



A-517-804  
Investigation  
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DATE: February 14, 2014

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 Oil Country Tubular Goods  
from Saudi Arabia

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## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that oil country tubular goods (OCTG) from Saudi Arabia 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 margins of sales at LTFV are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

## II. BACKGROUND

On July 2, 2013, the Department received an antidumping duty (AD) petition concerning imports of OCTG from Saudi Arabia filed in proper form by United States Steel Corporation, TMK IPSCO, Energex (division of JMC Steel Group), Northwest Pipe Company, Tejas Tubular Products, Welded Tube USA Inc., and Boomerang Tube LLC (collectively, petitioners). In July 2013, the Department requested information and clarification of certain areas of the petition. Petitioners filed timely responses to these requests. The Department initiated an AD investigation of OCTG from Saudi Arabia on June 29, 2013.<sup>1</sup>

In the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product characteristics, and encouraged all parties to submit comments within 20 calendar days of

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<sup>1</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*).



initiation of the investigation. Between August 5, 2013, and August 12, 2013, the Department received comments from petitioners, and interested parties.

On August 12, 2013, WSP Pipe Co., Ltd. (WSP) submitted Scope Comments.<sup>2</sup> Specifically, WSP requested that the Department exclude “pierced billets” from the scope of the investigations. On August 22, 2013, petitioners filed rebuttal comments to WSP’s Scope Comments.<sup>3</sup>

In the *Initiation Notice*, we stated that the petition named 13 Saudi Arabian producers/exporters of subject merchandise. Following our standard practice, because the number of known exporters or producers for this investigation is large, the Department stated it would select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of OCTG from Saudi Arabia. We released the CBP data to all interested parties with access to information protected by Administrative Protective Order (APO) on July 29, 2013, and invited comments on the data and potential respondent selection.<sup>4</sup> On August 5, 2013, counsel to both Jubail Energy Services Company (JESCO) and Duferco Steel Inc. (Duferco Steel) submitted comments on the CBP data.<sup>5</sup>

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 Saudi Arabia.<sup>6</sup>

On August 29, 2013, the Department stated that, based on the large number of companies identified, and careful consideration of its resources it intended to limit the number of respondents examined in this investigation to one producer/exporter.<sup>7</sup> For the reasons stated in the Respondent Selection Memorandum, the Department selected Duferco SA as the mandatory respondent in this investigation.<sup>8</sup> No companies requested voluntary respondent status. On August 30, 2013, the Department issued the AD questionnaire to Duferco SA. As stated in the “Affiliation and Single Entity” section below, the Department preliminarily determined that Duferco SA and JESCO are affiliated and are being treated as a single-entity for the purposes of the AD analysis.

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<sup>2</sup> See Letter from WSP to the Department 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>3</sup> See Letter from petitioners to the Department 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>4</sup> See Memorandum to the File, “Antidumping Duty Investigation of Certain Oil Country Tubular Goods from Saudi Arabia: Customs Entry Data for Respondent Selection,” July 29, 2013.

<sup>5</sup> See Letter from JESCO and Duferco, “Oil Country Tubular Goods from Saudi Arabia; Customs Entry Data,” August 5, 2013.

<sup>6</sup> See Letter from ITC, August 23, 2013.

<sup>7</sup> See Memorandum to Gary Taverman, “Antidumping Duty Investigation of Certain Oil Country Tubular Goods from Saudi Arabia: Respondent Selection,” dated August 29, 2013 (Respondent Selection Memorandum).

<sup>8</sup> *Id.*

Between September 10, 2013, and January 15, 2014, JESCO timely filed responses to the Department's questionnaire. Additionally, JESCO timely responded to all supplemental questionnaires issued by the Department.

On December 16, 2013, the Department found reasonable grounds to believe or suspect that sales of the foreign like products were made below the cost of production (COP), within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department initiated a cost investigation on JESCO's home market sales of OCTG.<sup>9</sup>

On February 7, 2014, the respondent requested a postponement of the final determination and an extension of provisional measures.

