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May 3, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

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

I. SUMMARY

The Department of Commerce (“Department”) preliminarily determines that Welded Stainless Pressure Pipe (“WSPP”) from India 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”).

II. BACKGROUND

On September 30, 2015, the Department of Commerce (“the Department”) received an antidumping duty (“AD”) petition concerning imports of welded stainless pressure pipe (“welded stainless pipe”) from India filed in proper form on behalf of Bristol Metals, LLC, Felker Brothers Corporation, Outokumpu Stainless Pipe, Inc., and Marcegaglia USA Inc. (collectively, “Petitioners”).¹ The Department initiated this investigation on October 20, 2015.²

In the *Initiation Notice*, the Department stated that 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.³ Accordingly, on October 26, 2015, the Department released the CBP entry data to all interested

¹ See “Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Welded Stainless Pressure Pipe from India Pursuant to Sections 701 and 703 of the Tariff Act of 1930, as Amended,” at Volume II, dated September 30, 2015 (“Petition”).

² See *Welded Stainless Pressure Pipe from India: Initiation of Antidumping Duty Investigation*, 80 FR 65696 (October 27, 2015) (“Initiation Notice”).

³ See *id.*, 80 FR at 65696.



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 the investigation, as well as the appropriate physical characteristics of WSPP to be reported in response to the Department's AD questionnaire.⁴ No comments were submitted.

On November 16, 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 WSPP from India.⁵

On November 24, 2015, the Department issued the AD questionnaire to Steamline Industries Ltd. ("Steamline") and Sunrise Stainless Pvt. Ltd. ("Sunrise"). On December 15 and December 22, 2015, respectively, Steamline and Sunrise submitted timely responses to section A of the Department's AD questionnaire (*i.e.*, the section relating to general information). Both companies timely filed responses to sections B through D (*i.e.*, the sections relating to home market and U.S. sales, and cost of production information) on January 19, 2016.

In February, March, and April 2016, we issued multiple supplemental questionnaires to Steamline and Sunrise. We received responses to these supplemental questionnaires in February, March, and April of 2016. During the same time frame, Petitioners submitted comments regarding Steamline and Sunrise's questionnaire responses.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll all administrative deadlines, due to the recent closure of the Federal Government.⁶ All deadlines in this segment of the proceeding were extended by four business days. Furthermore, on March 3, 2016, based upon a request from Petitioners, the Department postponed the time period for the preliminary determination of this investigation by 40 days, to May 3, 2016, in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1).⁷

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

⁴ *Id.*

⁵ See *Certain Welded Stainless Pressure Pipe from India*, 80 FR 72735 (November 20, 2015); see also *Welded Stainless Steel Pressure Pipe from India: Investigation Nos. 701–TA–548 and 731–TA–1298 (Preliminary)* (November 2015).

⁶ 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.

⁷ See *Certain Welded Stainless Pressure Pipe from India: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 81 FR 11179 (March 3, 2016).

III. PERIOD OF INVESTIGATION

The period of investigation (“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 September 2015.⁸

IV. AFFILIATION AND COLLAPSING

We preliminarily determine that Sunrise and Sunmark Stainless Pvt. Ltd. (“Sunmark”) are affiliated, pursuant to section 771(33)(A) of the Act.⁹ In addition, based on the evidence provided in Sunrise’s questionnaire responses, we also preliminarily determine that Sunrise and Sunmark should be collapsed and treated as a single entity in this investigation. This finding is based on the determination that the level of common ownership and management overlap between Sunrise and Sunmark as well as intertwined production operations result in a significant potential for manipulation of price or production of subject merchandise, pursuant to 19 CFR 351.401(f).¹⁰

V. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on April 28, 2016, Sunrise requested the Department to postpone the final determination and extend provisional measures from four months to six months.¹¹ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because: (1) our preliminary determination is affirmative; (2) the requesting exporter, Sunrise, accounts for a significant proportion of exports of the subject merchandise; and, (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

VI. SCOPE OF THE INVESTIGATION

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

⁸ See 19 CFR 351.204(b)(1).

