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Investigation  
POI: 04/01/2012-03/31/2013  
Public Document  
AD/CVD: IV: BF/TT

DATE: December 30, 2013

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

FROM: Abdelali Elouaradia *AE*  
Director, Office IV  
Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination of  
Antidumping Duty Investigation: Welded Stainless Pressure  
Pipe from Thailand

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## SUMMARY

The Department of Commerce (“the Department”) preliminarily determines that welded stainless pressure pipe (“WSPP”) from Thailand is being, or is likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 733 of the Tariff Act of 1930, as amended (“the Act”). The estimated margins of sales at LTFV are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

## BACKGROUND

On May 16, 2013, the Department received an antidumping duty (“AD”) petition concerning imports of WSPP from Thailand filed in proper form by Bristol Metals, LLC, Felker Brothers Corp., and Outokumpu Stainless Pipe, Inc. (collectively, “Petitioners”). In May 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 WSPP from Thailand on June 12, 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 initiation of the investigation. No interested party submitted comments.

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<sup>1</sup> See *Welded Stainless Pressure Pipe From Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 78 FR 35253 (June 12, 2013) (“*Initiation Notice*”).



In the *Initiation Notice*, we stated that the petition named only two Thai producers/exporters of subject merchandise and that we knew of no additional Thai producers/exporters of such merchandise; thus, we stated that we intended to examine all known Thai exporters of subject merchandise. However, after receiving a submission from Thareus Co., Ltd. (“Thareus”) identifying itself as a Thai producer/exporter of subject merchandise that had not been identified in the *Initiation Notice*,<sup>2</sup> we requested U.S. Customs and Border Protection (“CBP”) data for the Harmonized Tariff Schedule of the United States (“HTSUS”) numbers included in the scope. We released the CBP data to interested parties under an administrative protective order on June 21, 2013, and invited interested parties to submit comments on the data and potential respondent selection.<sup>3</sup> Between June 26 and June 28, 2013, the Department received comments regarding the CBP data and respondent selection from Thai-German Products Public Company Limited. (“TGP”);<sup>4</sup> Thareus;<sup>5</sup> and Petitioners.<sup>6</sup>

On July 26, 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 WSPP from Thailand.<sup>7</sup>

On July 29, 2013, the Department stated its intention to limit the number of respondents examined in the instant investigation to no more than one producer/exporter.<sup>8</sup> While Petitioners identified two producers in the Petition, (*i.e.*, TGP and Toyo Millennium Co., Ltd.), the CBP data revealed a large number of producers/exporters.<sup>9</sup> Because of the large number of companies identified, and after careful consideration of our resources, we concluded that it would not be practicable in this AD investigation to examine all known producers/exporters of the subject merchandise.<sup>10</sup> For the reasons stated in the Respondent Selection Memo, the Department selected one producer/exporter of subject merchandise as a mandatory respondent *i.e.*, (Thareus).<sup>11</sup> Also, the Department noted that while TGP requested to be treated as a voluntary respondent,<sup>12</sup> we did not select TGP as a mandatory respondent.<sup>13</sup> On July 30, 2013, the Department issued the AD questionnaire to Thareus. As stated in the Affiliation and Single

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<sup>2</sup> See Letter from Thareus, “Welded Stainless Steel Pressure Pipe from Thailand, Antidumping Duty Investigation: Entry of Appearance and APO Application,” dated June 13, 2013.

<sup>3</sup> See Memorandum to the File, “Welded Stainless Pressure Pipe from the Kingdom of Thailand: Customs and Border Protection Data,” dated June 21, 2013 (“CBP Data Memo”).

<sup>4</sup> See Letter from TGP, “Welded Stainless Steel Pipe from Thailand; Comments on CBP Data and Request for Voluntary Respondent Treatment,” dated June 26, 2013.

<sup>5</sup> See Letter from Thareus, “Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Comments on Customs and Border Protection Data,” dated June 27, 2013.

<sup>6</sup> See Letter from Petitioners, “Welded Stainless Steel Pressure Pipe From Thailand: Comments on CBP Data Release,” dated June 28, 2013.

<sup>7</sup> See *Welded Stainless Steel Pressure Pipe From Malaysia, Thailand, and Vietnam*, 78 FR 45271 (July 26, 2013).

<sup>8</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Office 4, “Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Thailand: Respondent Selection Memorandum,” dated July 29, 2013 (“Respondent Selection Memo”).

<sup>9</sup> See CBP Data Memo, at Attachment 1.

<sup>10</sup> See CBP Data Memo, at 3.

<sup>11</sup> See Respondent Selection Memo, at 3-5.

<sup>12</sup> See Letter from TGP to the Acting Secretary of Import Administration, “Welded Stainless Steel Pipe from Thailand: Comments on CBP Data and Request for Voluntary Respondent Treatment,” dated June 26, 2013.

<sup>13</sup> See Respondent Selection Memo, at 5.

