



A-533-873  
Investigation  
**Public Document**  
E&C/Office V: SSP, OQ

**DATE:** November 15, 2017

**MEMORANDUM TO:** Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

**FROM:** James Maeder  
Senior Director  
performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Determination and  
Affirmative Determination in the Less-Than-Fair-Value  
Investigation of Certain Cold-Drawn Mechanical Tubing of  
Carbon and Alloy Steel from India

---

## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) 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). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

## II. BACKGROUND

On April 19, 2017, the Department received an antidumping duty (AD) petition covering imports of cold-drawn mechanical tubing from India,<sup>1</sup> which were filed in proper form by ArcelorMittal

---

<sup>1</sup> See Petitioners’ Letter, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland – Petitions for the Imposition of Antidumping and Countervailing Duties,” dated April 19, 2017 (the Petition). Plymouth Tube Co. USA, a domestic producer of subject merchandise, joined these investigations as a domestic interested party after the filing of the Petition.



Tubular Products, Michigan Seamless Tube, LLC, Plymouth Tube Co., USA, PTC Alliance Corp., Webco Industries, Inc., and Zekelman Industries, Inc. (collectively, the petitioners). The Department initiated this investigation on May 9, 2017.<sup>2</sup>

In the *Initiation Notice*, the Department stated that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for certain of the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>3</sup> Accordingly, on May 16, 2017, the Department released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.<sup>4</sup> On May 23, 2017, we received comments on behalf of Goodluck India Limited (Goodluck)<sup>5</sup> and Tube Products of India, Ltd. a unit of Tube Investments of India Limited (collectively TPI) regarding the respondent selection process.<sup>6</sup> On June 19, 2017, the Department limited the number of respondents selected for individual examination to the two largest publicly identifiable producers/exporters of the subject merchandise by volume, Good Luck Steel Tubes Ltd. and TPI,<sup>7</sup> and issued the AD questionnaire to them.<sup>8</sup>

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 cold-drawn mechanical tubing to be reported in response to the Department's AD questionnaire.<sup>9</sup> The Department received a number of timely scope comments on the record of this investigation, as well as on the records of the companion cold-drawn mechanical tubing investigations involving Germany, Italy, Korea, the People's Republic of China, and Switzerland.<sup>10</sup> On June 9, 2017, the petitioners and various other interested parties in this and/or the companion AD investigations submitted comments to the Department regarding the physical characteristics of the merchandise

---

<sup>2</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People's Republic of China, and Switzerland: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 22491 (May 16, 2017) (*Initiation Notice*).

<sup>3</sup> See *Initiation Notice* at 22495.

<sup>4</sup> See Memorandum, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: U.S. Customs and Border Protection Data for Respondent Selection Purposes," dated May 16, 2017.

<sup>5</sup> See Goodluck's Letter, "Comments on CBP Data: Antidumping Duty Investigation on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India," dated May 23, 2017 (Goodluck Respondent Selection Comments). In its letter, Goodluck informed the Department that, during the POI, it changed its company name from "Good Luck Steel Tubes Ltd." to "Goodluck India Limited" and provided supporting documentation. See Goodluck Respondent Selection Comments at 2-3 and Attachment; see also Goodluck's July 19, 2018 Section A Questionnaire (Goodluck July 19, 2017 AQR) at 10 and Exhibit A-9(a).

<sup>6</sup> See TPI's Letter, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Respondent Selection Comments," dated May 23, 2017.

<sup>7</sup> See Memorandum, "Antidumping Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Respondent Selection," dated June 19, 2017 (Respondent Selection Memo).

<sup>8</sup> See Department Letter to Goodluck, dated June 19, 2017 (Goodluck AD Questionnaire); and Department Letter to TPI, dated June 19, 2017 (TPI AD Questionnaire).

<sup>9</sup> See *Initiation Notice* at 22491-22492.

<sup>10</sup> For further discussion of these comments, see Memorandum, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People's Republic of China, and Switzerland: Scope Comments Decision Memorandum for the Preliminary Determinations," dated concurrently with this memorandum (Preliminary Scope Memorandum).

under consideration to be used for reporting purposes.<sup>11</sup> On June 19, 2017, the petitioners and various other interested parties filed rebuttal comments.<sup>12</sup> Based on the comments received, the Department issued a letter to interested parties which contained the product characteristics for this and the companion AD investigations.<sup>13</sup> On July 12, 2017, the petitioners submitted comments on the product characteristics released by the Department.<sup>14</sup> Based on the comments received, on August 7, 2017, the Department issued a memorandum to interested parties which contained the revised product characteristics for this investigation.<sup>15</sup>

On June 9, 2017, 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 cold-drawn mechanical tubing from India.<sup>16</sup>

From August 2017 through October 2017, we issued supplemental questionnaires to Goodluck and TPI. We received responses to these supplemental questionnaires from July through October 2017.<sup>17, 18</sup>

On September 1, 2017, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended by 50 days pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).<sup>19</sup> Thereafter, pursuant to section 733(c)(1)(A) of the Act, the

---

<sup>11</sup> See Memorandum, “Calculations Performed for Tube Investments of India Ltd. and Tube Products of India, (collectively, TPI) for the Preliminary Determination in the Antidumping Duty Investigation of Cold Drawn Mechanical Tubing,” dated concurrently with this notice.

