



A-520-807  
Investigation  
Public Document  
E&C/Office II: BW

DATE: May 31, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

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

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## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that circular welded carbon-quality steel pipe (CWP) from the United Arab Emirates (UAE) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying Federal Register notice.

## II. BACKGROUND

On October 28, 2015, the Department received an antidumping duty (AD) petition covering imports of CWP from UAE,<sup>1</sup> which was filed in proper form by Bull Moose Tube Company; EXLTUBE; Wheatland Tube, a division of JMC Steel Group; and Western Tube and Conduit (collectively, the petitioners). The Department initiated this investigation on November 17, 2015.<sup>2</sup>

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

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



In the Initiation Notice, the Department stated that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for certain of the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>3</sup> Accordingly, on November 19, 2015, the Department released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.

Also in the Initiation Notice, the Department notified parties of an opportunity to comment on the scope of this and the concurrent CWP investigations, as well as the appropriate physical characteristics of CWP to be reported in response to the Department's AD questionnaire.<sup>4</sup> On December 4, 2015, the petitioners submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. On December 11, 2015, Universal Tube and Plastics Industries, Ltd. (Universal) filed rebuttal comments.

On December 9, 2015, the Department limited the number of respondents selected for individual examination to the two largest publicly identifiable producers/exporters of the subject merchandise by volume, Ajmal Steel Tubes & Pipes Industries LLC (Ajmal) and Universal (collectively, the respondents).<sup>5</sup> Accordingly, we issued AD questionnaires to Ajmal and Universal.

On December 14, 2015, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of CWP from UAE.<sup>6</sup>

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

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<sup>3</sup> See Initiation Notice, 80 FR at 73713.

<sup>4</sup> See Initiation Notice, 80 FR at 73709-73710.

<sup>5</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection for the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates," dated December 9, 2015 (Respondent Selection Memo).

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

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

<sup>8</sup> Id.

In January 2016 and February 2016, Ajmal and Universal submitted timely responses to the Department's AD questionnaire.<sup>9</sup> Between February 2016 through May 2016, we issued supplemental questionnaires to Ajmal and Universal, and we received responses to these supplemental questionnaires from March 2016 through May 2016.

On March 10, 2016, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation. Based on the request, the Department published a postponement of the preliminary determination until no later than May 31, 2016.<sup>10</sup>

On May 24 and 25, 2016, the petitioners submitted comments for the preliminary determination.

On May 19, 2016, the Department preliminarily found that Universal and its affiliated producers, Universal Tube and Pipe Industries, LLC, and KHK Scaffolding and Framework Limited LLC, meet the collapsing criteria set forth in 19 CFR 351.401(f), and thus we are treating them as a single entity for purposes of this investigation. The bases for this conclusion is set forth in a separate memorandum that contains a full discussion of our determination.<sup>11</sup>

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

### **III. PERIOD OF INVESTIGATION**

The period of investigation (POI) is October 1, 2014, through September 30, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was October 2015.<sup>12</sup>

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<sup>9</sup> See Universal's section A response, submitted January 11, 2016 (Universal Section A Response); Ajmal's section A response, submitted January 19, 2016 (Ajmal Section A Response); Ajmal's sections B-D response, submitted February 11, 2016 (Ajmal Sections B-D Response) and Universal's sections B-D response, submitted February 11, 2016 (Universal Sections B-D Response).

<sup>10</sup> See Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 81 FR 15039 (March 21, 2016). As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016.

<sup>11</sup> See Memorandum to Melissa Skinner, Director, Office II, entitled "Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Preliminary Determination of Affiliation/Single Entity Treatment of Universal Tube and Plastic Industries, Ltd. – Jebel Ali Branch (UTP), Universal Tube and Pipe Industries, LLC (DIP), and KHK Scaffolding and Framework Limited LLC (KHK)," dated May 19, 2016.

<sup>12</sup> See 19 CFR 351.204(b)(1).

#### IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act and 19 CFR 351.210(b)(2)(ii), on May 5, 2016, the respondents requested that the Department extend the final determination deadline, and that provisional measures be extended.<sup>13 14</sup> In accordance with sections 735(a)(2)(A) and 733(d) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because 1) our preliminary determination is affirmative, 2) the requesting exporters account for a significant proportion of exports of the subject merchandise, 3) the requesting exporters have requested extension of provisional measures to a period not more than six months, and 4) no compelling reasons for denial exist, we are granting the respondents' 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.

#### V. SCOPE COMMENTS

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

We received several comments concerning the scope of the AD investigations of CWP from Oman, Pakistan, the UAE, and the Socialist Republic of Vietnam and the CVD investigation of CWP from Pakistan. The Department evaluated these comments and addressed them in a separate memorandum, dated April 1, 2016, which is hereby adopted by this preliminary determination.<sup>16</sup> As discussed in the Preliminary Scope Decision Memorandum, we revised the

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<sup>13</sup> See Letter from Ajmal entitled, "Circular Welded Carbon Steel Pipe from the United Arab Emirates: Request to Postpone the Final Determination," dated May 5, 2016 (Ajmal Final Determination Extension Request); see also Letters from Universal, entitled, "Circular Welded Carbon Steel Pipe from the United Arab Emirates, Case No. A-520-807: Request to Postpone the Final Determination," and "Circular Welded Carbon Steel Pipe from the United Arab Emirates, Case No. A-520-807: Amendment to Request to Postpone the Final Determination," dated May 5, 2016 (collectively, Universal Final Determination Extension Requests).

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

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

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

scope language to clarify the inclusion of multi-stenciled pipe.<sup>17</sup> This modification applies to this and the concurrent AD investigations and CVD CWP investigations.<sup>18</sup>

## VI. DISCUSSION OF THE METHODOLOGY

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether the respondents' sales of CWP from the UAE to the United States were made at LTFV, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the "Export Price/Constructed Export Price," and "Normal Value" sections of this memorandum.<sup>19</sup>

### A) *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>20</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 investigation. The

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<sup>17</sup> *Id.*

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

<sup>19</sup> See Memorandum to the File from Dennis McClure, Senior International Trade Compliance Analyst, entitled, "Preliminary Determination Calculations for Universal," dated May 31, 2016 (Ajmal Preliminary Calculation Memo); see also Memorandum to the File from Blaine Wiltse, Senior International Trade Compliance Analyst, entitled, "Preliminary Determination Calculations for Universal," dated May 31, 2016 (Universal Preliminary Calculation Memo).

<sup>20</sup> See, e.g., Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3; Steel Concrete Reinforcing Bar from Mexico: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination, 79 FR 22802 (April 24, 2014), unchanged in Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, 79 FR 54967 (September 15, 2014); and Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015), and accompanying Issues and Decision Memorandum at "Margin Calculation."

Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

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

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

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the

results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

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

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

#### *B) Results of the Differential Pricing Analysis*

##### Ajmal

Based on the results of the differential pricing analysis, the Department finds that 66.04 percent of Ajmal's U.S. sales passed the Cohen's *d* test, which confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Thus, the results of the test support consideration of the application of an average-to-transaction method. Further, the Department determines that the average-to-average method cannot appropriately account for such differences because the relative change is greater than 25 percent between the weighted-average dumping margin and alternative method based on the average-to-transaction method. Accordingly, the Department preliminarily determines to use the average-to-transaction method to calculate the estimated weighted-average dumping margin for Ajmal.<sup>21</sup>

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<sup>21</sup> See Ajmal Preliminary Calculation Memo, at 1-2.