### **III. 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, which was July 2013.<sup>10</sup>

### **IV. SCOPE OF THE INVESTIGATION**

The merchandise covered by the investigation is certain oil country tubular goods (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.

Excluded from the scope of the investigation are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

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<sup>9</sup> See Memorandum to Edward Yang, "Petitioner's Allegation of Home Market Sales at Prices Below the Cost of Production for Jubail Energy Services Company," dated December 16, 2013 (Below Cost Memorandum).

<sup>10</sup> See 19 CFR 351.204(b)(1).

The merchandise subject to the investigation may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

## V. SCOPE COMMENTS

In the *Initiation Notice*, the Department invited interested parties to “to raise issues regarding product coverage.”

On August 12, 2013, we received scope comments from WSP (the sole mandatory respondent in the concurrent AD investigation involving OCTG from Thailand), requesting that the Department “clarify the scope of these OCTG investigations by excluding certain “pierced billets” from the scope.”<sup>11</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>12</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>13</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>14</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>15</sup>

We received rebuttal comments from petitioners on August 22, 2013, in which 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>16</sup> 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 of the order.<sup>17</sup> Petitioners further state that the inclusion of this merchandise in the scope is consistent with previous practices and decisions by the Department.<sup>18</sup> Petitioners also argue that WSP provided no information to substantiate the

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<sup>11</sup> See Scope Comments at 2.

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

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 2-3.

<sup>16</sup> See Scope Rebuttal Comments at 2.

<sup>17</sup> *Id.* at 2-3.

<sup>18</sup> *Id.*

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>19</sup> Finally, 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>20</sup>

In response to WSP’s arguments, 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 petitioners’ arguments, provided no further information, and subsequently did not respond to the Department’s AD Questionnaire. Therefore, we preliminarily find that the evidence on the record does not support WSP’s contention that the certain pierced billets are 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 Determinations.

## **VI. POSTPONEMENT OF PRELIMINARY DETERMINATION**

On October 21, 2013, the Department fully postponed the deadline for issuing the preliminary determination to no later than 190 days after the date on which it initiated these investigations.<sup>21</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, through October 16, 2013.<sup>22</sup> Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. In accordance with the Department’s practice, if a new deadline falls on a non-business day, the deadline will become the next business day. Accordingly, the revised deadline for the preliminary determination of this investigation is February 14, 2014.<sup>23</sup>

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

Pursuant to section 735(a)(2) of the Act, on February 7, 2014, the respondent requested that the Department postpone the final determination and 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 accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for

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<sup>19</sup> *Id.* at 3.

<sup>20</sup> *Id.* at 4.

<sup>21</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).

<sup>22</sup> See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government,” dated October 18, 2013.

<sup>23</sup> Due to the closure of the Federal Government on February 13, 2014, Commerce completed these determinations 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).

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.

## VIII. AFFILIATION

Section 771(33) of the Act, in pertinent part, identifies persons that shall be considered “affiliated” or “affiliated persons” as: (1) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person (section 771(33)(F) of the Act); or (2) any person who controls any other person and such other person (section 771(33)(G) of the Act). Section 771(33) further stipulates that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person, and the SAA notes that control may be found to exist within corporate groupings.<sup>24</sup> The Department’s regulations at 19 CFR 351.102(b) state that in determining whether control over another person exists within the meaning of section 771(33) of the Act, the Department will not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. We examined record evidence to determine whether affiliations with any of the following entities existed during the POI: (1) producers and exporters of the subject merchandise, (2) suppliers of inputs used to produce OCTG; (3) reported home market customers; and (4) reported U.S. customers.

