



A-412-824  
Investigation  
Public Document  
E&C/I: TES

DATE: February 29, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the  
Less-Than-Fair-Value Investigation of Certain Cold-Rolled Steel  
Flat Products from the United Kingdom

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## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain cold-rolled steel flat products (cold-rolled steel) from the United Kingdom are being, or are likely to be, sold in the United States at less-than-fair-value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

## II. BACKGROUND

On July 28, 2015, the Department received an antidumping duty (AD) petition covering imports of cold-rolled steel from the United Kingdom,<sup>1</sup> which was filed in proper form on behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation (collectively, the petitioners). The Department initiated this investigation on August 17, 2015.<sup>2</sup>

In the *Initiation Notice*, the Department notified the public that the Department intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of cold-rolled steel from the United Kingdom during the period of investigation (POI) under the

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<sup>1</sup> See Petitions for the Imposition of Antidumping Duties on imports of Certain Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, Korea, the Netherlands, Russia, and the United Kingdom, dated July 28, 2015 (Petitions).

<sup>2</sup> See *Certain Cold-Rolled Steel Flat Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Netherlands, the Russian Federation, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 51198 (August 24, 2015) (*Initiation Notice*).



Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>3</sup> On August 19, 2015, the Department released CBP import data to interested parties.<sup>4</sup> On August 31, 2015, and September 1, 2015, the Department received comments on the CBP data from Tata Steel UK Ltd. (TSUK) and Caparo Precision Strip, Ltd. (Caparo), respectively.<sup>5</sup>

On September 14, 2015, we selected Tata Steel IJmuiden BV (Tata Netherlands) and TSUK as mandatory respondents.<sup>6</sup> On September 18, 2015, we issued the AD questionnaire to TSUK and Tata Netherlands.<sup>7</sup>

On October 16, 2015, Tata Netherlands submitted a certification that it had no shipments of subject merchandise during the POI.<sup>8</sup> On November 4, 2015, we selected Caparo as a mandatory respondent.<sup>9</sup>

In October 2015, Caparo<sup>10</sup> and TSUK submitted timely responses to section A of the Department's AD questionnaire (*i.e.*, the section relating to general information), and in November 2015, Caparo and TSUK responded to sections B, C, and D of the Department's AD questionnaire (*i.e.*, the sections relating to home market and U.S. sales and cost of production). From November 2015 through January 2016, we issued supplemental questionnaires to Caparo and TSUK, and we received responses to these supplemental questionnaires from December 2015 through February 2016.

Additionally, in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of cold-rolled steel to be reported in response to the Department's AD questionnaire.<sup>11</sup> During September through December 2015, the following interested parties submitted comments on the scope of the investigation: Caparo Precision Strip, Ltd.; Sumitomo Corporation of America;

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<sup>3</sup> *Id.*, 80 FR at 51203.

<sup>4</sup> See Memorandum to the File from Thomas Schauer, International Trade Analyst, Office I, Antidumping and Countervailing Duty Operations, re: "Release of Customs and Border Protection (CBP) Data," dated August 19, 2015.

<sup>5</sup> See Letter from TSUK and Tata Netherlands, "Certain Cold-Rolled Steel Flat Products from the Netherlands and the United Kingdom: Comments of Tata Steel IJmuiden BV and Tata Steel UK Ltd. on Respondent Selection" (August 31, 2015) and Letter from Caparo, "Certain Cold-Rolled Steel Flat Products from the United Kingdom: Comments of Caparo Precision Strip, Ltd. on Respondent Selection" (September 1, 2015).

<sup>6</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Minoo Hatten, Program Manager, for Antidumping and Countervailing Duty Operations, Office I, "Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from the United Kingdom: Respondent Selection" dated September 14, 2015 (Respondent Selection Memo). We selected Tata Netherlands as a mandatory respondent because CBP data indicated that it exported U.K.-produced subject merchandise during the POI.

