ comments involves the issue of whether to use prices from a non-market economy supplier or to revalue the input purchase using a market economy price or the factors of production methodology. Because we received the petitioners’ comments shortly before the deadline for the preliminary determination, we do not have sufficient time to consider the comments for this preliminary determination but will consider any comments on this issue in the context of the final determination in this investigation.

application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four-month to a six-month period.<sup>22</sup>

## **PERIOD OF INVESTIGATION**

The period of investigation (POI) is July 1, 2012, through June 30, 2013. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, July 2013.<sup>23</sup>

## **POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES**

Pursuant to section 735(a)(2) of the Act, on February 7, 2014, HLD requested that the Department postpone the final determination, and requested that the Department extend provisional measures. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b) and (e), because (1) our preliminary determination is affirmative, (2) the requesting exporter, HLD, accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the 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.

## **SCOPE OF INVESTIGATION**

The merchandise covered by this investigation is OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock. For a complete description of the scope of the investigation, *see* the accompanying *Federal Register* notice.

## **SCOPE COMMENTS**

In the *Initiation Notice*, the Department invited interested parties to “to raise issues regarding product coverage.”<sup>24</sup>

On August 12, 2013, we received scope comments from WSP, requesting that the Department “clarify the scope of these oil country tubular goods (“OCTG”) investigations by excluding

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<sup>22</sup> On February 10, 2014, the petitioners requested that, in the event of a negative preliminary determination, the Department postpone its final determination under section 735(a)(2)(B) of the Act. Because the preliminary determination is affirmative, the Department does not need to consider the petitioners’ request.

<sup>23</sup> *See* 19 CFR 351.204(b)(1).

<sup>24</sup> *See Initiation Notice*, 78 FR at 45506.

certain “pierced billets” from the scope.”<sup>25</sup> WSP described the merchandise subject to the request as “billets with a chemical composition used to produce a variety of pipe and tube products (including but not limited to OCTG), which have been pierced, but which have not been otherwise further processed prior to importation into the United States.”<sup>26</sup> WSP further described the merchandise as “heated and pierced; it has not been rolled, sized, straightened, cut, etc., prior to importation into the United States.”<sup>27</sup> WSP stated that it did not think that such “pierced billets” constitute “unfinished OCTG, including green tubes” because the billets are not dedicated for use as OCTG or green tubes and can be used for other applications such as diesel sleeves, mine crane rear axles, and mechanical or structural pipe.<sup>28</sup> WSP also claimed that the merchandise in question requires substantial additional processing before it could be considered unfinished OCTG and thus subject to the scope of the investigations.<sup>29</sup>

We received rebuttal comments from the petitioners on August 22, 2013, in which the petitioners claim that the Department should reject WSP’s request and that the merchandise in question is covered by the scope of the investigations.<sup>30</sup> The petitioners state that the scope language of the investigations covers “hollow steel products of circular cross section” that are unfinished and may be used as OCTG, and argue that the merchandise described by WSP fits this physical description and thus is clearly within the scope.<sup>31</sup> The petitioners further state that the inclusion of this merchandise in the scope is consistent with previous practices and decisions by the Department.<sup>32</sup> The petitioners also argue that WSP provided no information to substantiate the claim that “pierced billets” require substantial additional processing, and moreover that there are many types of unfinished OCTG besides “green tubes” that are covered by the scope.<sup>33</sup> Finally, the petitioners believe that any “pierced billets” imported into the United States would be classified under the heading 7304 of Chapter 73 of the HTS, and that such a classification would indicate that the merchandise was a form of unfinished OCTG and covered by the scope.<sup>34</sup>

In response to WSP’s arguments, the petitioners argued in part that the physical characteristics of the product in question were the same as merchandise covered by the scope of the investigations and that there was no evidence that the merchandise in question required further manufacturing. WSP never responded to the petitioners’ arguments, provided no further information, and subsequently did not respond to the Department’s antidumping questionnaire. Therefore, we preliminarily find that we do not have sufficient evidence on the record to determine whether the merchandise described by WSP is not covered by the scope of these investigations. We invite parties to comment on this in their briefs so that the issue can be addressed in the final determination.<sup>35</sup>

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<sup>25</sup> See Scope Comments at 2.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 2-3.