### *Duferco and JESCO*

In this investigation, JESCO explained that Duferco Participations Holding SA (Duferco Holding), a holding company located in Luxembourg, owns a number of companies, members of the Duferco group, that are involved in the production and sale of OCTG. Among those companies relevant to this investigation are Duferco Saudi Arabia; Duferco SA, a Swiss based company involved in the export of JESCO-produced OCTG; Duferco Shipping, also involved in the export of JESCO-produced OCTG; and, Duferco Steel Inc. (DSI), the importer and reseller of JESCO products in the United States. Duferco Holdings is the majority owner of Duferco Saudi Arabia, and owns 100 percent of Duferco SA, Duferco Shipping, and DSI.<sup>25</sup> We find Duferco Holding’s majority or whole ownership of these companies results in operational control or direction that has the potential to impact decisions concerning the production, pricing, and cost of the subject merchandise. Thus, these four companies are affiliated through the common control of their parent, Duferco Holding, under section 771(33)(F) of the Act.

19 CFR 351.401(f) states that the Department will treat affiliated producers as a single entity where there is a significant potential for manipulation of price or production.<sup>26</sup> 19 CFR

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<sup>24</sup>See SAA at 838 (stating that control may exist within the meaning of section 771(33) of the Act in the following types of relationships: (1) corporate or family groupings, (2) franchises or joint ventures, (3) debt financing, and (4) close supplier relationships in which either party becomes reliant upon the other).

<sup>25</sup>See Letter from JESCO, “OCTG from Saudi Arabia: JESCO’s Section A Questionnaire Response,” dated September 27, 2013 (Section A Response), at Exhibit A-6.

<sup>26</sup>While 19 CFR 351.401(f) uses the term “producers,” the Department’s practice is to apply this regulation to resellers and other affiliated companies as well. See, e.g., *Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833, 42853 (August 19, 1996) (*Columbian Flowers*), citing

351.401(f) further states that in identifying a significant potential for manipulation, the Department may consider factors including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

According to JESCO, DSI coordinated orders from customers in the United States, placing orders of OCTG with Duferco SA, one of Duferco Saudi Arabia's immediate parent companies, which in turn, ordered the subject merchandise from JESCO.<sup>27</sup> JESCO's U.S. sales were structured as sales from JESCO to Duferco SA to Duferco Shipping, which arranged shipping and other logistics, to DSI.<sup>28</sup> Duferco SA also supplied significant inputs for the production of JESCO's OCTG.<sup>29</sup> Each Duferco company, therefore, is part of a chain of transactions requiring extensive coordination of sales and production decisions (*e.g.*, price negotiations, production planning, and shipping) and the sharing of sales information.<sup>30</sup> As such, in accordance with 19 CFR 351.401(f) and the Department's practice,<sup>31</sup> we are treating these Duferco companies as a single entity (Duferco entity) for purposes of this preliminary determination. The Duferco entity owns 10 percent of JESCO.<sup>32</sup> Therefore, we find the Duferco entity, including the U.S. customer, importer, and reseller, DSI, to be affiliated with JESCO under section 771(33)(E) of the Act.<sup>33</sup>

#### *JESCO and its Home Market Customer*

In response to JESCO's questionnaire responses, petitioners argued that JESCO is affiliated with its largest customer in Saudi Arabia.<sup>34</sup> JESCO responded to petitioners' comments stating that, under the Department's regulations, they were not affiliated with their customer in Saudi Arabia.<sup>35</sup>

Based on our analysis of record evidence, and in accordance with section 771(33)(F) of the Act, we preliminarily find that JESCO and its largest home market customer are affiliated through the government of Saudi Arabia, which controls both companies and has the potential to

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*Final Determination of Sales at Less than Fair Value; Certain Granite Products from Spain*, 53 FR 24335, 24337 (June 28, 1988) (*Granite Products from Spain*).

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

<sup>28</sup> See Section A Response.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*, see also, Letter from JESCO, "OCTG from Saudi Arabia: JESCO's Section C Questionnaire Response," dated November 7, 2013.

<sup>31</sup> See *Columbian Flowers* (citing *Granite Products from Spain*); see also *Queen's Flowers de Colombia v. United States*, 981 F. Supp. 617, 622 (1997) (in which the Court of International Trade affirmed the Department's authority to treat affiliated parties as a single entity for purposes of antidumping analysis).