<sup>7</sup> See Letters from Department to TSUK and Tata Netherlands dated September 18, 2015.

<sup>8</sup> See Letter from Tata Netherlands, "Certain Cold-Rolled Steel Flat Products from the United Kingdom: Tata Steel IJmuiden BV No-Shipments Certification" (October 16, 2015).

<sup>9</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Minoo Hatten, Program Manager, for Antidumping and Countervailing Duty Operations, Office I, "Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from the United Kingdom: Selection of Additional Mandatory Respondent" dated November 4, 2015 (Additional Respondent Selection Memo).

<sup>10</sup> Prior to our selection of Caparo as a mandatory respondent, Caparo had submitted a voluntary response to section A of our questionnaire. See letter from Caparo, "Certain Cold-Rolled Steel Flat Products from the United Kingdom: Caparo Precision Strip, Ltd. Voluntary Response to Questionnaire Section A" (October 13, 2015) at cover page.

<sup>11</sup> See *Initiation Notice*, 80 FR at 51199.

POSCO; Hitachi Metals America, Ltd.; Electrolux Home Products, Inc.; Electrolux Home Care Products, Inc.; Nippon Steel & Sumitomo Metal Corporation; Nissan North America, Inc.; the Ministry of Economic Development of the Russian Federation; JFE Steel Corporation; and Ameri-Source Specialty Products, Inc. On September 18, 2015, December 1, 2015, and January 6, 2016, the petitioners submitted rebuttal scope comments in response to the scope comments of each of the interested parties that submitted scope comments.

On September 9, 2015, the petitioners, Caparo, TSUK, and Tata Netherlands submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. Then, on September 16, 2015, the petitioners filed rebuttal comments to comments on product characteristics comments filed by Caparo and TSUK. In addition, on September 16, 2015, Usinas Siderurgicas de Minas Gerais — Usiminas S.A., JSW Steel Ltd. and JSW Steel Coated Products Ltd., respondents in companion AD investigations on cold-rolled steel from Brazil and India, filed rebuttal comments to comments on product characteristics comments filed by the petitioners.

On September 10, 2015, the U.S. International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of cold-rolled steel from the United Kingdom.<sup>12</sup>

On November 30, 2015, the Department published the notice of postponement for the preliminary determination in this investigation, in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1).<sup>13</sup> As a result of the 50-day postponement, the revised deadline for the preliminary determination of this investigation moved to February 23, 2016.<sup>14</sup> Due to a closure of the Federal Government, the Department tolled all of its administrative deadlines by four business days.<sup>15</sup> The revised deadline for this preliminary determination is now February 29, 2016.

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

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

The POI is July 1, 2014, through June 30, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was July 2015.<sup>16</sup>

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

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<sup>12</sup> See *Cold-Rolled Steel Flat Products From Brazil, China, India, Japan, Korea, Netherlands, Russia, and the United Kingdom: Determinations*, 80 FR 55872 (September 17, 2015).

<sup>13</sup> See *Certain Cold-Rolled Steel Flat Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 74764 (November 30, 2015).

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

<sup>15</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016. Because the revised deadline falls on a weekend day, it is the Department's practice to extend the deadline to the next business day.

<sup>16</sup> See 19 CFR 351.204(b)(1).

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination

steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels;<sup>17</sup>
- Tool steels;<sup>18</sup>
- Silico-manganese steel;<sup>19</sup>
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in Grain-Oriented Electrical Steel From Germany, Japan, and Poland.<sup>20</sup>

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<sup>17</sup> Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

<sup>18</sup> Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

<sup>19</sup> Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

<sup>20</sup> See *Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances*, 79 Fed. Reg. 42,501, 42,503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as "a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths."

Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan.<sup>21</sup>

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

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

## V. ALL-OTHERS RATE

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination the Department shall determine an estimated all-others rate for all exporters and producers not individually investigated, which shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or de minimis margins, and any margins determined entirely under section 776 of the Act.

