



A-583-850  
AR: 7/18/14 - 8/31/15  
Public Document  
AD/CVD I: TES

June 7, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results of the  
Antidumping Duty Administrative Review: Certain Oil Country  
Tubular Goods from Taiwan

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## SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain oil country tubular goods (OCTG) from Taiwan covering the period of review (POR) July 18, 2014, through August 31, 2015. The review covers one producer/exporter of the subject merchandise, Tension Steel Industries Co., Ltd. (Tension Steel). We preliminarily determine that Tension Steel did not make sales of the subject merchandise at prices below normal value (NV).

## BACKGROUND

On September 10, 2014, we published in the *Federal Register* an AD order on OCTG from Taiwan.<sup>1</sup> On September 1, 2015, we published in the *Federal Register* a notice of opportunity to request an administrative review of the order.<sup>2</sup> On November 9, 2015, based on timely requests for administrative review, we initiated an administrative review of Tension Steel and Shin Yang Steel Co., Ltd. (Shin Yang).<sup>3</sup> On November 30, 2015, based on Shin Yang's timely withdrawal

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<sup>1</sup> See *Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691, 53693 (September 10, 2014).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 52741 (September 1, 2015).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 69193, 69196 (November 9, 2015).



of its request for an administrative review, we rescinded the review with respect to Shin Yang, leaving Tension Steel as the sole remaining respondent in this review.<sup>4</sup>

We sent a questionnaire to Tension Steel on November 12, 2015.<sup>5</sup> On December 10, 2015, Tension Steel submitted timely responses to section A of the Department's AD questionnaire (*i.e.*, the section relating to general information),<sup>6</sup> and on January 4, 2016, Tension Steel responded to sections B, C, and D of the Department's AD questionnaire (*i.e.*, the sections relating to comparison-market and U.S. sales and cost of production).<sup>7</sup> We issued a supplemental questionnaire on February 18, 2016,<sup>8</sup> and Tension Steel responded on March 8, 2016.<sup>9</sup>

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the closure of the Federal Government earlier this year. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary results of this review is now June 7, 2016.<sup>10</sup>

We are conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

## **SCOPE OF THE ORDER**

The merchandise covered by the order is certain 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 order also covers OCTG coupling stock.

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

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<sup>4</sup> See *Certain Oil Country Tubular Goods From Taiwan: Rescission of Antidumping Duty Administrative Review in Part; 2014-2015*, 80 FR 74757 (November 30, 2015).

<sup>5</sup> See letter from the Department to Tension dated November 12, 2015 (QR).

<sup>6</sup> See letter from Tension "Certain Oil Country Tubular Goods from Taiwan; Section A Response" (December 10, 2015) (TAR).

<sup>7</sup> See letter from Tension, "Certain Oil Country Tubular Goods from Taiwan; Sections B-D Response" (January 4, 2016) (TBCR).

<sup>8</sup> See letter from the Department to Tension dated February 18, 2016 (SQ).

<sup>9</sup> See letter from Tension, "Certain Oil Country Tubular Goods from Taiwan; Supplemental Sections A-D Response" (March 8, 2016) (TSQR).

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

The merchandise subject to the order 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.

The merchandise subject to the order 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.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive.

## **DISCUSSION OF THE METHODOLOGY**

### Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Tension Steel's sales of the subject merchandise from Taiwan to the United States were made at less than NV, the Department compared the constructed export price (CEP) to the NV as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum.

#### A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average export prices (EP) (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.<sup>11</sup>

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<sup>11</sup> See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012) and the accompanying Issues and Decision

In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>12</sup> The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. Regions are defined using the reported destination code (*i.e.*, state) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEPs) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small

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Memorandum at comment 1; *see also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

<sup>12</sup> *See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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

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

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

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

## B. Results of the Differential Pricing Analysis

For Tension Steel, based on the results of the differential pricing analysis, the Department preliminarily finds that 86.94 percent of the value of U.S. sales pass the Cohen's *d* test, and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-

average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Tension Steel.

### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the “Scope of the Order” section above produced and sold by Tension Steel in the comparison market during the POR to be foreign like product for the purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. Specifically, we made comparisons to weighted-average comparison market prices that were based on all sales which passed the cost-of-production (COP) test of the identical product during the relevant or contemporary month.