## Universal

Based on the results of the differential pricing analysis, the Department finds that 71.42 percent of Universal's U.S. sales passed the Cohen's *d* test, which confirms the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Thus, the results of the test support consideration of the application of an average-to-transaction method. Further, the Department determines that the average-to-average method cannot appropriately account for such differences because the relative change is greater than 25 percent between the weighted-average dumping margin and alternative method based on the average-to-transaction method. Accordingly, the Department preliminarily determines to use the average-to-transaction method to calculate the estimated weighted-average dumping margin for Universal.<sup>22</sup>

## **VII. DATE OF SALE**

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. The date of sale is generally the date on which the parties establish the material terms of the sale,<sup>23</sup> which normally includes the price, quantity, delivery terms and payment terms.<sup>24</sup> The Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>25</sup>

Ajmal reported that it issued its accounting invoices in the home market on the date of shipment. Therefore, Ajmal reported the date of sale for all home market sales as the date of its accounting invoice to the unaffiliated customer.<sup>26</sup> Universal reported that its dates of shipment and invoicing in the home market could differ, and, therefore, Universal reported the date of sale for all home market sales as the earlier of the date of shipment from the factory, or the date of invoice to the unaffiliated customer.<sup>27</sup>

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<sup>22</sup> See Universal Preliminary Calculation Memo, at 1-2.

<sup>23</sup> See 19 CFR 351.401(i).

<sup>24</sup> See USEC Inc. v. United States, 498 F. Supp. 2d 1337, 1343-1344 (CIT 2007).

<sup>25</sup> See 19 CFR 351.401(i); see also Allied Tube & Conduit Corp. v. United States, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

<sup>26</sup> See Ajmal Sections B-D Response, at B-17 through B-19.

<sup>27</sup> See Universal Section B-D response, at B-19; and Universal's supplemental sections A and C response, dated March 28, 2016 (Universal Supp A and C Response), at 23.

With respect to the U.S. market, Ajmal also reported the date of its accounting invoice to the first unaffiliated customer as the date of sale for its U.S. sales,<sup>28</sup> while Universal reported the earlier of the date of shipment from the factory, or the date of invoice to the unaffiliated customer.<sup>29</sup> The Department has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.<sup>30</sup> Therefore, for both Ajmal and Universal, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale in both markets, in accordance with our practice.<sup>31</sup>

## VIII. PRODUCT COMPARISONS

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

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

## IX. EXPORT PRICE/CONSTRUCTED EXPORT PRICE

We used EP for all sales made by Ajmal, in accordance with section 772(a) of the Act, because the merchandise under consideration was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted. We used CEP methodology for all of Universal’s sales, in accordance with section 772(b) of the Act, because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer and EP methodology was not otherwise indicated.

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<sup>28</sup> As with home market sales, Ajmal reported that its date of shipment is the same date as its accounting invoice. However, Ajmal stated that, in certain situations, it issued commercial invoices to U.S. customers before the accounting invoice date. In those situations, Ajmal reported the commercial invoice date as the date of sale. See Ajmal Sections B-D Response, at C-15 through C-17.

<sup>29</sup> See Universal’s Section B-D response, at C-15; and Universal Supp A and C Response, at 23.

<sup>30</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; see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum, at Comment 2.

<sup>31</sup> Id.

## Ajmal

We calculated the EP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for discounts and billing adjustments. We also made adjustments, where appropriate, for movement expenses (e.g., foreign inland freight, foreign brokerage and handling expenses, U.S. duties, and international freight), in accordance with section 772(c)(2)(A) of the Act.

## Universal

We calculated CEP based on packed and delivered prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for billing adjustments. We also made adjustments, where appropriate, for foreign inland freight expenses from the factory to the port, foreign brokerage and handling expenses, other foreign movement charges (e.g., port and customs handling, professional fees, certification of origin expenses, etc.), marine insurance, ocean freight, U.S. inland freight from the port to the customer (offset by freight revenue), U.S. brokerage and handling expenses, and other U.S. transportation expenses (e.g., demurrage, storage, etc.), in accordance with section 772(c)(2)(A) of the Act. We capped reimbursements for freight revenue by the amount of associated U.S. inland freight expenses incurred, in accordance with our practice.<sup>32</sup>

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses (commissions and imputed credit expenses) and indirect selling expenses (inventory carrying costs and other indirect selling expenses). Finally, we made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Universal and its U.S. affiliates, UTP Pipe USA Corp. (UTP-USA) and Prime Metal Corp. USA (Prime Metal), on their sales of the subject merchandise in the United States and the profit associated with those sales.