In this preliminary determination we have determined a rate of 28.03 percent, which is based on a weighted-average of the estimated dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration.<sup>22</sup>

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<sup>21</sup> See *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders*, 79 Fed. Reg. 71,741, 71,741-42 (Dep't of Commerce, Dec. 3, 2014). The orders define NOES as "cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied."

<sup>22</sup> See Memorandum to the File, From Thomas Schauer, Senior International Trade Compliance Analyst, "Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from the United Kingdom: Calculation of All-Others Rate," dated concurrently with this preliminary determination.

## VI. SUCCESSOR-IN-INTEREST

In determining whether a company qualifies as a successor-in-interest, aside from identifying the exact companies at issue, the Department considers a number of factors including, but not limited to, changes in 1) management; 2) production facilities; 3) supplier relationships; and 4) customer base. While no single factor or combination of these factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.<sup>23</sup>

In its supplemental response dated February 5, 2016, Caparo notified us that, on December 10, 2015 (after the POI) some of the Caparo Group assets and businesses that produce and sell subject merchandise – namely, JB&S Lees facility, the Firth Cleveland Steel Strip facility, and Caparo Precision Strip, Inc. – were sold to the Liberty House Group, a privately-held, United Kingdom-based conglomerate, with the exception of Caparo's Ductile Stourbridge Cold Mills (DSCM) facility which was closed and its assets liquidated.<sup>24</sup> According to Caparo, other than this change in ownership, the management, production facilities (other than the closed DSCM facility), supplier relationships and customer base remain unchanged.<sup>25</sup> Caparo further reported that, as a result of this transaction, the subject merchandise presently is being produced and exported to the United States under the following names: "Liberty Commodities Limited" and "JB&S Lees Firth Cleveland Steel Strip, part of Liberty Performance Steels, a division of Liberty Commodities Limited" (collectively, we refer to these companies as JB&S Lees/Liberty).<sup>26</sup> Aside from these statements, Caparo provided no supporting documentation for its claim.

On February 11, 2016, we sent a supplemental questionnaire to Caparo to request information regarding management, production facilities, supplier relationships, and customer base, as well as supporting documentation, and clarification as to the exact companies at issue (*i.e.*, whether JB&S Lees/Liberty is the successor-in-interest at issue). Although Caparo responded on February 25, 2016, we have not had adequate time to analyze Caparo's response to these issues.

Because Caparo failed to provide sufficient information for us to make a successor-in-interest determination when it submitted its change-in-ownership information on February 5, and we do not have sufficient time to analyze the additional information Caparo submitted on February 25, for purposes of the preliminary determination, we are unable make a determination that JB&S Lees/Liberty is the successor-in-interest to Caparo. We intend to further analyze and, as needed,

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<sup>23</sup> See, e.g., *Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From Thailand*, 75 FR 61702, 61703 (October 6, 2010) (unchanged in *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From Thailand*, 75 FR 74684 (December 1, 2010)).

<sup>24</sup> See letter from Caparo, "Certain Cold-Rolled Steel Flat Products from the United Kingdom: Caparo Precision Strip, Ltd. Supplemental Sections A-C Questionnaire Response" (February 5, 2016) at 1.

<sup>25</sup> *Id.*

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

collect additional information, and verify the information Caparo submits pertaining to the successorship claim for purposes of the final determination. In addition, parties may submit comments in their case briefs as to whether the information submitted by Caparo, as modified by any potential verification findings, supports a finding of successorship-in-interest.

## VII. DISCUSSION OF THE METHODOLOGY

### Comparisons to Fair Value

To determine whether Caparo's and TSUK's sales of the subject merchandise from the United Kingdom to the United States were made at less than normal value (NV), the Department compared the export price (EP) and constructed export price (CEP) to the NV as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum.