<sup>32</sup> See Section A Response.

<sup>33</sup> We also note a Duferco official in charge of OCTG production sits on the board of JESCO.

<sup>34</sup> See Letter from petitioners, "OCTG from Saudi Arabia: Comments on JESCO Sections B & C Responses," dated November 21, 2013.

<sup>35</sup> See Letter from JESCO, "OCTG from Saudi Arabia: JESCO's First Supplemental Sections A-C Questionnaire Response," dated January 9, 2014 (January 9 SQR); see also Letter from JESCO, "OCTG from Saudi Arabia: Comments Supporting a Negative Finding of Affiliation Between JESCO and ARAMCO," dated January 13, 2014.

operationally control each company's decisions concerning the production, pricing, and cost of the subject merchandise. The Department is basing this determination on information that is largely business proprietary; for the full discussion of this determination *see* JESCO's Preliminary Analysis Memorandum.<sup>36</sup>

## **IX. DISCUSSION OF METHODOLOGY**

### **A. Home Market Viability**

In accordance with sections 773(a)(1)(A) and (B) of the Act, to determine if the home market is viable for calculating NV, we compared JESCO's volume of home market sales of OCTG to the volume of U.S. sales of OCTG. Based on this comparison, we determined that JESCO's home market sales of OCTG were greater than five percent of the aggregate volume of U.S. sales.<sup>37</sup> Accordingly, we found the home market to be viable for the purposes of this investigation.

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

The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at "arm's-length."<sup>38</sup> To test whether the sales to affiliates were made at arm's-length prices, we compared, on a model specific basis, the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's-length and included such sales in the calculation of NV. Conversely, where sales to the affiliated party did not pass the arm's-length test, all sales to that affiliated party were excluded from the NV calculation.<sup>39</sup>

JESCO did not report any home market sales to affiliated parties.<sup>40</sup> However, as noted above, we preliminarily determine that JESCO did make home market sales to both affiliated and unaffiliated customers. We conducted the arm's-length test with respect to JESCO's sales to its affiliate.<sup>41</sup> We preliminarily find that all of the sales JESCO made to its affiliated customer during the POI failed the arm's-length test. Accordingly, we excluded these sale(s) from our preliminary margin analysis.<sup>42</sup> Because the affiliate consumed all the merchandise purchased from JESCO, there were no "downstream" sales from the affiliate to unaffiliated customers for further analysis. We, therefore, attempted to calculate NV on the basis of the remaining home market sales, subject to the sales-below-cost test discussed below.

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<sup>36</sup> See Memorandum to The File "Jubail Energy Services Company, Ltd. Preliminary Determination Analysis Memoranda" (JESCO's Preliminary Analysis Memorandum), dated concurrently.

<sup>37</sup> See Section A Response at Exhibit A-1.

<sup>38</sup> See 19 CFR 351.403(c).

<sup>39</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002).

<sup>40</sup> See Section A Response at Exhibit A-1.

<sup>41</sup> See JESCO's Preliminary Analysis Memorandum.

<sup>42</sup> *Id.*

### **C. Cost of Production**

As noted in the Background section above, we received allegations from petitioners that JESCO made home market sales-below-COP. Based on our analysis of these allegations, we found that there were reasonable grounds to believe or suspect that JESCO's sales of OCTG in the home market were made at prices below the COP. Accordingly, on December 16, 2013, the Department initiated a sales-below-COP investigation of JESCO's home market sales.<sup>43</sup>

#### *1) Calculation of COP*

In accordance with section 773(b)(3) of the Act, we calculated 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, interest expenses, and comparison market packing costs.<sup>44</sup> 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, as adjusted below.

We relied on JESCO's submitted COP data except as follows.<sup>45</sup>

- a) We limited the reported scrap offset to the quantity of scrap generated versus the quantity of scrap sold during the POI.
- b) We revised the cost of goods sold (COGS) denominator used in the calculations of the G&A expense ratio to reflect the COGS from JESCO's fiscal year (FY) 2012 audited financial statements less packing expenses and certain reclassified expenses.
- c) We revised the COGS denominator used to calculate the financial expense ratio to reflect the COGS from TAQA's FY 2012 audited consolidated financial statements less packing expenses and certain reclassified expenses.