Entity section below, the Department has preliminarily determined that Ametai Co., Ltd. (“Ametai”) and Thareus are affiliated and are a single-entity (collectively, “Ametai/Thareus”).

On September 23, 2013, after considering the facts surrounding TGP and our current workload, we determined that it would be practicable to individually examine an additional mandatory respondent.<sup>14</sup> Therefore, we selected TGP as a mandatory respondent because it was the next largest exporter/producer by volume of U.S. imports of subject merchandise during the period of investigation (“POI”) and for other reasons stated in the Additional Mandatory Respondent Memo.<sup>15</sup> Between August 29, 2013, and September 18, 2013, TGP submitted responses to sections A, B, and C of the Department’s questionnaire, which were timely filed (*i.e.*, the same deadlines as Ametai/Thareus).

On September 25, 2013, Petitioners timely filed an allegation that Ametai/Thareus made comparison market sales of certain WSPP at prices below the cost of production (“COP”) during the POI in the home market.<sup>16</sup> On September 27, 2013, the Department issued a supplemental questionnaire to Petitioners regarding their cost allegation. On October 17, 2013, Petitioners filed their response to the Department’s supplemental questionnaire and a revised cost allegation.<sup>17</sup> On October 23, 2013, Ametai/Thareus filed their response to Petitioners’ cost allegation. On October 28, 2013, the Department issued a second supplemental questionnaire to Petitioners regarding their cost allegation for Ametai/Thareus and the first supplemental questionnaire to Petitioners regarding their cost allegation for TGP. On November 4, 2013, Petitioners filed their responses to the Department’s second supplemental questionnaire and a revised cost allegation for Ametai/Thareus as well as their response to the Department’s supplemental questionnaire and a revised cost allegation for TGP. On November 6, 2013, Ametai/Thareus filed their response to Petitioners’ revised November 4, 2013, cost allegation. On November 7, 2013, and November 8, 2013, the Department initiated investigations to determine whether TGP’s and Ametai/Thareus’ sales, respectively, were made at prices below the COP during the POI.<sup>18</sup> Also, on November 8, 2013, the Department requested that Ametai/Thareus and TGP respond to section D of the Department’s questionnaire, and on November 29, 2013, and December 3, 2013, TGP and Ametai/Thareus, respectively, submitted their section D questionnaire responses.

Between October 21 and December 6, 2013, Ametai/Thareus submitted responses to the Department’s sections A-C supplemental questionnaires. Also, between October 23 and

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<sup>14</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Office 4, “Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Thailand: Selection of Additional Mandatory Respondent,” dated September 23, 2013 (“Additional Mandatory Respondent Memo”).

<sup>15</sup> See Respondent Selection Memo, at Attachment 1.

<sup>16</sup> See Letter from Petitioners, titled “Welded Stainless Pressure Pipe from Thailand: Thareus: Cost Allegation,” dated September 25, 2013. The Department has preliminarily determined that Ametai and Thareus are affiliated and are a single-entity. See the Affiliation and Single Entity section below for details.

<sup>17</sup> See Letter from Petitioners, titled “Welded Stainless Pressure Pipe from Thailand: TGP: Cost Allegation,” dated October 17, 2013.

<sup>18</sup> See Memorandum to Abdelali Elouaradia, Director, AD/CVD Operations, Office 4, “Petitioners’ Allegation of Sales Below the Cost of Production for Thai-German Products Public Company Limited,” dated November 7, 2013; see also Memorandum to Abdelali Elouaradia, Director, AD/CVD Operations, Office 4, “Petitioners’ Allegation of Sales Below the Cost of Production for Ametai Co. Ltd., Thareus Co. Ltd.’s Affiliated Producer,” dated November 8, 2013.

December 20, 2013, TGP submitted responses to the Department's sections A-C supplemental questionnaires. Petitioners submitted comments for Ametai/Thareus' section A response on September 10, 2013, and sections B and C on October 23, 2013.

On November 15, 2013, and November 18, 2013, Ametai/Thareus and TGP, respectively, requested a postponement of the final determination and an extension of provisional measures. On November 21, 2013, Petitioners requested a postponement of the final determination.

On December 2, 2013, Petitioners filed comments for the Department to consider in its preliminary determination. No other party submitted comments regarding the preliminary determination.

On December 11, 2013, the Department issued section D supplemental questionnaires for Ametai/Thareus and TGP. On December 18, 2013, and December 20, 2013, Ametai/Thareus filed its Section D supplemental questionnaire responses. On December 20, 2013, TGP filed its Section D supplemental questionnaire response.