### Date of Sale

Section 351.401(i) of the Department’s regulations states that, normally, we will use 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 regulation provides further that we may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.<sup>13</sup>

Tension Steel reported that all of its U.S. and comparison-market sales were produced to order pursuant to sales contracts between Tension Steel and the customer.<sup>14</sup> Tension Steel asserted that the price and quantity are subject to change after the sales contract between Tension Steel and the customer.<sup>15</sup> Thus, Tension Steel reported the date of invoice as the date of sale.<sup>16</sup> Tension Steel reported that the invoice is issued on or around the same date as the export declaration and that the export declaration is normally not made on the same day Tension Steel ships the merchandise.<sup>17</sup>

We preliminarily find that the material terms of Tension Steel’s U.S. and comparison-market sales were subject to change until the date of shipment.<sup>18</sup> Based on Tension Steel’s reporting that the price and quantity are subject to change after the sales contract between Tension Steel and the customer, we preliminarily determine that the use of the date of the sales contract as the date of sale is not warranted and we have used date of invoice.

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<sup>13</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>14</sup> See TAR at 17-18.

<sup>15</sup> *Id.*, at 18.

<sup>16</sup> *Id.*, at 17.

<sup>17</sup> *Id.*, at 18.

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

With respect to Tension Steel's U.S. sales, Tension Steel reported the date the merchandise was shipped from the seaport warehouse as the date of shipment.<sup>19</sup> Tension Steel explained that it did this because "all of Tension's sales of the subject merchandise to the United States involved seaport warehousing before the merchandise was placed on board the ocean-going vessel."<sup>20</sup> However, in a supplemental questionnaire, we asked "whether OCTG destined for the United States was ever 're-routed' (*i.e.*, shipped to a customer other than the one for whom it was originally destined when it left the factory)."<sup>21</sup> Tension Steel reported that "OCTG destined for the United States has never been 're-routed' since Tension Steel originally began engage in the sale of OCTG to the United States."<sup>22</sup> Based on this description, and consistent with our findings in the LTFV investigation with identical circumstances,<sup>23</sup> we preliminarily determine that the date of shipment from the factory is the appropriate date of shipment to the customer, not date of shipment from the seaport warehouse.

For those comparison-market and U.S. sales by Tension Steel that had shipment dates that precede the date of invoice, we used the date of shipment as the date of sale for Tension Steel's reported sales in accordance with our normal practice.<sup>24</sup>

### Constructed Export Price

Section 772(b) of the Act defines CEP as "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, as adjusted under subsections (c) and (d)" of section 772 of the Act.

The Department based the price of Tension Steel's U.S. sales of subject merchandise on CEP, as defined in section 772(b) of the Act, for the subject merchandise sold, before importation, by a U.S.-based seller affiliated with the producer to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses (*e.g.*, inland freight, warehousing, international freight, marine insurance, brokerage and handling, and U.S. duties), in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses

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<sup>19</sup> See TBCR at 63-4.

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

<sup>21</sup> See SQ at 2.

<sup>22</sup> See letter from Tension Steel, "Certain Oil Country Tubular Goods from Taiwan; Supplemental Sections A-D Response" (March 8, 2016) (TSQR) at 6.

<sup>23</sup> See *Certain Oil Country Tubular Goods From Taiwan: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 10495 (February 25, 2014) (*LTFV Prelim*), and accompanying preliminary decision memorandum at "Date of Sale" section (unchanged in final; 79 FR 41979, July 18, 2014).

<sup>24</sup> See, *e.g.*, *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009) (*Staple Fiber from Korea*). Moreover, this is consistent with our practice with respect to Tension Steel in the LTFV investigation of this order. See *LTFV Prelim*, and accompanying preliminary decision memorandum at 14-15 (unchanged in final; 79 FR 41979, July 18, 2014).

and those indirect selling expenses associated with economic activities occurring in the United States. We also deducted the profit allocated to expenses deducted under section 772(d)(1) of the Act, in accordance with section 772(d)(3) of the Act. Pursuant to section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and comparison markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets.