<sup>30</sup> See Scope Rebuttal Comments at 2.

<sup>31</sup> *Id.* at 2-3.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 3.

<sup>34</sup> *Id.* at 4.

<sup>35</sup> Parties are reminded to file any comments concerning the scope to all of the records of the concurrent OCTG investigations.

## SELECTION OF RESPONDENTS

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters or producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. In the *Initiation Notice* we stated that we intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of OCTG from the Philippines.<sup>36</sup> On July 24, 2013, we released the CBP data to all parties with access to information protected by administrative protective order.<sup>37</sup> The data on the record indicates that there are seven known producers or exporters from the Philippines that exported the subject merchandise to the United States during the POI.<sup>38</sup> We invited comments on CBP data and selection of respondents for individual examination.<sup>39</sup> We received no comments from interested parties.

Based on our review of the CBP data and our consideration of publicly available information we determined that we had the resources to examine two companies. Accordingly, we selected HLD and Toyota Tsusho<sup>40</sup> for individual examination in this investigation. These companies are the two producers/exporters of subject merchandise that account for the largest volume of the subject merchandise imported during the POI that we can reasonably examine in accordance with section 777A(c)(2)(B) of the Act.<sup>41</sup>

Toyota Tsusho submitted a letter on September 11, 2013, requesting that it be removed as a mandatory respondent.<sup>42</sup> Toyota Tsusho explained that it sourced all of its Philippine OCTG for export to the United States from an unrelated producer, HLD, which is the other mandatory respondent in this investigation.<sup>43</sup> According to Toyota Tsusho, HLD knew at the time of sale that the OCTG it sold to Toyota Tsusho was destined for the United States.<sup>44</sup> Toyota Tsusho stated that it performed no further processing to the OCTG purchased from HLD for export to the United States.<sup>45</sup> As a result, Toyota Tsusho contended, it has no reportable U.S. sales as defined by section 772 of the Tariff Act of 1930 as amended.<sup>46</sup> HLD confirmed that it knew the OCTG it sold to Toyota Tsusho was destined for the United States at the time of the sales and

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<sup>36</sup> See *Initiation Notice*, 78 FR 45511.

<sup>37</sup> See memorandum entitled "Release of Customs and Border Protection (CBP) data" dated July 24, 2013 (CBP Data Memo).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Selected respondents are listed in alphabetical order.

<sup>41</sup> See Memorandum to Gary Taverman entitled "Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of the Philippines: Respondent Selection" dated August 20, 2013 (Respondent Selection Memo).

<sup>42</sup> See letter from Toyota Tsusho to the Department, "Certain Oil Country Tubular Goods ("OCTG") from the Philippines: Toyota Tsusho Corporation's Request to be Removed as a Mandatory Respondent" (September 11, 2013).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

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

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

that it would be reporting these sales in response to the Department's questionnaires.<sup>47</sup> HLD indicated that it reported these sales in response to the Department's questionnaires.<sup>48</sup> In light of the information provided by Toyota Tsusho and HLD and our prior practice, we initially determined for purposes of respondent selection that HLD knew or had reason to know that the OCTG sold to Toyota Tsusho was destined for the United States and, therefore, we considered all of Toyota Tsusho's sales as HLD's U.S. sales. Given that we also determined that we continued to have the resources to review two mandatory respondents in this investigation, consistent with our decision in the Respondent Selection Memo, we selected Thyssenkrupp as an additional mandatory respondent.<sup>49</sup>

On November 19, 2013, Thyssenkrupp submitted a letter explaining that it, too, sourced all of its Philippine OCTG for export to the United States from HLD.<sup>50</sup> According to Thyssenkrupp, HLD knew at the time of sale that the OCTG it sold to Thyssenkrupp was destined for the United States and provided the basis for such knowledge by HLD.<sup>51</sup> HLD confirmed that it knew the sales at issue were destined for the United States at the time of the sales to Thyssenkrupp.<sup>52</sup> HLD has indicated that it has reported these sales in response to the Department's questionnaires.<sup>53</sup> In light of the information provided by Thyssenkrupp and HLD and our prior practice, we preliminarily determine that HLD knew or had reason to know that the OCTG sold to Thyssenkrupp was destined for the United States and, therefore, we treated all of Thyssenkrupp's sales as HLD's U.S. sales.