⁹ See Memorandum to Brendan Quinn, Acting Director, Office III, “Antidumping Duty Investigation on Welded Stainless Pressure Pipe from India: Preliminary Affiliation and Collapsing Memorandum for Sunrise Stainless Private Limited” dated concurrently with this memorandum.

¹⁰ See Sunrise’s Section A Questionnaire Response (“Sunrise IQR-A”), dated December 22, 2015, at 9-11 and Exhibit A-3.

¹¹ See Letter from Sunrise, “Re Welded Stainless Pressure Pipe from India: Sunrise’s Request for Extension of the Final Determination and Provisional Measures,” dated April 28, 2016.

Excluded from the scope are: (1) welded stainless mechanical tubing, meeting ASTM A-554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A-249, ASTM A-688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A-269, ASTM A-270 or comparable domestic or foreign specifications.

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

VII. DISCUSSION OF THE METHODOLOGY

Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Steamline and Sunrise's sales of the subject merchandise from India to the United States were made at less than normal value ("NV"), the Department compared the export price ("EP") and constructed export price ("CEP"), as applicable, 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. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values 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.¹² 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.

¹² 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; *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.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. 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 differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For both Sunrise and Steamline, purchasers are based on the customer names.¹³ Regions are defined using the reported destination code (*i.e.*, zip code for Sunrise and Steamline) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of investigation 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

¹³ See Sunrise’s Initial Questionnaire responses to sections B and C, dated January 19, 2016 (“Sunrise IQR-BC”), at 15. See also Steamline’s Initial Questionnaire responses to sections B and C, dated January 19, 2016 (“Steamline IQR-BC”), at 13.

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

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

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

B. *Results of the Differential Pricing Analysis*

Sunrise

For Sunrise, based on the results of the differential pricing analysis, the Department preliminarily finds that 67.36 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁴ 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 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-average method for all U.S. sales to calculate the weighted-average dumping margin for Sunrise.

¹⁴ See Memorandum to the File from Alex Rosen, "Analysis for the Preliminary Determination of the Less-Than-Fair Value Investigation of Welded Stainless Pressure Pipe from India," dated concurrently with this memorandum ("Sunrise Preliminary Analysis Memorandum").

Steamline

For Steamline, based on the results of the differential pricing analysis, the Department preliminarily finds that 38.70 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁵ 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 Steamline.

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.¹⁶ In addition, the Department's long-standing practice is to rely on shipment date where it precedes invoice date as the date of sale.¹⁷

Sunrise

For its comparison market sales and U.S. sales, Sunrise reported the date of the invoice as the date of sale.¹⁸ Sunrise reported that the invoice is issued on the date of shipment. Therefore, we preliminarily determine that invoice date is the appropriate date of sale, in accordance with our regulatory preference in 19 CFR 351.401(i). Petitioners argued that the Department should collect additional information from Sunrise on purchase orders in order to determine whether it was appropriate to change the date of sale; Sunrise pointed to evidence of changes between purchase order and invoice, and asserted that invoice date was the appropriate date of sale; based

¹⁵ See Memorandum to the File from James Terpstra, "Analysis for the Preliminary Determination of the Less-Than-Fair Value Investigation of Welded Stainless Pressure Pipe from India for Steamline Industries, Ltd.," dated concurrently with this memorandum ("Steamline Preliminary Analysis Memorandum").

¹⁶ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) ("*Allied Tube & Conduit Corp.*") ("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.").

¹⁷ See, e.g., *Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 33482 (June 12, 2015), and accompanying Issues and Decision Memorandum at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

¹⁸ See Sunrise's supplemental questionnaire response C dated January 19, 2016 ("Sunrise SQR-BC") (Respondent dated the Section B and C response January 19, 2015) at 18.

on record evidence, we find no compelling reason to change the date of sale. Such record evidence includes, for example, changes in price, quantity or specifications.¹⁹

Steamline

For its comparison market sales and U.S. sales, Steamline reported the date of the invoice as the date of sale.²⁰ Steamline reported that the invoice is issued on the date of shipment. Therefore, we preliminarily determine that invoice date is the appropriate date of sale, in accordance with our regulatory preference in 19 CFR 351.401(i). Petitioners argued that the Department should collect additional information from Steamline on purchase orders in order to determine whether it was appropriate to change the date of sale. There is on record evidence of changes in price, quantity or specifications between purchase order and invoice.²¹ Based on this evidence, we find no compelling evidence to change the date of sale.