## **X. NORMAL VALUE**

### *A. Home Market Viability*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for

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<sup>32</sup> See, e.g., Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 64170, (October 28, 2014) and accompanying Issues and Decision Memorandum at Comment 4; see also Universal Prelim Calculation Memo, at 2.

comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we determined that the aggregate volume of home market sales of the foreign like product for each respondent was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for the respondents, in accordance with section 773(a)(1)(B) of the Act.

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

During the POI, Ajmal and Universal made sales of foreign like product in the home market to affiliated parties, as defined in section 771(33) of the Act. Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, where appropriate, we compared the unit prices of sales to affiliated and unaffiliated customers net of all billing adjustments, discounts, rebates, movement charges, direct selling expenses, and packing expenses. Pursuant to 19 CFR 351.403(c) and in accordance with the Department's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade (LOT), we determined that the sales made to the affiliated party were at arm's length.<sup>33</sup> Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.<sup>34</sup>

Because sales of foreign like product to certain of Universal's affiliated distributors failed the arm's-length test, we used Universal's reported downstream home market sales data for these affiliates in our calculations for the preliminary determination. With respect to Ajmal, although this company had resales made by its affiliates, we granted Ajmal's request that it not be required to report these downstream sales because the downstream sales which were resold accounted for less than five percent of home market sales by volume.<sup>35</sup>

*C. Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same LOT as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>36</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a

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<sup>33</sup> See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186 (November 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation).

<sup>34</sup> See section 771(15) of the Act and 19 CFR 351.102(b)(35).

<sup>35</sup> See Letter from the Department to Ajmal, dated January 22, 2016.

<sup>36</sup> See 19 CFR 351.412(c)(2).

difference in the stages of marketing.<sup>37</sup> In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),<sup>38</sup> we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.<sup>39</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. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>40</sup>

In this investigation, we obtained information from Ajmal and Universal regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution.<sup>41</sup> Our LOT findings are summarized below.

### Ajmal

In the home market, Ajmal reported that it made sales through one channel of distribution (*i.e.*, direct sales to distributors and end users).<sup>42</sup> According to Ajmal, it performed the following selling functions for sales to its distributors and end user customers in the home market:

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<sup>37</sup> Id.; see also Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999 (August 18, 2010) (OJ from Brazil) and accompanying Issues and Decision Memorandum at Comment 7.

<sup>38</sup> Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

<sup>39</sup> See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>40</sup> See, e.g., OJ from Brazil, at Comment 7.

<sup>41</sup> See Ajmal Section A Response, at A-14 through A-18; Universal Section A Response, at 14-22 and Exhibit A-6; Universal's Supp A and C Response, at 8-15 and Exhibit A-33.

<sup>42</sup> See Ajmal Sections B-D Response, at B-16 and B-17.

advertising, packing, inventory maintenance, order input/processing, direct sale personnel, payment of commissions, providing warranty services, and arranging for freight and delivery.<sup>43</sup>

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Ajmal performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for its home market sales. Because all sales in the home market are made through a single distribution channel and the selling activities to Ajmal's customers did not vary within this channel, we preliminarily determine that there is one LOT in the home market.