## **CRITICAL CIRCUMSTANCES**

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in an AD investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. For the reasons explained below, we are preliminarily determining that critical circumstances do not exist for imports of OCTG from the Philippines.

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<sup>47</sup> See letter from HLD to the Department, "Antidumping Duty Investigation on Certain Oil Country Tubular Goods from the Republic of the Philippines: Response to Questions Regarding Sales to Toyota Tsusho Corporation" (September 13, 2013).

<sup>48</sup> See letter from HLD to the Department, "Antidumping Duty Investigation on Certain Oil Country Tubular Goods from the Republic of the Philippines: Questionnaire Response to Section B/C/D" (October 28, 2013) (HLD Questionnaire Response).

<sup>49</sup> See Memorandum to Christian Marsh entitled "Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of the Philippines: Selection of Additional Mandatory Respondent" dated September 24, 2013.

<sup>50</sup> See letter from Thyssenkrupp, dated November 19, 2013.

<sup>51</sup> *Id.*

<sup>52</sup> See letter from HLD to the Department, "OCTG from Philippines: Supplemental Questionnaire Response" (December 9, 2013).

<sup>53</sup> See HLD Questionnaire Response.

### *A History of Dumping and Material Injury*

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise.<sup>54</sup> No parties made any claims regarding completed AD proceedings for OCTG from the Philippines, and the Department is not aware of the existence of any active AD orders on OCTG from the Philippines in other countries. As a result, the Department does not find that there is a history of injurious dumping of OCTG from the Philippines pursuant to section 733(e)(1)(A)(i) of the Act.

### *Knowledge that Exporters Were Dumping*

The Department generally bases its decision with respect to knowledge on the margins calculated in the preliminary AD determination and the ITC's preliminary injury determination.<sup>55</sup> The Department normally considers margins of 25 percent or more for export price (EP) sales and 15 percent or more for constructed export price (CEP) sales sufficient to impute importer knowledge of sales at LTFV.<sup>56</sup> In this investigation HLD reported EP sales. The preliminary dumping margin of 8.90 percent that we calculated for HLD, the only mandatory respondent in this investigation, does not exceed the threshold sufficient to impute knowledge of dumping (*i.e.*, 25 percent for export price sales). Therefore, we determine that there is no sufficient basis to find that importers should have known that the exporters were selling the merchandise under consideration at LTFV. Further, we preliminarily applied the rate we calculated for HLD to all other companies. Therefore, the record does not support imputing importer knowledge of sales at LTFV to imports of these exporters as well.

Because the statutory criteria of section 733(e)(1)(A) of the Act have not been satisfied, we did not examine whether imports from HLD or from all other companies were massive over a relatively short period pursuant to section 733(e)(1)(B) of the Act. Accordingly, we find that the statutory criteria necessary for determining affirmative critical circumstances have not been met and, therefore, we preliminarily determine that critical circumstances do not exist for imports of OCTG from the Philippines.

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<sup>54</sup> See, e.g., *Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59120 (November 17, 2009) unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).

<sup>55</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico*, 77 FR 17422, 17425 (March 26, 2012).

<sup>56</sup> *Id.*

## DISCUSSION OF METHODOLOGY

### Fair Value Comparisons

To determine whether sales of OCTG from the Philippines to the United States were made at LTFV, we compared the EPs to the normal value (NV), as described in the “Export Price” and “Normal Value” sections of this memorandum, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared the weighted-average EP to POI weighted-average NVs for HLD.

#### A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average CEPs or EPs (the average-to-average or A-to-A method), unless the Secretary determines that another method is appropriate in a particular situation. In recent AD proceedings, the Department examined whether to use the average-to-transaction (A-to-T) method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. In order to determine which comparison method to apply, in recent proceedings, the Department applied a “differential pricing” (DP) analysis for determining whether application of A-to-T comparisons is appropriate pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.<sup>57</sup> The Department finds the DP analysis used in recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation.<sup>58</sup> The Department intends to 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 A-to-A method in calculating weighted-average dumping margins.

The DP analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time

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<sup>57</sup> See, e.g., *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 69371 (November 19, 2013).