#### *2) Test of Comparison Market Sales Prices*

As required under section 773(b)(2) of the Act, we compared the weighted average of the COP for the POI to the per-unit price of the home market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net home market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

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<sup>43</sup> See Below Cost Memorandum.

<sup>44</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of comparison market selling expenses.

<sup>45</sup> For further discussion, see Memorandum to Neal Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Jubail Energy Services Company," dated concurrently (COP Memorandum).

### 3) *Results of the COP Test*

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we disregarded no below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because (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 of the COPs, 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.

In this investigation, we found that, for certain specific products, more than 20 percent of the home market sales were at prices less than the COP and, in addition did not provide for the recovery of costs within a reasonable period of time.<sup>46</sup>

#### **D. Constructed Value**

After excluding home market sales pursuant to the arm's-length and sales-below-cost tests discussed above, there were no home market sales remaining to serve as the basis of NV. Therefore, we are comparing constructed export price (CEP) sales in the United States to constructed value (CV), as described under section 773(e) of the Act, for margin calculation purposes.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of JESCO's cost of materials and fabrication employed in producing the subject merchandise, plus amounts for SG&A expenses, profit and U.S. packing costs. We calculated the cost of materials and fabrication, G&A and interest based on information submitted by JESCO in its original and supplemental questionnaire responses, except in instances where we determined that the information was not valued correctly.<sup>47</sup>

In the absence of home market sales made in the ordinary course of trade to serve as a basis for CV profit and selling expenses, we are unable to use our "preferred method" to calculate these amounts and must instead rely on one of the three alternatives outlined in sections 773(e)(2)(B)(i) through (iii) of the Act. Those alternatives are: (i) the use of the actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale of merchandise that is in the same general category of products as the subject merchandise; (ii) the use of the weighted average of the actual amounts incurred and realized by exporters or producers (other than the respondent) that are subject to the investigation or review; or (iii) based on any other reasonable method, except that the amount for profit may not exceed the amount realized by exporters or producers (other than the respondent) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise (*i.e.*, the "profit cap").

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<sup>46</sup> See JESCO's Preliminary Analysis Memorandum.

<sup>47</sup> See COP Memorandum.

The first statutory alternative provided in 773(e)(2)(B) is not possible because we do not have information on the record to permit a calculation of these amounts specific to products in the “same general category” as the subject merchandise sold by JESCO. The second alternative for determining CV profit is not available to us in this case because there are no other exporters or producers subject to review.

Therefore, for this preliminary determination, we determined CV profit in accordance with section 773(e)(2)(B)(iii) of the Act (*i.e.*, based on “any other reasonable method”), using the CV profit ratio based on the publicly available financial statements of Saudi Steel Pipe Company for the FY ended December 31, 2012.<sup>48</sup> We are applying option (iii) to calculate CV profit without quantifying a profit cap because we do not have information allowing us to calculate the amount normally realized by exporters or producers (other than the respondent) in connection with the sale, for consumption in the foreign country, of the merchandise in the same general category.

Pursuant to 19 CFR 351.401(i), the respondent identified and the Department used the date of invoice, as the date of sale for subject merchandise and foreign like product.