On December 13, 2013, Petitioners made certain affiliation allegations regarding Ametai/Thareus, which are business proprietary.<sup>19</sup> On December 18, 2013, the Department issued Petitioners a letter regarding its affiliation allegations in Petitioners' December 13, 2013, submission.<sup>20</sup> Petitioners filed its response to the Department's December 18, 2013, letter on December 20, 2013.<sup>21</sup> Also, on December 18, 2013, the Department issued Ametai/Thareus a supplemental questionnaire regarding certain affiliation issues.<sup>22</sup> On December 24, 2013, and December 30, 2013, Ametai/Thareus submitted its responses.<sup>23</sup> We intend to explore this issue further for the final determination.

## **PERIOD OF INVESTIGATION**

The POI is April 1, 2012, through March 31, 2013. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was May 2013.<sup>24</sup>

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<sup>19</sup> See Submission from Petitioners, "Welded Stainless Pressure Pipe from Thailand: Comments on Section D," dated December 13, 2013.

<sup>20</sup> See Letter from the Department to Petitioners, "Antidumping Duty Investigation of Welded Stainless Steel Pressure Pipe from Thailand: Clarification Supplemental Questionnaire on December 16, 2013, Section D comments," dated December 18, 2013. Petitioners filed its affiliation allegation on December 13, 2013, but under the one day lag so the final version was December 16, 2013.

<sup>21</sup> See Submission from Petitioner, "Welded Stainless Pressure Pipe from Thailand: Thareus: Petitioners' Response to Department's December 18, 2013 Questionnaire," dated December 20, 2013.

<sup>22</sup> See Letter from the Department to Thareus, "Antidumping Duty Investigation of Welded Stainless Steel Pressure Pipe from Thailand: Third Section A Supplemental Questionnaire," dated December 18, 2013.

<sup>23</sup> See Submissions from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation; Section A Supplemental Questionnaire Response," dated December 24, 2013, and "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation; Section A Supplemental Questionnaire Response," dated December 30, 2013.

<sup>24</sup> See 19 CFR 351.204(b)(1).

## **POSTPONEMENT OF PRELIMINARY DETERMINATION**

On September 19, 2013, and amended on September 24, 2013, Petitioners made a timely request, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), for a 50-day postponement of the preliminary determination. On October 22, 2013, the Department fully postponed the deadline for issuing the preliminary determination by 50 days.<sup>25</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>26</sup> Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. Accordingly, the revised deadline for the preliminary determination of this investigation is now December 30, 2013.<sup>27</sup>

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

Pursuant to section 735(a)(2) of the Act, between November 15 and November 21, 2013, Ametai/Thareus, TGP and Petitioners requested that the Department postpone the final determination, and Ametai/Thareus and TGP 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 exporters Thareus and TGP account 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 THE INVESTIGATION**

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of this investigation, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications. ASTM A-358 products are only included when they are produced to meet ASTM A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications.

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<sup>25</sup> See *Welded Stainless Pressure Pipe From Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 78 FR 62583 (October 22, 2013).

<sup>26</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>27</sup> The deadline of December 28, 2013, falls on a Saturday; therefore, the deadline is the next business day (*i.e.*, December 30, 2013).

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A-554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A-249, ASTM A-688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A269, ASTM A-270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of these investigations is dispositive.

### **SCOPE COMMENTS**

In accordance with the preamble to the Department's regulations,<sup>28</sup> in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. No interested party submitted comments.

### **AFFILIATION AND SINGLE ENTITY**

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>29</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) suppliers of inputs used to produce WSPP; (2) reported home market customers; and (3) reported U.S. customers. In the instant investigation, Ametai and Thareus responded to the Department's questionnaires, and stated that Ametai is Thareus' affiliated producer. Ametai and Thareus reported that during the POI, Ametai manufactured

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<sup>28</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) ("Preamble").

<sup>29</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).

WSPP,<sup>30</sup> which Ametai sold in the home market. Also, Ametai and Thareus reported that Ametai transferred title of WSPP to its affiliated reseller, Thareus,<sup>31</sup> which then sold the merchandise under consideration, which was produced by Ametai,<sup>32</sup> to the unaffiliated U.S./export customer.<sup>33</sup> Ametai and Thareus reported that they are affiliated based on information which is business proprietary.<sup>34</sup>

In accordance with sections 771(33)(F) and (G) of the Act, we preliminarily find that there is evidence on the record that Ametai and Thareus are affiliated because of operational control or direction and that this control or direction has the potential to impact decisions concerning the production, pricing, and cost of the subject merchandise because the companies engaged in the production and sales of the subject merchandise are under common control. For the full analysis of this determination, *see* the Memorandum to Abdelali Elouaradia, Office Director, AD/CVD Operations, Office IV, "Affiliation and Collapsing Memorandum," dated December 30, 2013 ("Affiliation and Collapsing Memorandum").