<sup>58</sup> See, e.g., *Hardwood and Decorative Plywood From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying Issues and Decision Memorandum at Comment 5; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2011-2012*, 78 FR 40692 (July 8, 2013) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews*, 79 FR 4327 (January 27, 2014)); *Certain Activated Carbon From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013) (unchanged in *Certain Activated Carbon From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 70533 (November 26, 2013)); *Certain Steel Threaded Rod From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21101 (April 9, 2013) (*Steel Threaded Rod*) (unchanged in *Certain Steel Threaded Rod From the People’s Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013)); *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) (*Polyester Staple Fiber*) (unchanged in *Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 38938 (June 28, 2013)).

periods.<sup>59</sup> If such a pattern is found, then the DP analysis evaluates whether such differences can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The DP analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes as reported. Regions are defined using the reported destination code (*i.e.*, zip codes), which 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 being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP and NV for the individual dumping margins.

In the first stage of the DP analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data 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 net prices to a particular purchaser, region or time period differ significantly from the net 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. Of these thresholds, the large threshold (*i.e.*, 0.8) provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales were 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 accounts for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the A-to-T method to all sales as an alternative to the A-to-A 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 A-to-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-to-A method, and application of the A-to-A 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

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<sup>59</sup> As noted above, the DP analysis has been utilized in recent AD investigations and several recent AD administrative reviews to determine the appropriate comparison methodology. *See, e.g., Steel Threaded Rod; Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 21105 (April 9, 2013) (unchanged in Circular Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 65272 (October 31, 2013)); and Polyester Staple Fiber.*

the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-to-A 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 EPs (or CEPs) that differ significantly such that an alternative comparison method should be considered, then in the second stage of the DP analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative 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 A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis and, therefore, an alternative 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 margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

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

#### B. Results of the Differential Pricing Analysis

Based on the results of the DP analysis, the Department finds that 72.22 percent of HLD's U.S. sales pass the Cohen's *d* test, and confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Further, the Department determines that the A-to-A method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the A-to-A method and an alternative method based on the A-to-T. Accordingly, the Department has determined to use the A-to-A method to calculate the preliminary weighted-average dumping margin for HLD.<sup>60</sup>

#### Product Comparisons

As noted above, the Department gave parties an opportunity to comment on the appropriate hierarchy of product characteristics for model matching purposes within a certain deadline.<sup>61</sup> On August 5, 2013, we received comments regarding physical product characteristics from

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<sup>60</sup> See HLD's Preliminary Analysis Memorandum. In this preliminary determination, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006). In particular, the Department compared weighted-average EPs with weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

<sup>61</sup> See *Initiation Notice*, 78 FR at 45506-7.

interested parties.<sup>62</sup> On August 12, 2013, we received rebuttal comments from interested parties.<sup>63</sup>

We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining models and, when necessary, for comparing similar models, for this AD investigation. The Department identified ten criteria for matching U.S. sales of subject merchandise to NV (whether or not seamless or welded, type, grade, whether or not coupled, whether or not ends are upset, whether or not ends are threaded, nominal outside diameter, length, heat treatment, and nominal wall thickness), which were included in the questionnaires issued to the respondents on August 21, 2013.<sup>64</sup>

The goal of the product characteristic hierarchy is to identify the best possible matches with respect to the characteristics of the merchandise. While variations in cost may suggest the existence of variation in product characteristics, such variations in costs do not constitute differences in products in and of themselves. Furthermore, the magnitude of variations in cost may differ from company to company, and even for a given company over time and, therefore, do not, in and of themselves, provide a reliable basis for identifying the relative importance of different product characteristics. The Department has noted that for defining products and creating a model match hierarchy, “{t}he physical characteristics are used to distinguish the differences among products across the industry,” that “{c}ost is not the primary factor for establishing these characteristics,” and, in short, “{c}ost variations are not the determining factor in assigning product characteristics for model-matching purposes.”<sup>65</sup>

Therefore, based on the above, the Department is not modifying the hierarchy it proposed after the initiation of this investigation and included in its questionnaires. In accordance with section 771(16) of the Act, all products produced by HLD, covered by the description in the “Scope of Investigation” section above, and sold in the comparison market during the POI, are considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We relied on the above mentioned ten criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product. Where there were no sales of identical merchandise in the comparison market to compare to subject merchandise sold in the United States, we compared these U.S. sales to comparison-market sales of the most-similar, foreign

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<sup>62</sup> See Letters from the petitioners, as well as SeAH Steel Corporation, Oil Country Tubular Ltd., United Seamless Tubular Pvt. Ltd., and Jubail Energy Services Company and Duferco Steel Inc., dated August 5, 2013.