#### 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. The Department's regulations also provide that dumping margins may be calculated by comparing NVs, based on individual transactions, to the EPs (or CEPs) of individual transactions (transaction-to-transaction method) or, when certain conditions are satisfied, by comparing weighted-average NVs to the EPs (or CEPs) of individual transactions (average-to-transaction method).<sup>27</sup>

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>28</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 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

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<sup>27</sup> See 19 CFR 351.414(b)(1) and (2).

<sup>28</sup> See, e.g., *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 customer codes reported by Caparo,<sup>29</sup> and based on the consolidated customer codes reported by TSUK.<sup>30</sup> Regions are defined using the reported destination code (*i.e.*, state) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the 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*

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<sup>29</sup> See Letter to the Secretary of Commerce from Caparo, “Certain Cold-Rolled Steel Flat Products from the United Kingdom: Caparo Precision Strip, Ltd. Sections B through D Questionnaire Response” at C-17, dated November 16, 2015, (Caparo BCQR) where Caparo explains that there is only one unique customer code for each customer.

<sup>30</sup> See Letter to the Secretary of Commerce from TSUK, “Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from the United Kingdom: TSUK’s Sections B through D Questionnaire Response” at C-12, dated November 9, 2015 (TSUK BCQR).

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*

##### Caparo

For Caparo, based on the results of the differential pricing analysis, the Department preliminarily finds that 36.16 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>31</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for this preliminary determination, the Department is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Caparo.

##### TSUK

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<sup>31</sup> See Memorandum to the File from Thomas Schauer, "Less-Than-Fair-Value Investigation of Certain Cold-Rolled Steel Flat Products from the United Kingdom: Preliminary Determination Analysis Memorandum for of Caparo Precision Strip, Ltd.," dated February 23, 2016 ("Caparo Preliminary Analysis Memorandum") at 3.

For TSUK, based on the results of the differential pricing analysis, the Department preliminarily finds that 72.76 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>32</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for TSUK.

## VIII. 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. Additionally, 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>33</sup>

Caparo and TSUK reported the date of invoice as the date of sale for all home market and U.S. sales.<sup>34</sup> In this case, Caparo reported that the invoice date best represents the date of sale for both home market and U.S. sales because, at that point, the material terms of the sale cannot be altered.<sup>35</sup> Accordingly, for Caparo, we used the invoice date as the date of sale for purposes of this preliminary determination.

TSUK also reported that for home market and U.S. sales, material terms of sale can change up to the point of invoice date.<sup>36</sup> However, some of TSUK's U.S. sales had shipment dates that precede the date of invoice. 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>37</sup> Therefore, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale, in accordance with our practice.<sup>38</sup>

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<sup>32</sup> See Memorandum to the File from Thomas Schauer, "Less-Than-Fair-Value Investigation of Certain Cold-Rolled Steel Flat Products from the United Kingdom: Preliminary Determination Analysis Memorandum for Tata Steel UK Ltd.," dated February 23, 2016 ("TSUK Preliminary Analysis Memorandum") at 3.

<sup>33</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.").

<sup>34</sup> See Caparo BCQR at X and Y and TSUK BCQR at B-15 and C-14.

<sup>35</sup> See Letter to the Secretary of Commerce from Caparo, "Certain Cold-Rolled Steel Flat Products from the United Kingdom: Caparo Precision Strip, Ltd. Voluntary Response to Questionnaire Section A" at 20, dated October 13, 2015 (Caparo AQR).

<sup>36</sup> See Letter to the Secretary of Commerce from TSUK, "Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from the United Kingdom: TSUK's Section A Questionnaire Response" at 28, dated October 16, 2015 (TSUK AQR).

<sup>37</sup> See, e.g., *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR

## IX. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in the United Kingdom 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: painted, minimum specified carbon content, quality,<sup>39</sup> minimum specified yield strength, nominal thickness, nominal width, form, and heat treatment. For Caparo’s and TSUK’s respective sales of cold-rolled steel in the United States, the reported control number (CONNUM) identifies the characteristics of cold-rolled steel, as exported by Caparo and TSUK, respectively.