We next examined whether any of the affiliated companies should be considered a single entity for purposes of calculating a dumping margin. 19 CFR 351.401(f) of the Department's regulations states that the Department will treat affiliated producers as a single entity where they have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Department concludes that there is a significant potential for the manipulation of price or production. Section 351.401(f) of the regulations 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. The *Preamble* to the final regulations clarifies how the Department should apply this section in its collapsing analysis, explaining that this list of factors is "non-exhaustive."<sup>35</sup> The *Preamble* states, however, that the Department must still find that the potential for manipulation of price and production is significant.<sup>36</sup> The Department has also previously explained its practice of collapsing affiliated companies:

Because the Department calculates margins on a company-by-company basis, it must ensure that it reviews the entire producer or reseller, not merely part of it.

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<sup>30</sup> See Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response," dated October 21, 2013 at 3.

<sup>31</sup> See Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response," dated October 21, 2013 at 3.

<sup>32</sup> See Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response," dated October 21, 2013 at 13.

<sup>33</sup> See Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Sections B and C Questionnaire Response," dated September 18, 2013, at 16 and 21.

<sup>34</sup> See Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Questionnaire Response," dated August 29, 2013 at Exhibit A-3.

<sup>35</sup> *Preamble*, 62 FR at 27345.

<sup>36</sup> *Preamble*, 62 FR at 27345-46.

The Department reviews the entire entity due to its concerns regarding price and cost manipulation. Because of this concern, the Department normally examines the question of whether reviewed companies “constitute separate manufacturers or exporters for purposes of the dumping law.”<sup>37</sup>

In the instant investigation, as explained above, we have preliminarily determined that Ametai and Thareus are affiliated; consequently, the first collapsing criterion has been satisfied. As to whether the companies have similar production facilities that would not require substantial retooling, Ametai and Thareus reported evidence that indicates that it would not require substantial retooling of the manufacturing facility in order to restructure manufacturing priorities.<sup>38</sup> Additionally, the Department has previously collapsed affiliated producers and exporters when the remaining 19 CFR 351.401(f) criteria were satisfied.<sup>39</sup>

Further, we preliminarily find that the operations of Ametai and Thareus are intertwined based on record evidence concerning price negotiation, production planning, and shipment of merchandise sold by Ametai and Thareus.<sup>40</sup> Furthermore, Ametai and Thareus reported that Ametai produced all of the merchandise under investigation that was sold by itself or Thareus during the POI.<sup>41</sup> For the full analysis of this determination, *see* the Affiliation and Collapsing Memorandum.

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<sup>37</sup> See *Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833, 42853 (Aug. 19, 1996), citing *Final Determination of Sales at Less than Fair Value; Certain Granite Products from Spain*, 53 FR 24335, 24337 (June 28, 1988).

<sup>38</sup> See Submission from Ametai/Thareus, “Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response,” dated October 21, 2013 at 13; *see Notice of Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil*, 69 FR 76910 (December 23, 2004) and accompanying Issues and Decision Memorandum, at Comment 5 (finding that “because {Company A} has a fully functioning facility for producing the subject merchandise, which is located on the same premises as and is controlled by {the respondent}, the role of producer and seller could easily switch from {the respondent} to {Company A} without substantial retooling at either company”); *see also Stainless Steel Butt-Weld Pipe Fittings From Italy: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination*, 76 FR 79651, 79652 (December 22, 2011) (finding that “the ownership, management, and operations of a producer and an affiliated exporter were so intertwined that management could switch the role of producer and seller between the two companies without substantial retooling of either company”), unchanged in *Stainless Steel Butt-Weld Pipe Fittings From Italy: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 24459 (April 24, 2012).

<sup>39</sup> See, e.g., *Stainless Steel Butt-Weld Pipe Fittings From Italy: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination*, 76 FR 79651, 79652 (December 22, 2011) (unchanged in *Stainless Steel Butt-Weld Pipe Fittings From Italy: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 24459 (April 24, 2012)).

<sup>40</sup> See Submission from Ametai/Thareus, “Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Questionnaire Response,” dated August 29, 2013 at 4-6, 10, 12, 14, and Exhibit A-3; *see also* Submission from Ametai/Thareus, “Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response,” dated October 21, 2013 at 1-3, 5-6, and 10-13; *see also* Submission from Ametai/Thareus, “Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Sections B and C Questionnaire Response,” dated September 18, 2013, at 16 and 21.

<sup>41</sup> See Submission from Ametai/Thareus, “Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response,” dated October 21, 2013 at 3.

In accordance with 19 CFR 351.401(f) and the Department's practice,<sup>42</sup> we are treating Ametai and Thareus as a single entity for purposes of this preliminary determination. For the Department's full analysis, see the Affiliation and Collapsing Memorandum.

## **DISCUSSION OF METHODOLOGY**

### **Fair Value Comparisons**

To determine whether sales of WSPP from Thailand to the United States were made at LTFV, we compared the export prices ("EP") to the normal value ("NV"), as described in the "Export Price" and "Normal Value" sections of this memo, below. In accordance with section 777A(d)(1)(B) of the Act, we compared transaction-specific EPs to POI weighted-average NVs for TGP and Ametai/Thareus.