<sup>63</sup> See Letters from the petitioners, as well as AJU Besteel Co., Ltd. and Husteel Co., Ltd., Borusan Mannesmann Boru Sanayi ve Ticaret A.S., ILJIN Steel Corporation, Interpipe and North American Interpipe, Oil Country Tubular Ltd., United Seamless Tubular Pvt. Ltd., WSP Pipe Co., Ltd., and Jubail Energy Services Company and Duferco Steel Inc. dated August 12, 2013.

<sup>64</sup> See Letter from Department to HLD dated August 21, 2013.

<sup>65</sup> See *Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review*, 73 FR 12950 (March 11, 2008), and accompanying Issues and Decision Memorandum at Comment 1. Also, the Department’s “...selection of model match characteristics {is based} on unique measurable physical characteristics that the product can possess” and “differences in price or cost, standing alone, are not sufficient to warrant inclusion in the Department’s model-match of characteristics which a respondent claims to be the cause of such differences.” See *Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Model Match Comment 1.

like product on the basis of the reported product characteristics and instructions provided in the AD questionnaire, which were made in the ordinary course of trade.

### **Date of Sale**

Although the Department normally uses the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale, the Department's regulations provide that the Department 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 (*e.g.*, price and quantity).<sup>66</sup>

HLD reported that all of its U.S. and comparison-market sales were produced to order pursuant to sales contracts between HLD and the customer. HLD asserted that the price and/or quantity are subject to change after the sales contract between HLD and the customer. Thus, HLD reported the date of invoice as the date of sale. We examined the information on the record and preliminarily find that the material terms of HLD's U.S. and comparison-market sales were subject to change after the date of the sales contract.<sup>67</sup>

As the information on the record indicates that the material terms of sale (*e.g.*, price and quantity) could change after the date of the sales contract for both U.S. and comparison-market sales, we preliminarily determine that the use of the date of the sales contract as the date of sale is not warranted. Therefore, for purposes of this preliminary determination, we used, where appropriate, the date of invoice as the date of sale for HLD's reported U.S. and comparison-market sales. Further, the Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.<sup>68</sup> Record evidence indicates that for certain U.S. sales made by HLD, shipment date preceded the invoice date. Therefore, for such sales we used the shipment date as the date of sale in accordance with our practice.

### **U.S. Price**

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." We calculated EP for purposes of this preliminary determination, in accordance with subsections 772(a) and (c) of

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<sup>66</sup> See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92 (CIT 2001); and *Yieh Phui Enterprise Co. v. United States*, 791 F. Supp. 2d 1319 (CIT 2011) (affirming that the Department may use invoice date unless a party demonstrates that the material terms of its sale were established on another date).

<sup>67</sup> See HLD's Section A response, dated September 18, 2013, at A-13 through A-16 and HLD's supplemental questionnaire response at 6-7.

<sup>68</sup> See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; 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.

the Act, where the subject merchandise was first sold in the country of manufacture (*i.e.*, the Philippines) to an unaffiliated purchaser prior to importation and CEP was not otherwise warranted based on the facts of record. Therefore, for HLD, we calculated EP based on the packed “Cost and Freight,” or “Cost, Insurance, and Freight,” price to unaffiliated purchasers in, or for exportation to, the United States. We made adjustments for credit expenses, certain direct selling expenses, and billing adjustments, as appropriate. We also made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act.<sup>69</sup>

## **Normal Value**

### **1. Home Market Viability and Comparison-Market Selection**

To determine whether there is a sufficient volume of sales of OCTG 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 compared respondent’s volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise during the POI.<sup>70</sup> Based on this comparison, we determined that HLD did not have a viable home market during the POI. The only third country market to which HLD sold comparable merchandise during the POI was Canada, which we determined was a viable comparison market. Consequently, we based NV on the respondent’s third-country sales to Canada in accordance with section 773(a)(1)(C) of the Act.