IX. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in India 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: grade, specification, hot or cold finished, normal pipe size, wall thickness and end finish. Sunrise and Steamline’s reported control numbers for sales to the United States of WSPP identify the characteristics of the WSPP as exported by Sunrise and Steamline.²²

Neither Sunrise nor Steamline reported sales of non-prime WSPP to either the United States, or the home market.

Petitioners argue that Sunrise and Steamline reported the sales information in a manner using inconsistent units of measure between U.S. and home market sales. However, the record shows that both companies reported consistent units of measure and used the same calculations in both markets. Furthermore, Petitioners contend that both respondents should report weight for U.S. and home market sales on the basis of standard (*i.e.*, theoretical) weights. However, the record shows that both companies reported all sales on an actual weight basis, consistent with their practice in the normal course of business. Therefore, the Department finds that no additional information is required at present. Our approach in this regard is consistent with standard

¹⁹ See Sunrise’s IQR-C at pages 17-19

²⁰ See Steamline’s IQR-C at 17.

²¹ See Steamline Supplemental Questionnaire Response at 2 -3 dated February 2, 2016.

²² See Sunrise’s IQR-C at page 10 and; and Steamline’s IQR-C at page 8.

practice.²³ The Department will continue to review this issue and will evaluate the reported quantities and methodology as part of verification.

X. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE

In accordance with section 772(a) of the Act, we calculated export price (“EP”) for Sunrise’s and Steamline’s U.S. sales where the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and the constructed export price (“CEP”) methodology was not otherwise warranted based on the facts of the record. We did not utilize the CEP methodology in accordance with section 772(b) of the Act for Steamline because U.S. sales of merchandise under consideration were not sold in the United States by U.S. sellers affiliated with Steamline. Therefore, these sales are EP sales as defined by section 772(a) of the Act. We did utilize CEP methodology in accordance with section 772(b) of the Act for Sunrise because certain U.S. sales of merchandise under consideration were sold in the United States by U.S. sellers affiliated with Sunrise. Therefore, these sales are CEP sales as defined by section 772(a) of the Act.

Export Price

Sunrise

We based EP on a packed price to the first unaffiliated purchaser in the United States. 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 brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. duty.

Steamline

We based EP on a packed price to the first unaffiliated purchaser in the United States. 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 brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. duty.

Constructed Export Price

Sunrise

Section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter,

²³ See *Certain Oil Country Tubular Goods From Ukraine: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 79 FR 41969 (July 18, 2014), and accompanying Issues and Decision Memorandum at Comment 4 (“the home market and U.S. market weights should all be reported on the same basis, whether that be theoretical or actual”).

to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” In accordance with section 772(b) of the Act, we used the CEP methodology for a portion of Sunrise’s sales to the U.S. market because the merchandise under consideration was sold in the United States by a U.S. seller affiliated with the producer.

We calculated CEP based on the delivered price to unaffiliated purchasers in the United States. We made adjustments from the starting price (gross unit price), where appropriate, from the starting price for billing adjustments in accordance with 19 CFR 351.401(c).²⁴ We made additions to starting price for packing in accordance with section 772(c)(1)(A) of the Act. We also deducted movement expenses (*e.g.*, foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, demurrage, port charges and terminal handling fees, U.S. inland freight, and U.S. duty expenses) in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we further adjusted the CEP by deducting selling expenses associated with economic activities occurring in the United States. We deducted from starting price, where appropriate, commissions, credit expenses, inventory carrying costs, indirect selling expenses and repacking. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

Duty Draw Back

Both Sunrise and Steamline requested a duty drawback adjustment for the duty drawback program. Section 772(c)(1)(B) of the Act states that EP and CEP shall be increased by “the amount of any import duties imposed by the country of exportation...which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether an adjustment for duty drawback should be made, we look for a reasonable link between the duties imposed and those rebated or exempted. We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our “two-pronged” test in order for this adjustment to be made to EP.²⁵ The first element is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another; the second element is that the company must demonstrate that there were sufficient imports of the imported material to account for the duty drawback or exemption granted for the export of the manufactured product.²⁶