### **Product Comparisons**

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

In making product comparisons, we matched foreign like products based on the physical characteristics established by the Department and reported by TGP and Ametai/Thareus in the following order of importance: product grade, specification, hot or cold finish, nominal pipe size, wall thickness schedule, and end finish.<sup>43</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 do not constitute differences in products in and of themselves. As the Department has noted "...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."<sup>44</sup>

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<sup>42</sup> See *Flowers from Colombia (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 expressly affirmed the Department's authority to collapse affiliated parties for purposes of antidumping analysis).

<sup>43</sup> See Letter from the Department to TGP "Investigation of Welded Stainless Steel Pipe from Thailand; Antidumping Questionnaire," dated July 30, 2013; see also Letter from the Department to Ametai/Thareus "Investigation of Welded Stainless Steel Pipe from Thailand; Antidumping Questionnaire," dated July 30, 2013.

<sup>44</sup> 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.

## 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 constructed export prices (“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>45</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>46</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 periods.<sup>47</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

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<sup>45</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>46</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>47</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); *Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2010-2012*, 78 FR 20890 (April 8, 2013); and *Polyester Staple Fiber*.

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 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*

#### Ametai/Thareus

Based on the results of the DP analysis, the Department finds that 72.99 percent of Ametai/Thareus' 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 method applied to all U.S. sales which pass the Cohen's *d* test. Accordingly, the Department has determined to use the A-to-A method for all U.S. sales to calculate the preliminary weighted-average dumping margin for Ametai/Thareus.<sup>48</sup>

#### TGP

Based on the results of the DP analysis,<sup>49</sup> the Department finds that none of TGP's U.S. sales pass the Cohen's *d* test and therefore does not confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Accordingly, the Department has determined to use the A-to-A method for all U.S. sales to calculate the preliminary weighted-average dumping margin for TGP.

#### Export 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)." In accordance with section 772(a) of the Act, we used the EP methodology for both Thareus and TGP because the merchandise under consideration was sold directly to the first unaffiliated purchaser in the United States before the date of importation by the producer or exporter of the merchandise under consideration outside the United States, and the use of the CEP methodology was not otherwise warranted based on the facts of record.

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<sup>48</sup> See Ametai/Thareus 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 monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

<sup>49</sup> See TGP Preliminary Analysis Memorandum.

### Ametai/Thareus

For all U.S. sales, Ametai/Thareus reported that the merchandise under consideration was produced by Ametai<sup>50</sup> and Ametai transferred title to its affiliated reseller, Thareus,<sup>51</sup> which then sold the merchandise under consideration to the unaffiliated U.S. customers.<sup>52</sup> We based the starting price on the prices to unaffiliated purchasers in the United States. If applicable, for those sales where the shipment date preceded the invoice date, we used the shipment date as the date of sale, in accordance with our practice.<sup>53</sup> 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; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, and marine insurance. For further discussion, *see* the Ametai/Thareus Preliminary Analysis Memorandum, dated concurrently with this memorandum.

### TGP

For all U.S. sales, TGP reported that the merchandise under consideration was produced by TGP and sold to its sole unaffiliated U.S. customer and importer.<sup>54</sup> We based the starting price on the prices to unaffiliated purchasers in the United States. If applicable, for those sales where the shipment date preceded the invoice date, we used the shipment date as the date of sale, in accordance with our practice.<sup>55</sup> We made adjustments for discounts, rebates, 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; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, and marine insurance. For further discussion, *see* the TGP Preliminary Analysis Memorandum, dated concurrently with this memorandum.<sup>56</sup>

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<sup>50</sup> See Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response," dated October 21, 2013 at 3.

<sup>51</sup> See Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response," dated October 21, 2013 at 3.

<sup>52</sup> See Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Sections B and C Questionnaire Response," dated September 18, 2013, at 16 and 21.

<sup>53</sup> See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 11.

<sup>54</sup> See Submission from TGP, "Welded Stainless Steel Pressure Pipe from Thailand; Section A Response," dated August 29, 2013 at 18; *see also* Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Supplemental Section A Response," dated October 23, 2013 at Exhibit A-1.

<sup>55</sup> See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 11.

<sup>56</sup> See TGP Preliminary Analysis Memorandum.

## Normal Value

### A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales<sup>57</sup>), we compared Ametai's, which sells in the home market, and TGP's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. Based on this comparison, we determined that Ametai's and TGP's aggregate volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise.<sup>58</sup> Therefore, we used home market sales as the basis for NV, in accordance with section 773(a)(1)(B) of the Act.

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

Pursuant to the Act and the Department's regulations, the Department will examine whether inputs purchased from or sales made to an affiliate were made at arm's-length before relying on reported costs and sales prices in its margin calculation. We exclude home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because we consider them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, "the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."<sup>59</sup>

Ametai/Thareus did not report any home market sales to affiliated parties.