#### **E. Constructed Export Price**

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

In this investigation, JESCO classified all of its sales of OCTG in the United States as CEP sales. During the POI, JESCO made sales in the United States through its U.S. affiliate, DSI, who then resold the merchandise to unaffiliated customers in the United States. We calculated CEP based on the packed, delivered prices to unaffiliated purchasers in the United States. We adjusted these prices for movement expenses, including foreign inland freight, international freight, marine insurance, foreign and U.S. brokerage and handling, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including imputed credit expenses, warranty expenses, and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

We also deducted from CEP an amount for profit 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 JESCO 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>48</sup> *Id.*

## **F. Level of Trade/CEP Offset**

In accordance with section 773(a)(1)(B)(i) of the Act, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the export price (EP) or CEP sales.<sup>49</sup> The LOT for NV is based on the starting prices of sales in the home market or, when NV is based on CV, the starting price of sales from which we derived selling, general, and administrative expenses and profit.<sup>50</sup> For CEP, the LOT is that of the constructed sale from the exporter to the affiliated importer. To determine whether comparison market sales are at a different LOT than U.S. sales for this investigation, we examined stages in the marketing process and selling functions along the chain of distribution between JESCO and the unaffiliated customer.

JESCO reported one channel of distribution in the home market: JESCO's direct sales to customers, which we consider one LOT. In the U.S. market, JESCO reported CEP sales through its affiliated reseller through two channels of distribution. Selling functions were the same across both channels; therefore, we considered all CEP sales to constitute only one LOT. We compared the selling activities reported by JESCO at the CEP LOT with its selling activities at the home market LOT. We found that the selling functions performed by JESCO for home market customers are either performed at a higher degree of intensity or are greater in number than the selling functions performed by JESCO for the CEP sales. For example, several of JESCO's selling activities, including sales processing/order input, direct sales personnel, freight and delivery, were performed at a higher level of intensity for the home market than for the U.S. market.<sup>51</sup> Similarly, other activities such as procurement or strategic/economic planning were performed by JESCO for the home market only, not for CEP sales, because JESCO made all its CEP sales through its affiliates, the Duferco companies, who performed these activities for U.S. sales.<sup>52</sup> Therefore, selling activities by JESCO for its U.S. sales were reduced in type and intensity compared to its sales in the home market. Accordingly, we considered the home market sales to be at a different LOT and at a more advanced stage of distribution than the CEP sales. Therefore, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act.<sup>53</sup>

## **G. 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 Department 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 the Department applied a "differential pricing" (DP) analysis for determining whether application of A-to-T comparison is appropriate pursuant to 19 CFR 351.414(c)(1) and

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<sup>49</sup> See also section 773(a)(7)(A) of the Act.

<sup>50</sup> See 19 CFR 351.412(c)(1)(iii).

<sup>51</sup> See January 9 SQR at Exhibit S-7.

<sup>52</sup> *Id.*

<sup>53</sup> See JESCO's Preliminary Analysis Memorandum.

consistent with section 777A(d)(1)(B) of the Act.<sup>54</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 AD investigation.<sup>55</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 CEPs for comparable merchandise that differs significantly among purchasers, regions, or time periods.<sup>56</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 CEP 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*

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<sup>54</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), and accompanying Preliminary Decision Memorandum.

<sup>55</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); *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); *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*); *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) (*Polyester Staple Fiber*).

<sup>56</sup> As noted above, the Department used a DP analysis 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); *Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2010-2012*, 78 FR 20890 (April 8, 2013); and *Polyester Staple Fiber*.

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 CEPs 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 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.

### *Results of the DP Analysis*

Based on the results of the DP analysis, we find that more than 66 percent of JESCO's U.S. sales pass the Cohen's *d* test, and confirm the existence of a pattern of CEPs for comparable

merchandise that differ significantly among purchasers, regions, or time periods. Further, the Department determines that the A-to-A method cannot appropriately account for such differences because there is 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 method applied to all U.S. sales which pass the Cohen's *d* test. Accordingly, the Department used the A-to-T method for all U.S. sales to calculate the preliminary weighted-average dumping margin for JESCO.<sup>57</sup>

#### **H. 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 date of the U.S. sales as certified by the Federal Reserve Bank.

#### **X. VERIFICATION**

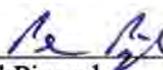
As provided in section 782(i) of the Act, we will verify information relied upon in making our final determination.

#### **XI. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

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

19 FEBRUARY 2014  
(Date)

<sup>57</sup> See JESCO's Preliminary Analysis Memorandum.