We preliminarily determines that a duty drawback adjustment for Sunrise and Steamline is warranted because each has satisfied the criteria described above for one duty program: the Advance Authorization Program (“AAP”). In addition, Steamline also satisfied these criteria for the Export Promotion of Capital Goods Scheme. We preliminarily find Sunrise and Steamline provided the rules from the Indian government describing the program and the schedule of rates for exported goods.²⁷ Additionally, both Sunrise and Steamline identified the raw materials

²⁴ See Margin Program, line numbers 7569 to 7656.

²⁵ See *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011) (“*Saha Thai*”).

²⁶ *Id.*; see also *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 2.

²⁷ See Sunrise’s IQR-C at 36-37 and Exhibits 11a-d.

imported for which they paid an import duty, worksheets detailing how they calculated the duty drawback on a transaction-specific basis, as well as worksheets linking the raw materials to production of merchandise under consideration, and worksheets demonstrating the companies imported sufficient volumes of raw materials to account for the duty drawback received on U.S. sales.²⁸

The record shows that Sunrise and Steamline source some of their inputs both from foreign and domestic sources. The portion of inputs that are domestically sourced contain no duties because they were not imported and, thus, not subject to duties. Under the Department's practice, the Department would normally take the amount of the duty forgiven or rebated for the year and divide it by the exports subject to the duty drawback for the year to arrive at an amount by which to adjust EP or CEP. However, the Department has realized that in situations in which the inputs are sourced from both domestic and foreign sources, such a calculation results in an imbalance in the dumping calculations.

The imbalance is the result of different aspects of the calculation as it is currently performed. First, on the NV side of the dumping equation, the annual average cost for an input is an average cost of both the foreign-sourced input, which includes the duties, and domestic-sourced inputs on which no duties were imposed. Additionally, when the inputs are from both foreign and domestic sources, the home market price may no longer be assumed to be accounting for the full duty. Adjusting EP/CEP for the full amount of duties imposed, which are rebated or not collected on export sales when some of the same inputs are domestically sourced, results in a larger adjustment to the EP/CEP than reflected in the NV, creating an imbalance.

A duty drawback adjustment to EP and CEP is based on the principle that the "goods sold in the exporter's domestic market are subject to import duties, while exported goods are not."²⁹ In other words, home market sales prices and cost of production are import duty "inclusive," while export market sales prices are import duty "exclusive." In *Saha Thai*, the CAFC stated:

The purpose of the duty drawback adjustment is to account for the fact that the producers remain subject to the import duty when they sell the subject merchandise domestically, which increases home market sales prices and thereby increases NV. That is, when a duty draw-back is granted only for exported inputs, the cost of the duty is reflected in NV but not in EP. The statute corrects this imbalance, which could otherwise lead to an inaccurately high dumping margin, by increasing EP to the level it likely would be absent the duty drawback.³⁰

Thus, the CAFC recognized the duty drawback adjustment is intended to prevent dumping margins from being created or affected by the rebate or exemption of import duties on inputs used in the production of exported merchandise. However, in circumstances such as those present here, a distortion in the dumping margin is caused by providing a duty drawback adjustment based solely on what would have been collected on export sales of subject merchandise when the inputs have been imported and domestically sourced. In other words, not

²⁸ *Id.*

²⁹ *See Saha Thai*, 635 F.3d at 1339.

³⁰ *Id.*

all home market sales prices can be presumed to reflect an increase because of import duties paid.

Accordingly, the Department determines to take these distortions into account in order to accurately determine an adjustment for “the amount of import duties imposed . . . which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” Section 772(c)(1)(B) of the Act. Specifically, the Department will make an upward adjustment to EP and CEP based on the amount of the duty imposed on the input and rebated or not collected on the export of the subject merchandise by properly allocating the amount rebated or not collected to all production for the relevant period based on the cost of inputs during the POI. This ensures that the amount added to both sides of the dumping calculations is equal, *i.e.*, duty neutral.