Caparo did not report sales of non-prime cold-rolled steel in either the home market or to the United States. TSUK did not report sales of non-prime cold-rolled steel to the United States, but it stated that it sold non-prime cold-rolled steel in the home market. According to TSUK, it sells some subject merchandise categorized internally as non-prime.<sup>40</sup> For the preliminary determination, we are including TSUK’s non-prime sales.

## X. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE

In accordance with section 772(a) of the Act, we calculated EP for certain of TSUK’s U.S. sales where the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of the record. In accordance with section 772(b) of the Act, for the remainder of TSUK’s U.S. sales and all of Caparo’s U.S. sales, we used CEP because the merchandise under consideration was sold in the United States by U.S. sellers affiliated TSUK and Caparo, respectively, and EP, as defined by section 772(a) of the Act, was not otherwise warranted.

### Caparo

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

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65517 (December 10, 2009) (*Staple Fiber from Korea*).

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

<sup>39</sup> Caparo reported additional quality values besides those identified in our questionnaire. See Caparo Preliminary Analysis Memorandum at 2 for a discussion of the quality values reported by Caparo.

<sup>40</sup> See TSUK BCQR at B-4.

sales because all such sales were invoiced and sold by Caparo's U.S. affiliate, Caparo Precision Strip Inc. USA, either as direct mill sales or from inventory maintained at U.S. warehouses.<sup>41</sup> We calculated CEP based on the packed, delivered prices to unaffiliated purchasers in the United States. We adjusted these prices for movement expenses, including international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and indirect selling expenses. Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP.

## TSUK

We based EP on a packed price to the first unaffiliated purchaser in the United States. The Department made adjustments for billing adjustments, as appropriate. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign inland insurance, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. customs duties.

TSUK classified some of its sales of merchandise under consideration to the United States as CEP sales because all such sales were invoiced and sold by TSUK's U.S. affiliate, Tata Steel International Americas, as direct mill sales.<sup>42</sup> We calculated CEP based on the packed, delivered prices to unaffiliated purchasers in the United States. We adjusted these prices for movement expenses, including foreign inland freight, foreign inland insurance, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and indirect selling expenses. Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP.

## **XI. NORMAL VALUE**

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

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<sup>41</sup> See Caparo AQR at 14.

<sup>42</sup> See TSUK AQR at 14.

In this investigation, we determined that the aggregate volume of home market sales of the foreign like product for Caparo and TSUK 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 Caparo and TSUK, in accordance with section 773(a)(1)(B) of the Act. Consistent with our practice, we also included Caparo's and TSUK's sales to affiliated parties for purposes of determining home market viability.<sup>43</sup>

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

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.<sup>44</sup> The Department excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because the Department considered 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 NV based on sales to affiliates if satisfied that the transactions were made at arm's length."<sup>45</sup>

Caparo and TSUK reported that they had a small volume of sales of merchandise under consideration to affiliated parties in the home market during the POI.<sup>46</sup> Pursuant to 19 CFR 351.403(c) and in accordance with the Department's practice, where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to unaffiliated parties, we determined that sales made to the affiliated party were at arm's length.<sup>47</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>48</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 level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>49</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that

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<sup>43</sup> See *Certain Oil Country Tubular Goods From Saudi Arabia: Final Determination of Sales at Less Than Fair Value*, 79 FR 41986 (July 18, 2014), and accompanying Issues and Decision Memorandum at Comment 2 (use of affiliated party sales in viability determination).

<sup>44</sup> See 19 CFR 351.403(c).

<sup>45</sup> See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) (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>46</sup> See Caparo AQR at 27, and TSUK BCQR at B-13.

<sup>47</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 percent and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation).