TGP made home market sales both to unaffiliated customers and to its affiliate.<sup>60</sup> TGP's sale(s) to its affiliate is less than five percent of quantity or value of the reported home market sales.<sup>61</sup> We conducted the arm's-length test with respect to TGP's sale(s) to its affiliated reseller because TGP reported the sale(s) it made to its affiliated reseller.<sup>62</sup> We preliminarily find that certain of the sale(s) TGP made to its affiliated reseller during the POI failed the arm's-length test.<sup>63</sup> Accordingly, we have excluded these certain sale(s) from our preliminary margin analysis.<sup>64</sup>

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<sup>57</sup> See 19 CFR 351.404(b)(2).

<sup>58</sup> See Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response," dated October 21, 2013 at Exhibit A-10; *see also* Submission from TGP "Welded Stainless Steel Pipe from Thailand; Supplemental Section A Response," dated October 23, 2013 at Attachment 1.

<sup>59</sup> See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003), citing *Light-Walled Rectangular Pipe and Tube From Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011).

<sup>60</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Supplemental Section A Response," dated October 23, 2013, at Exhibit A-1.

<sup>61</sup> See Submission from TGP, *Welded Stainless Steel Pipe from Thailand; Second Supplemental Section ABC Response*, dated December 6, 2013 at Attachment 1 (September 7, 2012).

<sup>62</sup> See TGP Preliminary Analysis Memorandum.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

Consistent with 19 CFR 351.403(d) and the Department's practice, the Department did not request that TGP submit downstream sale(s) from its affiliated reseller because TGP's sale(s) constituted less than five percent of its total home-market sales during the POI.<sup>65</sup>

### C. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP.<sup>66</sup> The LOT for NV is based on the starting prices of sales in the home market or, when NV is based on CV, those of the sales from which we derived selling, general, and administrative expenses and profit.<sup>67</sup> For EP, the LOT is based on the starting price, which is usually the price from the exporter to the importer.<sup>68</sup> In this investigation, Ametai/Thareus and TGP reported only EP sales to the United States.<sup>69</sup>

To determine if the home-market sales are made at a different LOT than EP sales, we examined stages in the marketing process and the selling functions performed along the chain of distribution between the producer and the unaffiliated customer.<sup>70</sup> If home-market sales are at a different LOT, as manifested in a pattern of consistent price differences between the sales on which NV is based and home-market sales made at the LOT of the export transaction, and the difference affects price comparability, then we make a LOT adjustment to NV under section 773(a)(7)(A) of the Act and 19 CFR 351.412.<sup>71</sup>

#### Ametai/Thareus

In this investigation, we obtained information from Ametai/Thareus regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Ametai/Thareus reported one channel of distribution in the home market. Accordingly, we found that the one home market channel constitutes a single LOT.

Ametai/Thareus also reported EP sales in the U.S. market but information on the channel(s) of distribution and customer categories is business proprietary.<sup>72</sup> However, based on our analysis, we consider Thareus' EP sales to be at one LOT. *See* the Ametai/Thareus Preliminary Analysis Memorandum for details.

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<sup>65</sup> *See, e.g., Light-Walled Rectangular Pipe and Tube From Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352 (September 7, 2011).

<sup>66</sup> *See also* section 773(a)(7)(A) of the Act.

<sup>67</sup> *See* 19 CFR 351.412(c)(1)(iii).

<sup>68</sup> *See* 19 CFR 351.412(c)(1)(i).

<sup>69</sup> *See* Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Sections B and C Questionnaire Response," dated September 18, 2013, at 13; *see* Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Sections BC Response," dated September 18, 2013, at 46.

<sup>70</sup> *See* 19 CFR 351.412(c)(2).

<sup>71</sup> *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61733 (November 19, 1997).

<sup>72</sup> *See* Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Questionnaire Response," dated August 29, 2013 at 9-11 and Exhibit A-4; *see also* Submission from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation: Section A Supplemental Questionnaire Response," dated October 21, 2013 at 8-9 and Exhibit A-11.

We preliminarily determine that the selling activities associated with EP sales were essentially the same as those associated with the home 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 LOTs are identical (*i.e.*, one LOT in the home and U.S. markets). For a detailed description of our LOT methodology and findings for this preliminary determination, *see* the Ametai/Thareus Preliminary Analysis Memorandum.