Thus, based on the facts of this investigation, we find that the import duty costs, based on the consumption of imported inputs during the POI, including imputed duty costs on export sales, properly accounts for the amount of duties imposed, as required by 772(c)(1)(B) of the Act. We have added this per unit amount to the U.S. price.³¹

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 and 19 CFR 351.404(b)(2). 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.

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

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.³² The

³¹ See Memorandum to Neal M. Halper, Director, Office of Accounting, from Peter Scholl, Senior Accountant, “Cost of Production Adjustments for Preliminary Determination – Steamline Industries, Ltd.,” dated concurrently with this memorandum.

³² See 19 CFR 351.403(c).

Department excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because the Department considers them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, "the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."³³

During the POI, Sunrise and Steamline did not make sales of WSPP in the home market to affiliated parties, as defined in section 771(33) of the Act.³⁴ Consequently, sales were not tested to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c).

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).³⁵

Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³⁶ 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),³⁷ 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.³⁸

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.³⁹

³³ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003).

³⁴ See Sunrise's IQR-B at 16-17 and Steamline's IQR-B at 15-16.

³⁵ See 19 CFR 351.412(c)(2).

³⁶ *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 ("*OJ from Brazil*").

³⁷ 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 ("SG&A") expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

³⁸ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

³⁹ See, *e.g.*, *OJ from Brazil* and accompanying Issues and Decision Memorandum at Comment 7.

In this investigation, we obtained information from Sunrise and Steamline regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.⁴⁰ Neither Sunrise nor Steamline claim LOT adjustments in either the home market or the U.S. market.

Sunrise

In the home market, Sunrise reported that it made sales through a single channel of distribution (*i.e.*, direct shipments to end-users, and distributors). Sunrise reported that it performed the following selling functions for sales to home market customers: advertising, packing, order processing, direct sales personnel, communication with customers, occasional visits, and freight and delivery arrangements. Sunrise dealt with quality complaints in the home market on a case-by-case basis.⁴¹

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Sunrise performed sales and marketing, freight and delivery services, and warranty and technical support for its reported sales to unaffiliated customers in the home market. Because Sunrise performed the same selling functions at the same relative level of intensity for all of its home market sales, we determine that all home market sales are at the same LOT.

With respect to the U.S. market, Sunrise reported that it made sales through a single channel of distribution (*i.e.*, direct shipments to unrelated end-users). Sunrise reported that it performed the following selling functions for sales to U.S. market customers: packing, order processing, direct sales personnel, warranty service, freight and delivery arrangements.⁴²

As stated above, selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Sunrise performed sales and marketing, freight and delivery services, and warranty service for its reported sales to unaffiliated customers in the U.S. market. Because Sunrise performed the same selling functions at the same relative level of intensity for all of its U.S. sales, we determine that all U.S. sales are at the same LOT.

We compared the home market EP channel to the U.S. market EP channel and found that the selling functions Sunrise performed for its home market customers are virtually the same as those performed for its U.S. customers at the same relative level of intensity. The only difference is that Sunrise, for a brief period of time, made sales to one customer in the U.S. market through its affiliate Sunshine Stainless LLC (“Sunshine”). This difference is not sufficient to determine that Sunrise’s U.S. LOT is different from its home market LOT.

⁴⁰ See Sunrise’s IQR-B at 26 and IQR-C at 26; and Steamline’s IQR-B at 27 and IQR-C at 24.

⁴¹ See Sunrise’s IQR-A at 16-20 and exhibit A5.

⁴² *Id.*

Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POI were made at the same LOT as Sunrise's sales to the U.S. market. Consequently, we matched EP sales to home market sales at the same LOT, and no LOT adjustment was warranted.

Steamline

In the home market, Steamline reported that it made sales through only one channel of distribution (*i.e.*, sales of subject merchandise to unaffiliated customers).⁴³ Steamline reported that it performed a number of selling functions for sales to home market customers.⁴⁴

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Steamline performed the same selling functions at the same relative level of intensity for all of its home market sales, and thus, we determine that all home market sales are at the same LOT.