<sup>48</sup> See 19 CFR 351.102(b).

<sup>49</sup> See 19 CFR 351.412(c)(2).

there is a difference in the stages of marketing.<sup>50</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>51</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>52</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>53</sup>

### Caparo

Caparo reported that it sold cold-rolled steel in the comparison market through three channels of distribution: end users, end users on consignment stock, and distributors. Caparo reported that the selling activities associated with sales through the three channels of distribution did not differ. We found no evidence to contradict Caparo's statements. Accordingly, we preliminarily find that Caparo's single comparison-market channel of distribution constituted a single LOT.

Caparo reported that its CEP sales were made through two channels of distribution: sales directly shipped to the U.S. customer from the U.K. plant and sales made from the U.S. affiliate's inventory. Caparo reported that the selling activities associated with sales through the two channels of distribution did not differ.<sup>54</sup> We found no evidence to contradict Caparo's statements. Accordingly, we preliminarily find that Caparo's CEP channels of distribution constituted a single LOT.

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<sup>50</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), and accompanying Issues and Decision Memorandum at Comment 7 (*Orange Juice from Brazil*).

<sup>51</sup> Where NV is based on 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>52</sup> See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>53</sup> See, e.g., *Orange Juice from Brazil*, at Comment 7.

<sup>54</sup> Caparo did report a difference in the selling functions performed by itself and its U.S. affiliate with respect to CEP sales. However, because we adjust CEP for selling expenses incurred in the U.S. pursuant to section 772(d) of the Act, we are not including the selling functions performed by Caparo's U.S. affiliate in our analysis.

Finally, Caparo reported that the selling activities associated with the home-market LOT and the CEP LOT do not differ except with respect to advertising, providing rebates, and freight and delivery. Because we adjust for rebates and freight expenses directly, the only genuine difference in selling functions that is not adjusted for is advertising. As a result, we preliminarily determine that the selling activities associated with the home-market LOT and the CEP LOT do not differ significantly and are made at the same LOT. Therefore, we matched Caparo's CEP sales at the same LOT in the comparison market and made no level-of-trade adjustment or CEP offset.

## TSUK

TSUK reported that it sold cold-rolled steel in the comparison market through two channels of distribution: 1) sales from TSUK directly to distributors or end-users/processors (Channel 1), and 2) sales from TSUK through wholly incorporated TSUK Distribution Centers to distributors or end-users/processors (Channel 2). We found that the two home-market channels of distribution differed with respect to selling activities. Specifically, market research and engineering/research & development/product development services were performed for Channel 1 sales but not for Channel 2 sales. By contrast, warehousing and procurement/sourcing services were performed for Channel 2 sales but not for Channel 1 sales. Based on these differences, we preliminarily determine that the two home-market channels of distribution constituted two LOTs.

TSUK reported that its U.S. sales were made through two channels of distribution: 1) EP sales from TSUK directly to distributors/service centers and original equipment manufacturers (OEMs) and 2) CEP sales from TSUK through its U.S. affiliate to distributors/service centers and OEMs. After adjusting the selling functions of CEP sales to remove functions adjusted for under section 772(d) of the Act, we found that the two home-market channels of distribution do not differ significantly with respect to selling activities. The only differences in selling functions between EP and CEP sales that TSUK reported were in strategic/economic planning, market research, and engineering/research & development/product development services.<sup>55</sup> TSUK reported that it performed strategic/economic planning and market research for both EP and CEP sales, albeit at somewhat different levels of activity; only engineering/research & development/product development services is performed for one channel (EP) and not the other. Based on these circumstances, we preliminarily determine that the two U.S. channels of distribution constituted a single LOT.

We found that the selling functions TSUK performed for U.S. sales were very similar as those it performed for comparison-market sales to Channel 1. As a result, we preliminarily determine the LOT of U.S. sales was the same as the LOT of home-market sales to Channel 1. Thus, where possible, we matched U.S. sales at the same level of trade in the home market and made no LOT adjustment. When the only appropriate home-market match was at a different LOT, we made a LOT adjustment based on the following analysis.