### TGP

We obtained information from TGP regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by TGP for each channel of distribution.<sup>73</sup> TGP reported two channels of distribution in the home market.<sup>74</sup> According to TGP, the first channel of distribution for sales is made to unaffiliated wholesalers,<sup>75</sup> and the second channel of distribution involves sales directly to independent end-users.<sup>76</sup> However, record evidence indicates that there is no difference in the selling activities and functions in the home market sales to wholesalers/traders and end users.<sup>77</sup> According to TGP's selling function chart, the entity performing the sales activities (*i.e.*, TGP or customer), location (*i.e.*, TGP#1 or TGP#2), and degree of involvement for each selling activity/function (*i.e.*, Low, Medium, High, None) were identical between home market sales to wholesalers and end users.<sup>78</sup> Accordingly, we preliminarily find that TGP's two home market channels of distribution constitute a single LOT.<sup>79</sup>

TGP also reported EP sales in the U.S. market made at the same level of trade and that was made to a single entity.<sup>80</sup> According to TGP, there was only one channel of distribution for sales to the U.S. during the POI.<sup>81</sup> TGP sold the merchandise under consideration directly to its sole unaffiliated U.S. customer, a trader or wholesaler.<sup>82</sup> Thus, we considered TGP's EP sales to be at a single LOT.

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<sup>73</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Section A Response," dated August 29, 2013 at 12-16; *see also* Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Supplemental Section A Response," dated October 23, 2013 at 7.

<sup>74</sup> Submission from TGP "Welded Stainless Steel Pipe from Thailand; Section BC Response," dated September 18, 2013 at 22.

<sup>75</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Section A Response," dated August 29, 2013 at 12; *see also* Submission from TGP "Welded Stainless Steel Pipe from Thailand; Section BC Response," dated September 18, 2013 at 22.

<sup>76</sup> *Id.*

<sup>77</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Supplemental Section A Response," dated October 23 2013 at 7.

<sup>78</sup> *Id.*

<sup>79</sup> See TGP Preliminary Analysis Memorandum.

<sup>80</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Section BC Response," dated September 18, 2013 at 57.

<sup>81</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Section A Response," dated August 29, 2013 at 12.

<sup>82</sup> *Id.*

We preliminarily determine that the selling activities associated with EP sales were essentially the same as those associated with the home market.<sup>83</sup> We did not make a LOT adjustment pursuant to section 773(a)(7)(A) of the Act and 19 CFR 351.412(e), because we preliminarily find that there was only one home market LOT and one U.S. LOT, and both levels are identical. For a detailed description of our LOT methodology and findings for this preliminary determination, *see* TGP Preliminary Analysis Memorandum.

#### D. Cost of Production

As noted in the Background section above, we received allegations from Petitioners that Ametai/Thareus and TGP made home market sales below their COPs. Based on our analysis of these allegations, we found that there were reasonable grounds to believe or suspect that Ametai/Thareus' and TGP's sales of WSPP in the home market were made at prices below their COPs. Accordingly, on November 7, 2013, and November 8, 2013, the Department initiated sales-below-COP investigations of TGP's and Ametai/Thareus' sales, respectively.<sup>84</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>85</sup> We examined the cost data and preliminarily determined that our quarterly cost methodology is not warranted. Therefore, we have applied our standard methodology of using annual costs based on the reported data, as adjusted below.<sup>86</sup>

We relied on Ametai/Thareus' and TGP's submitted COP data except as follows.<sup>87</sup>

#### Ametai/Thareus

1. We revise the direct materials cost in accordance with the transactions disregarded rule.
2. We revised the financial expense rate to reflect an arms-length interest expense on affiliated loans.

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<sup>83</sup> *See* Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Supplemental Section A Response," dated October 23, 2013 at 7.

<sup>84</sup> *See* Memorandum to Abdelali Elouaradia, Director, AD/CVD Operations, Office 4, "Petitioners' Allegation of Sales Below the Cost of Production for Thai-German Products Public Company Limited," dated November 7, 2013; *see also* Memorandum to Abdelali Elouaradia, Director, AD/CVD Operations, Office 4, "Petitioners' Allegation of Sales Below the Cost of Production for Ametai Co. Ltd., Thareus Co. Ltd.'s Affiliated Producer," dated November 8, 2013.

<sup>85</sup> *See* "Test of Comparison Market Sales Prices" section, below, for treatment of comparison market selling expenses.

<sup>86</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) and accompanying Preliminary Decision Memorandum.

<sup>87</sup> For further discussion, *see* Memorandum entitled "Cost of Production and Constructed Value Adjustments for the Preliminary Determination for Ametai/Thareus," dated December 30, 2013, which is incorporated by reference; *see also*, Memorandum entitled "Cost of Production and Constructed Value Adjustments for the Preliminary Determination for TGP," dated December 30, 2013, which is incorporated by reference

For additional details, see Memorandum to Neal M. Halper, Director, Office of Accounting, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Thareus Co. Ltd. and Ametai Co. Ltd.,” dated December 30, 2013.

### TGP

1. We revised the general and administrative expense rate and the financial expense rate calculations to be based on fiscal year rather than the period of investigation.

For additional details, see Memorandum to Neal M. Halper, Director, Office of Accounting, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Thai-German Products Public Company Limited,” dated December 30, 2013.