With respect to the U.S. market, Ajmal reported that it made sales through one channel of distribution (*i.e.*, direct sales to its U.S. customers).<sup>44</sup> Ajmal reported that it performed the following selling functions in the UAE for its EP sales: packing, order input/processing, employment of direct sales personnel, payment of commissions, providing warranty and technical support, and arranging for freight and delivery.<sup>45</sup> Based on these selling function categories, we find that Ajmal performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for its U.S. sales. Because we find that there were no differences in selling activities performed by Ajmal to sell to its U.S. customers, we determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Ajmal performed for its U.S. and home market customers are not significantly different. Therefore, we preliminarily determine that sales to the United States and home market during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

### Universal

In the home market, Universal reported that it made sales through two channels of distribution (*i.e.*, direct sales to unaffiliated customers from the factory (channel 1) and sales by affiliated resellers (channel 2)).<sup>46</sup> According to Universal, it performed the following selling functions to sell to all home market customers: order input/processing; direct sales personnel; sales/marketing support; packing; arranging for freight and delivery; and occasional provision of warranty services and inventory maintenance. Universal also reported that, on rare occasions, it pays commissions with respect to home market sales in channel 1.<sup>47</sup>

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<sup>43</sup> See Ajmal Section A Response, at Exhibit A-5.

<sup>44</sup> See Ajmal Sections B-D Response, at C-15.

<sup>45</sup> See Ajmal Section A Response, at Exhibit A-5.

<sup>46</sup> See Universal Section A Response, at 15; and Universal Supp A and C Response, at Exhibit A-33.

<sup>47</sup> *Id.*

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Universal and its affiliates performed sales and marketing, inventory maintenance and warehousing, freight and delivery, and warranty and technical support for its home market sales made through all sales channels.

Although Universal reported that it occasionally pays commissions on its home market sales made through channel 1, we do not find the selling functions performed for its sales to customers in channel 1 to be significantly different from those performed for its sales to customers in channel 2, such that they would constitute a different marketing stage. Therefore, we preliminarily determine that sales to the home market during the POI were made at a single LOT.

With respect to the U.S. market, Universal reported that it made sales through one channel of distribution (*i.e.*, to its U.S. affiliates, UTP-USA and Prime Metal, which were shipped directly to UTP-USA's and Prime Metal's unaffiliated U.S. customers from the factory).<sup>48, 49</sup> Universal reported that it performed the following selling functions in the UAE for its CEP sales: order input/processing; inventory maintenance; packing; and arranging for freight and delivery.<sup>50</sup> Based on the selling function categories noted above we find that Universal performed sales and marketing, freight and delivery, and inventory maintenance for its U.S. sales. Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT, and found that the types of selling functions Universal performed for its home market customers are not significantly different from those performed for its sales to its U.S. affiliates, such that they would constitute a different marketing stage. Therefore, we preliminarily determine that sales to the home market during the POI were not made at a different LOT than sales to the United States. Because Universal's home market LOT is not at a more advanced stage of distribution than Universal's U.S. LOT, a CEP offset is not warranted.

#### D. *Cost of Production Analysis*

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law,

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<sup>48</sup> See Universal Section A Response, at 15-20, and Exhibit A-5.

<sup>49</sup> Universal reported that it also made certain U.S. sales through a second channel of distribution (*i.e.*, to its U.S. affiliate, Prime Metal, which were held in inventory and further manufactured). See Letter from Universal, regarding "Circular Welded Carbon Steel Pipe from the United Arab Emirates, Case No. A-520-807; Letter Requesting Exclusion from Reporting Requirement," dated January 4, 2016. However, after considering information on the record regarding these transactions, the Department did not require Universal to report its U.S. sales made from inventory through Prime Metal. See Letter to Universal, dated January 12, 2016. Therefore, we are not including these U.S. sales in our analysis and are not addressing Universal's claim that these sales were made through a different channel of distribution.

<sup>50</sup> See Universal Section A Response, at 15-20; and Universal Supp A and C Response, at Exhibit A-33.

including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production (COP).<sup>51</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 of the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>52</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. The TPEA requires the Department to request CV and COP information from respondent companies in all AD proceedings. Accordingly, the Department requested this information from Ajmal and Universal.<sup>53</sup> We examined Ajmal's and Universal's cost data. We determined that our quarterly cost methodology is warranted for Ajmal. However, with regards to Universal, we applied our standard methodology of using annual costs based on the reported data.