### **2. 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 of foreign like products at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>71</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>72</sup> To determine whether the comparison-market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale. To determine whether home market sales are at a different LOT than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

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>73</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. sales to sales at a different LOT in the comparison

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<sup>69</sup> See HLD’s Preliminary Analysis Memorandum, dated concurrently with this memorandum.

<sup>70</sup> See section 773(a)(1)(B) of the Act.

<sup>71</sup> See 19 CFR 351.412(c)(2).

<sup>72</sup> See *id.*; see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*).

<sup>73</sup> See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

market. When this occurs and available data make it practicable, we make an 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 was practicable), the Department grants a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>74</sup>

In this investigation, we obtained information from HLD regarding the marketing stages involved in making its reported third-country and U.S. sales, including a description of the selling activities HLD performed for each channel of distribution. During the POI, HLD reported that it sold made-to-order OCTG to traders/distributors in the third-country market through one channel of distribution and that the selling activities associated with all sales through the single channel of distribution did not differ. We found no evidence to contradict HLD's statements. Accordingly, we found that this channel of distribution constituted a single level of trade for all third-country sales. Similarly, during the POI, HLD reported that it sold made-to-order OCTG to traders/distributors in the United States through one channel of distribution and that the selling activities associated with all sales through the single channel of distribution did not differ. We found no evidence to contradict HLD's statements. Accordingly, we found that this channel of distribution constituted a single level of trade for all EP sales.

We preliminarily determine that the selling activities associated with EP sales were essentially the same as those associated with the comparison market. Therefore, for the preliminary determination, we did not make a LOT adjustment pursuant to section 773(a)(7)(A) of the Act and 19 CFR 351.412(e), because both levels of trade are identical (*i.e.*, one level of trade in the comparison and U.S. markets). For a detailed description of our LOT methodology and findings for this preliminary determination, *see* HLD's Preliminary Analysis Memorandum.

### 3. Calculation of Normal Value Based on Third-Country Prices

We based NV on the starting prices to unaffiliated customers in the third country and made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, when applicable, for home-market indirect selling expenses incurred for U.S. sales to offset comparison-market commissions.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in 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>75</sup>

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<sup>74</sup> See *Plate from South Africa*, 62 FR at 61732-33.

<sup>75</sup> See 19 CFR 351.411(b).

## Cost of Production

As we stated in the *Initiation Notice*, we initiated a country-wide cost investigation on sales of OCTG from the Philippines to Canada.<sup>76</sup>

### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the cost of production (COP) based on the sum of the cost of materials and fabrication for the foreign like product plus an amount for general and administrative expenses (G&A) and interest expenses (see the “Test of Comparison-Market Sales Prices” section below for treatment of comparison-market selling expenses and packing costs). We relied on the COP data submitted by HLD in its January 16, 2014, supplemental response to our questionnaire. We examined the cost data and preliminarily determined that our quarterly cost methodology is not warranted. Therefore, we applied our standard methodology of using annual costs based on the reported data.<sup>77</sup>

### 2. Test of Comparison-Market Sales Prices

On a product-specific basis, we compared the weighted-average COP to the comparison-market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sales were made at prices below the COP. We compared model-specific COPs to the reported comparison market prices less any applicable movement charges, direct and indirect selling expenses, and packing expenses.

### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent’s 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 the below-cost sales were not made in “substantial quantities.” Where 20 percent or more of the respondent’s sales of a given product during the POI were at prices less than COP, we determine that such sales have been made in “substantial quantities” and, thus, we disregard below-cost sales.<sup>78</sup> Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In such cases, because we compare prices to POI-average costs, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

In this case, we found that, for certain specific products, more than 20 percent of HLD’s comparison-market sales 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. Therefore, we disregarded these sales and used the remaining sales as the basis for determining NV in accordance with section 773(b)(1) of the Act.

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<sup>76</sup> See *Initiation Notice*, 78 FR 45510.

<sup>77</sup> See *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 69371 (November 19, 2013).

<sup>78</sup> See section 773(b)(2)(C) of the Act.