With respect to the U.S. market, Steamline reported that it made sales through only one channel of distribution, (*i.e.*, sales directly to unaffiliated trading companies).⁴⁵ Steamline reported that it performed a number of selling functions for sales to U.S. market customers.⁴⁶

As stated above, selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Steamline performed the same selling functions at the same relative level of intensity for all of its U.S. sales, and thus, we determine that all U.S. sales are at the same LOT.

We compared the home market EP channel to the U.S. market EP channel and found that the selling functions Steamline performed for its home market customers are virtually the same as those performed for its U.S. customers at the same relative level of intensity. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that Steamline's sales to the home market during the POI were made at the same LOT as Steamline's EP sales to the U.S. market. Consequently, we matched EP sales to home market sales, and no LOT adjustment was 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, 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

⁴³ See Steamline's Section A Questionnaire Response ("Steamline IQR-A"), dated December 22, 2015), at exhibit A-5; see also Steamline's BQR at 16-17.

⁴⁴ See Steamline's IQR-A at Exhibit A-6.

⁴⁵ *Id.*, at A-5; see also Steamline's IQR-C at 14-15.

⁴⁶ See Steamline's IQR-A, at Exhibit A-6.

on sales at less than cost of production (“COP”).⁴⁷ 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.⁴⁸ 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 COP information from respondent companies in all AD proceedings.⁴⁹ Accordingly, the Department requested this information from Steamline and Sunrise.⁵⁰ We examined Steamline’s and Sunrise’s cost data and determined that our quarterly cost methodology is not warranted. Therefore, we applied our standard methodology of using annual costs based on the reported data.

1. 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 and interest expenses.⁵¹

Sunrise

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

- We revised Sunrise’s reported costs to exclude the quantity and value of finished goods that were not produced by Sunrise (*i.e.*, purchased finished goods).
- We revised Sunrise’s reported exempted duty cost calculation methodology.
- Because Sunrise and Sun Mark have been collapsed for this investigation, we revised Sunrise’s reported per-unit transfer price of the pipe and tube manufacturing services to reflect Sun Mark’s actual per-unit cost of the services.

Steamline

We relied on the COP data submitted by Steamline, except as follows:⁵²

- We adjusted Steamline’s reported cost of manufacturing to account for Steamline’s the unexplained difference between the cost of manufacturing according to Steamline’s

⁴⁷ See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (“TPEA”).

⁴⁸ 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*).

⁴⁹ *Id.*, 80 FR at 46794-95.

⁵⁰ The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>; see also the Petition.

⁵¹ See “Test of Comparison Market Sales Prices” section, below, for treatment of home market selling expenses.

⁵² See “Memorandum to Neal M. Halper, Director, Office of Accounting, from Milton Koch, Senior Accountant, Cost of Production Adjustments for Preliminary Determination – Steamline Industries, Ltd.” and “Memorandum to Neal M. Halper, Director, Office of Accounting, from Heidi Schrieffer, Senior Accountant, Cost of Production Adjustments for Preliminary Determination – Sunrise Stainless Private Limited.” dated concurrently with this memorandum.

- normal books and records and the cost of manufacturing reported to the Department.
- We added an amount for exempted import duties to the materials cost.
- We adjusted the cost of inputs purchased by Steamline from affiliated suppliers to reflect the market price of the inputs in accordance with section 773(f)(2) of the Tariff Act of 1930, as amended.

We recalculated Steamline's consolidated net financial expense to exclude export incentives that Steamline used to reduce the financial expenses.

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, 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 Steamline and Sunrise's home market sales 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, 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 Sunrise and Steamline, we based NV on comparison market prices. We calculated NV based on packed, ex-factory or delivered prices to unaffiliated customers in India.

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.⁵³

Sunrise

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.

Steamline

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

XIII. ADJUSTMENTS TO CASH DEPOSIT RATES FOR EXPORT SUBSIDIES IN COMPANION COUNTERVAILING DUTY INVESTIGATION

Pursuant to section 772(c)(1)(C) of the Act, the Department made adjustments for countervailable export subsidies for Sunrise, Steamline and the “all-others” rate. These adjustments will be applied to the estimated weighted-average dumping margins calculated for each respondent, and for the “all-others” rate, which are reflected in the accompanying *Federal Register* notice.