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

With respect to each respondent, on a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COPs to the home market sales prices of the foreign like product, in order to determine whether the sale prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices for each respondent were net of billing adjustments, movement charges, direct and indirect selling expenses and packing expenses, where appropriate.<sup>88</sup>

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

Section 773(b)(1) provides that where sales made at less than the COP “have been made within an extended period of time in substantial quantities” and “were not at prices which permit recovery of all costs within a reasonable period of time” the Department may disregard such sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in “substantial quantities,” *i.e.*, where less than 20 percent of sales of a given product were at prices less than the COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.*, where 20 percent or more of a respondent’s sales of a given product were at prices less than the COP and where “the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales.”<sup>89</sup> Finally, based on our comparison of prices to the weighted-average COPs for the POI, we considered whether the prices would permit the recovery of all costs within a reasonable period of time.<sup>90</sup>

Therefore, for Ametai/Thareus and TGP, we disregarded below-cost sales of a given CONNUM of 20 percent or more and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.<sup>91</sup>

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<sup>88</sup> See Ametai/Thareus Preliminary Analysis Memorandum and TGP Preliminary Analysis Memorandum.

<sup>89</sup> See section 773(b)(2)(C)(ii) of the Act.

<sup>90</sup> See section 773(b)(2)(D) of the Act.

<sup>91</sup> See Ametai/Thareus Preliminary Analysis Memorandum and TGP Preliminary Analysis Memorandum.

E. Calculation of Normal Value Based on Comparison Market Prices

For TGP, we did not make deductions from the starting price for inland freight because record evidence indicates that TGP did not follow the Department's specific instructions, pursuant to 351.401(g)(2), to utilize the most-specific methodology available and to demonstrate that its methodology for reporting inland freight expenses is not distortive.<sup>92</sup> More specifically, a freight invoice submitted by TGP corroborates a wide variation in freight expenses based on destination and these invoices show TGP is able to provide freight expenses specific to the destination.<sup>93</sup> We requested that TGP report on a more specific basis.<sup>94</sup> TGP had a total of two opportunities to report on a more specific basis.<sup>95</sup> During both instances, TGP reported the same average freight adjustment for all its home market sales which has the potential to negate higher freight charges.<sup>96</sup> As such, for the preliminary determination, the Department is not granting TGP an adjustment for its inland freight expenses.<sup>97</sup>

We calculated NV for Ametai/Thareus and TGP based on the reported packed, ex-factory or delivered prices to comparison market customers. For Ametai/Thareus, pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments (*i.e.*, credit expenses and bank charges).

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), however, we made, where appropriate, circumstance-of-sale adjustments for TGP (*i.e.*, commissions, credit expenses, and bank charges). With respect to home market commissions, we made deductions where appropriate.<sup>98</sup> Additionally, the Department reclassified certain home market "commissions" as selling expenses.<sup>99</sup> Specifically, TGP reported certain gifts and vacations to its customers as "commissions" related to sales during the POI.<sup>100</sup> The Department reclassified these expenses as indirect selling expenses because they were not payments to selling agents or other intermediaries<sup>101</sup> and because the invoices for the gifts and vacations could not be tied

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<sup>92</sup> See TGP Preliminary Analysis Memorandum.

<sup>93</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Supplemental Section B Response," dated November 12, 2013 at Attachment 5.

<sup>94</sup> See Letter from the Department to TGP "Investigation of Welded Stainless Steel Pipe from Thailand; Antidumping Questionnaire," dated July 30, 2013 at B-23; *see also* Letter from the Department to TGP "Antidumping Duty Investigation of Welded Stainless Steel Pipe from Thailand; Section B Supplemental Questionnaire," dated October 23, 2013 at 8.

<sup>95</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Sections BC Response," dated September 18, 2013 at 25; *see also* Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Supplemental Section B Response," dated November 12, 2013 at 11 and 13.

<sup>96</sup> *Id.*

<sup>97</sup> See TGP Preliminary Analysis Memorandum.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Supplemental Section B Response" dated November 12, 2013 at 13-20; *see also* Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Second Supplemental Section B Response," dated December 6, 2013 at 9-11, Attachment 3.

<sup>101</sup> See TGP Preliminary Analysis Memorandum.

directly back to any of the home market sales.<sup>102</sup> 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, for Ametai/Thareus and TGP, 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>103</sup> For detailed information on the calculation of NV, see the Ametai/Thareus Preliminary Analysis Memorandum and TGP Preliminary Analysis Memorandum.

### 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.

### VERIFICATION

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

### CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

  
\_\_\_\_\_  
Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

12/30/13  
\_\_\_\_\_  
(Date)

<sup>102</sup> See Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Supplemental Section B Response," dated November 12, 2013 at 20; see also Submission from TGP, "Welded Stainless Steel Pipe from Thailand; Second Supplemental Section B Response," dated December 6, 2013 at Attachment 7.

<sup>103</sup> See 19 CFR 351.411(b).