#### 1. Cost Averaging Methodology

The Department's normal practice is to calculate an annual weighted-average cost for the POI. However, we recognize that possible distortions may result if we use our normal annual-average cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence using two primary factors: (1) the change in the cost of manufacturing (COM) recognized by the respondent during the POI must be deemed significant; (2) the record evidence must indicate that sales during the shorter cost-averaging periods could be reasonably linked with the COP or CV during the same shorter cost-averaging periods.<sup>54</sup>

##### a. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low- quarter COM) for determining that the changes in COM are significant enough to warrant a departure from our standard annual-average cost approach.<sup>55</sup> In the instant case, record evidence shows that Ajmal experienced significant changes (i.e., changes that exceeded 25 percent) between the

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<sup>51</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. (2015).

<sup>52</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) (Applicability Notice).

<sup>53</sup> See AD Questionnaire, dated December 15, 2015.

<sup>54</sup> See Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review, 75 FR 6627 (February 10, 2010) (SSSSC from Mexico) and accompanying Issues and Decision Memorandum at Comment 6 and Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review, 73 FR 75398 (December 11, 2008) (SSPC from Belgium) and accompanying Issues and Decision Memorandum at Comment 4.

<sup>55</sup> See SSPC from Belgium and accompanying Issues and Decision Memorandum at Comment 4.

high and low quarterly COM during the POR.<sup>56</sup> This change in COM is attributable primarily to the price volatility for coil used in the production of CWP.<sup>57</sup>

b. Linkage Between Sales and Cost Sales Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POI.<sup>58</sup> Absent a surcharge or other pricing mechanism, the Department may alternatively look for evidence of a pattern that changes in selling prices reasonably correlate to changes in unit costs.<sup>59</sup> To determine whether a reasonable correlation existed between the sales prices and underlying costs during the POI, we compared weighted-average quarterly prices to the corresponding quarterly COM for the control numbers with the highest volume of sales in the comparison market and in the United States. Our comparison revealed that sales and costs for Ajmal showed reasonable correlation.<sup>60</sup> After reviewing this information and determining that changes in selling prices correlate reasonably to changes in unit costs, we preliminarily determine that there is linkage between Ajmal's changing sales prices and costs during the POI.<sup>61</sup> We preliminarily determine that a shorter cost period approach, based on a quarterly-average COP, is appropriate for Ajmal because we found significant cost changes in COM as well as reasonable linkage between costs and sales prices.

2. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses.<sup>62</sup> For Universal, we examined the cost data and preliminarily determine that our quarterly cost methodology is not warranted.<sup>63</sup> Therefore, we applied our standard methodology of using annual costs based on the reported

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<sup>56</sup> See Memorandum from Chris Zimpo to Neal M. Halper, Director of Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—Ajmal Steel Tubes & Pipes Ind. L.L.C." (Ajmal Cost Calculation Memo), dated May 31, 2016.

<sup>57</sup> Id.

<sup>58</sup> See SSSSC from Mexico and accompanying Issues and Decision Memorandum at Comment 6 and SSPC from Belgium and accompanying Issues and Decision Memorandum at Comment 4.

<sup>59</sup> See SSPC from Belgium and accompanying Issues and Decision Memorandum at Comment 4.

<sup>60</sup> See Ajmal Cost Calculation Memo at pages 2-3.

<sup>61</sup> Id.; see also SSSSC from Mexico and accompanying Issues and Decision Memorandum at Comment 6 and SSPC from Belgium and accompanying Issues and Decision Memorandum at Comment 4.

<sup>62</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

<sup>63</sup> See Memorandum from Sheikh Hannan to Neal M. Halper "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Universal" (Universal Cost Calculation Memo), dated May 31, 2016.

data, as adjusted below. However, with respect to the analysis for Ajmal, the COP is based on a quarterly average COP rather than an annual average COP. See the “Cost Averaging Methodology” section, above, for further discussion.