## Normal Value

### *A. Home Market Viability and Comparison Market*

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 Tension Steel's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.<sup>25</sup> Based on this comparison, we determined that Tension Steel did not have a viable home market during the POR. The only viable third country market to which Tension Steel sold comparable merchandise during the POR was Canada. Consequently, we based NV on Tension Steel's third-country sales to Canada, in accordance with section 773(a)(1)(C) of the Act.

### *B. Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, we 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>26</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>27</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>28</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 market. When this occurs and available data make it practicable, we make an LOT adjustment

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<sup>25</sup> See section 773(a)(1)(B) of the Act.

<sup>26</sup> See 19CFR 351.412(c)(2).

<sup>27</sup> *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>28</sup> See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

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>29</sup>

We examined the differences in selling functions reported in Tension Steel's responses to our requests for information. Tension Steel reported two channels of distribution in the comparison market: sales through its affiliate in Canada and sales directly to the unaffiliated customer in Canada. The selling activities associated with the two channels of distribution did not differ except for functions for whose expenses we adjusted directly; therefore, we consider the two reported channels of distribution to constitute one LOT.<sup>30</sup>

In the U.S. market, Tension Steel reported CEP sales through one channel of distribution. Therefore, we considered the CEP to constitute only one LOT. We compared the selling activities at the CEP LOT with the selling activities at the comparison-market LOT and found, after deducting selling functions corresponding to economic activities in the United States, *i.e.*, those performed by Tension Steel's U.S. affiliates, that these levels did not differ except for functions for whose expenses we adjusted directly.<sup>31</sup>

As a result, we preliminarily determine for Tension Steel the LOT of CEP sales was the same as the LOT of its comparison-market sales. Therefore, we matched Tension Steel's CEP sales at the same LOT in the comparison market and made no LOT adjustment or CEP offset.

### *C. Cost of Production*

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production.<sup>32</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission.<sup>33</sup> Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production (COP) information from respondent companies in all AD proceedings.<sup>34</sup> Accordingly, we requested this information from Tension Steel, and determined that there are reasonable grounds to believe or

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<sup>29</sup> See *Plate from South Africa*, 62 FR at 61732-33.

<sup>30</sup> See the Tension Steel preliminary analysis memorandum dated concurrently with this Preliminary Decision Memorandum for more details containing Tension Steel's business proprietary information.

<sup>31</sup> *Id.*

<sup>32</sup> See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA). The 2015 amendments may be found at <https://www.congress.gov/bills/114/congress/house-bill/1295/text/pl>.

<sup>33</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

<sup>34</sup> *Id.*, 80 FR at 46794-95.

suspect that sales of the foreign like product were made at prices less than the cost of production. We examined Tension Steel's cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the 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), interest expenses, and comparison-market pricing costs (*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 Tension Steel.

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

As required under sections 773(b)(1) and (2) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison 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 comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, billing adjustments, 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 sales of a given product were at prices less than the COP, we did not disregard 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 review, we found that none of Tension Steel's third-country sales were at prices less than the COP. Therefore, we did not disregard any of Tension Steel's third-country sales for determining NV in accordance with section 773(b)(1) of the Act.

#### *D. Calculation of Normal Value Based on Comparison Market Prices*

We calculated NV for Tension Steel based on its reported packed, ex-factory or delivered prices to comparison market customers. We made deductions from the starting price, where appropriate, for movement expenses (*e.g.*, inland freight, brokerage and handling), pursuant to section 773(a)(6)(B)(ii) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR

351.410(b), where appropriate, we made circumstance-of-sale adjustments (e.g., commissions). We added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act.

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>35</sup>

*E. Calculation of Normal Value Based on Constructed Value*

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison market sales, NV may be based on constructed value (CV). Accordingly, for those models for which we could not determine the NV based on comparison market sales, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative expenses (SG&A), profit, and U.S. packing costs. We based SG&A and profit on the actual amounts incurred and realized by Tension Steel in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the home market, in accordance with section 773(e)(2)(A) of the Act.

**CURRENCY CONVERSION**

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

**RECOMMENDATION**

We recommend applying the above methodology for these preliminary results.

✓  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

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

7 JUNE 2016  
\_\_\_\_\_  
Date

<sup>35</sup> See 19 CFR 351.411(b).