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<sup>55</sup> TSUK reported a slight difference in its selling-functions chart with respect to advertising. However, in its narrative response, TSUK reported that advertising "is not performed in either channel of distribution in the U.S. market" and that it marked CEP sales as "very low" in its selling-functions chart on the grounds that, "{t}o the extent that catalogs and brochures and other institutional materials are included in this category of expenses, it would be reflected in the indirect selling expenses reported by TSUK in Field DINDIRSU." See Letter from TSUK, "Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from the United Kingdom: TSUK's Section A Questionnaire Response," (October 16, 2015) at 23.

In order to determine whether a pattern of consistent price differences between the LOTs in the home market existed, we calculated the weighted-average price of each model at each home-market LOT based on sales made in the ordinary course of trade. For sales remaining after the arm's-length test and the cost test, we took all models sold at both LOTs and compared the weighted-average prices. We calculated the percentage of all models sold for which the weighted-average price was greater at each LOT. We also calculated the percentage of total quantity of sales of all models for which the weighted-average price was greater at each LOT. Based on this analysis, we determined that there was a pattern of consistent price differences between the two LOTs in the home market.<sup>56</sup>

Therefore, when we matched a U.S. sale to home market sales at a different LOT, we made an adjustment for these price differences in LOTs. In situations where we made a LOT adjustment, we adjusted normal value by the weighted-average difference in prices between the LOTs in the home market. We calculated this adjustment based on sales in the ordinary course of trade and used prices net of billing adjustments, movement expenses, discounts, rebates, commissions, imputed credit, and packing expenses. We calculated the weighted-average difference on a model-specific basis for models sold at both LOTs in the home market and then weight-averaged the model-specific differences. We calculated the amount of the LOT adjustment by applying this weighted-average percentage price difference to the NV determined at the different LOT.

#### 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, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production.<sup>57</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>58</sup> Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production (COP) information from respondent companies in all AD proceedings.<sup>59</sup> Accordingly, the Department requested this information from Caparo and TSUK. We examined Caparo's and TSUK's cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

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<sup>56</sup> Because of the proprietary nature of this analysis, *see* Tata Preliminary Analysis Memorandum for further details of this analysis.

<sup>57</sup> *See Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>58</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>59</sup> *Id.*, 80 FR at 46794-95.

### 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses.<sup>60</sup>

We relied on the COP data submitted by Caparo and TSUK, except as follows:<sup>61</sup>

- We adjusted TSUK's reported total cost of manufacturing for raw material and energy inputs in accordance with the transactions disregarded rule at section 773(f)(2) of the Act.
- We revised TSUK's reported G&A expense to include restructuring and impairment costs.

### 2. 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, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

### 3. 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.

We found that, for certain products, more than 20 percent of Caparo's and TSUK'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

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<sup>60</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

<sup>61</sup> See Memorandum to Neal M. Halper, Director, Office of Accounting, from Angie Sepúlveda, Senior Accountant "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – TSUK," dated concurrently with this memorandum.

and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

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

For those comparison products for which there were an appropriate number of sales at prices above the COP for Caparo and TSUK, we based NV on comparison market prices. We calculated NV based on packed, ex-factory or delivered prices to unaffiliated customers in the United Kingdom.

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>62</sup>

Caparo

The Department calculated NV based on delivered or ex-works prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, discounts, and rebates, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for movement expenses, including inland freight, under section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses and other direct selling expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

TSUK

The Department calculated NV based on delivered or ex-works prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments and discounts in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for movement expenses, including inland freight under section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses and other direct selling expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

**XII. 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.

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<sup>62</sup> See 19 CFR 351.411(b).

**XIII. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

✓  
Agree

Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

29 FEBRUARY 2016  
Date