We relied on the COP data submitted by the respondents, except as follows:

#### Ajmal

- We recalculated COM by using the fixed overhead which includes depreciation expense based on revalued assets values.<sup>64</sup>
- We revised the numerator of the reported G&A expense ratio calculation to include management fees.<sup>65</sup>

#### Universal

- We adjusted the calculation of the reported per-unit hot-rolled coil costs and the associated scrap revenues to use the same denominator employed to compute conversion costs.<sup>66</sup>
- We revised the numerator of the reported G&A expense ratio calculation to include management fees.<sup>67</sup>
- We revised the numerator of the net financial expense ratio calculation to include foreign exchange loss.<sup>68</sup>

### 3. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, discounts and rebates, movement charges, actual direct and indirect selling expenses, and packing expenses.

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<sup>64</sup> See Ajmal Cost Calculation Memo.

<sup>65</sup> Id.

<sup>66</sup> See Universal Cost Calculation Memo.

<sup>67</sup> Id.

<sup>68</sup> Id.

#### 4. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and 2) based on our comparison of prices to the weighted-average COPs for the POI, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

In light of the Court's directives in SeAH Steel Corp. v. United States, 704 F. Supp. 2d 1353 (CIT 2010), and SeAH Steel Corporation v. United States, 764 F. Supp. 2d 1322 (CIT 2011) to use an unadjusted annual average cost for purposes of the cost recovery test, in the instant investigation we have used the approach to test for cost recovery when using a shorter cost period methodology.<sup>69</sup> Using this methodology adopted in SPT from Turkey, we calculated a control number specific, weighted-average annual price using only those sales that were made below their quarterly COP, and compared the resulting weighted-average price to the annual weighted-average cost per control number. If the annual weighted-average price per control number was above the annual weighted-average cost per control number, we considered those sales to have provided for the recovery of costs, and we restored all such sales to the normal value pool of comparison-market sales available for comparison with U.S. sales.<sup>70</sup>

We found that, for certain specific products, more than 20 percent of Ajmal's and Universal's home market sales during the POI were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

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<sup>69</sup> See Certain Welded Carbon Steel Pipe and Tube from Turkey; Notice of Final Results of Antidumping Duty Administrative Review, 76 FR 76939 (December 9, 2011) (SPT From Turkey).

<sup>70</sup> For further details regarding the cost recovery methodology and the application of our shorter-cost period methodology, see Ajmal Cost Calculation Memo.

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

Ajmal

We calculated NV based on packed prices to unaffiliated customers. We made deductions from the starting price, where appropriate, for discounts, rebates, and billing adjustments, in accordance with 19 CFR 351.401(c). We also made deductions for inland freight expenses, under section 773(a)(6)(B)(ii) of the Act. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses, warranties, bank charges, and commissions. Where commissions were granted in the home market but not in the U.S. market, we made an upward adjustment to NV for the lesser of: (1) the amount of commission paid in the home market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred for sales to the U.S. market.<sup>71</sup>

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>72</sup>

Universal

We calculated NV based on the reported packed and delivered prices to home market customers. We made deductions, where appropriate, from the starting price for discounts and billing adjustments, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight expenses from the factory to the warehouse, warehousing expenses, and inland freight expenses from the warehouse to the customer, under section 773(a)(6)(B)(ii) of the Act.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to CEP sales, we made deductions for home market credit expenses, pursuant to 773(a)(6)(C) of the Act.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>73</sup>

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<sup>71</sup> See 19 CFR 351.410(e).

<sup>72</sup> See 19 CFR 351.411(b).

<sup>73</sup> Id.

**XI. CURRENCY CONVERSION**

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

**XII. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

  
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Agree

\_\_\_\_\_  
Disagree

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

31 MAY 2016  
\_\_\_\_\_  
Date