Regarding the duty drawback programs, the Department has increased U.S. price to account for certain duty drawback programs used by the respondents, in accordance with section

⁵³ See 19 CFR 351.411(b).

772(c)(1)(B) of the Act. These programs were also found countervailable as export subsidies in the companion CVD investigation, and the benefit was calculated as the full amount of the duty drawback.⁵⁴ Section 772(c)(1)(C) of the Act directs the Department to increase EP or CEP by the amount of the countervailing duty “imposed” on the subject merchandise “to offset an export subsidy.” The basic theory underlying this provision is that in parallel AD and CVD proceedings, if the Department finds that a respondent received the benefits of an export subsidy program, it is presumed the subsidy contributed to lower-priced sales of subject merchandise in the United States market. Thus, the subsidy and dumping are presumed to be related, and the imposition of duties against both would in effect be imposing two duties against the same situation. However, under the circumstances of this case, the Department has made an adjustment to U.S. price pursuant to section 772(c)(1)(B) of the Act, to increase U.S. price “to the level it likely would be absent the duty drawback.”⁵⁵ Accordingly, under these circumstances, and consistent with the purpose of the Act, we are adjusting the duty drawback portion of the export subsidy offset for each respondent, as described below.

For Steamline, in the preliminary determination for the companion CVD investigation, we preliminarily calculated an aggregated export subsidies rate of 2.96 percent, of which 2.92 percent is attributable to the duty drawback subsidy (“DDS”) programs. In the instant investigation, we are adjusting the offset for the countervailed DDS programs to reflect the amount of the AD duty drawback adjustment granted for the same DDS programs under section 772(c)(1)(B) of the Act to avoid accounting for the impact of this program on Steamline’s dumping margin twice. This adjustment, 0.96 percent, is calculated as the difference in the estimated weighted-average dumping margins calculated with and without the adjustment for duty drawback being made to Steamline’s reported U.S. selling prices.⁵⁶ Accordingly, the export subsidy offset, 2.00 percent, represents the aggregated export subsidies rate calculated for Steamline, plus the downward adjustment of 0.96 percentage points to the total duty drawback export subsidy rate, resulting in an adjusted cash deposit rate of 16.90 percent.

For Sunrise we did not perform this calculation, because we found their margin, including the duty drawback adjustment in the AD margin program, to be *de minimis*. We have assigned Steamline’s adjusted cash deposit rate (adjustment explained above), to all other producers and exporters in India.

XIV. U.S. INTERNATIONAL TRADE COMMISSION NOTIFICATION

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making all non-privileged and non-proprietary information relating to this investigation available to the ITC. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

⁵⁴ See *Countervailing Duty Investigation of Welded Stainless Pressure Pipe From India: Preliminary Affirmative Determination*, 81 FR 12871 (March 11, 2016), and accompanying Preliminary Decision Memorandum at 8-16.

⁵⁵ See *Saha Thai*, 635 F.ed at 1339.

⁵⁶ See *Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances: Certain Oil Country Tubular Goods From India*, 79 FR 41981 (July 18, 2014) (“*India OCTG*”), and accompanying Issues and Decision Memorandum at page 16.

In accordance with section 735(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of cold-rolled steel from Russia before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

XV. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.⁵⁷ Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS") no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.⁵⁸

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.⁵⁹ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.⁶⁰ Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.⁶¹ Electronically filed documents must be received successfully in their entirety by 5:00 PM Eastern Time,⁶² on the due dates established above.

XVI. VERIFICATION

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

⁵⁷ See 19 CFR 351.224(b).

⁵⁸ See 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

⁵⁹ See 19 CFR 351.309(c)(2) and (d)(2).

⁶⁰ See 19 CFR 351.310(c).

⁶¹ See 19 CFR 351.303(b)(2)(i).

⁶² See 19 CFR 351.303(b)(1).

XVII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.




Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance



Date