<sup>12</sup> <sup>11</sup> See, e.g., Petitioners’ Letter, “Petitioners’ Rebuttal to Respondents’ Product Matching Comments,” dated June 19, 2017; Mubea Inc.’s Letter, “Rebuttal Comments on Product Characteristics,” dated June 19, 2017.

<sup>13</sup> See Department Letter re: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India, dated July 6, 2017; *see also* Department Letter re: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Revised Product Characteristics, dated August 7, 2017.

<sup>14</sup> See Petitioners’ Letter, “Petitioners’ Comments on the Department’s Release of Product Matching Criteria and Request for Expansion of Certain Criteria Fields,” dated July 12, 2017.

<sup>15</sup> See Memorandum regarding: Revised Product Characteristics, dated August 7, 2017.

<sup>16</sup> See *Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland; Determinations*, 82 FR 26812 (June 9, 2017) (*ITC Preliminary Determination*); “Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland,” ITC Publication 4700, June 2017.

<sup>17</sup> See Goodluck’s September 1, 2017 Supplemental Section A Questionnaire Response (Goodluck September 1, 2017 SAQR); Goodluck’s October 12, 2017 Supplemental Section D Questionnaire Response (Goodluck October 12, 2017 SDQR); Goodluck’s October 20, 2017 Supplemental Sections B and C Questionnaire Response (Goodluck October 20, 2017 SBCQR); Goodluck’s October 23, 2017 Supplemental Response (Goodluck October 23, 2017 SSQR).

<sup>18</sup> See TPI’s September 5, 2017 Supplemental Section A Questionnaire Response (TPI September 5, 2017 SAQR); TPI’s October 10, 2017 Supplemental Section D Questionnaire Response (TPI October 10, 2017 SDQR); TPI’s October 12, 2017 Supplemental Section D Questionnaire Response Part 2 (TPI October 12, 2017 SDQR2); TPI’s October 17, 2017 Supplemental Sections A, B, and C Questionnaire Response (TPI October 17, 2017 SABCQR); TPI’s October 23, 2017 Supplemental Response (TPI October 23, 2017 SSQR).

<sup>19</sup> See Petitioners’ Letter, “Cold Drawn Mechanical Tubing from China, Germany, India, Italy, Korea and Switzerland – Petitioners’ Request to Postpone the Antidumping Duty Preliminary Determination,” dated September 1, 2017.

Department published in the *Federal Register* a postponement of the preliminary determination until no later than November 15, 2017.<sup>20</sup>

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

### III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2016, through March 31, 2017. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was April 2017.<sup>21</sup>

### IV. SCOPE COMMENTS

In accordance with the *Preamble* to the Department's regulations,<sup>22</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>23</sup> Certain interested parties from the companion cold-drawn mechanical tubing investigations commented on the scope of this investigation, as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>24</sup> We have evaluated the scope comments filed by the interested parties, and we are preliminarily modifying the scope language as it appeared in the *Initiation Notice*.<sup>25</sup> In the Preliminary Scope Decision Memorandum, we set a separate briefing schedule on scope issues for interested parties.<sup>26</sup> We will issue a final scope decision on the records of the cold-drawn mechanical tubing investigations after considering the comments submitted in the scope case and rebuttal briefs.

### V. 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 Goodluck's and TPI's sales of subject merchandise from India to the United States were made at LTFV, the Department compared the export price (EP) to the normal value (NV), as described in the "Export Price," and "Normal Value" sections of this memorandum.

---

<sup>20</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People's Republic of China, and Switzerland: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 82 FR 42788 (September 12, 2017).

<sup>21</sup> See 19 CFR 351.204(b)(1).

<sup>22</sup> See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>23</sup> See *Initiation Notice* at 19208.

<sup>24</sup> See Preliminary Scope Decision Memorandum.

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

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

### A) *Determination of Comparison Method*

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

In recent investigations, the Department has 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>27</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 export prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean, *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser,

---

<sup>27</sup> See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 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); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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

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

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

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.<sup>28</sup>

## B) Results of the Differential Pricing Analysis

### Goodluck

For Goodluck, based on the results of the differential pricing analysis, the Department preliminarily finds that 63.26 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>29</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 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 Goodluck.

### TPI

For TPI, based on the results of the differential pricing analysis, the Department preliminarily finds that 58.99 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>30</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 TPI.

---

<sup>28</sup> The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 16-1789 (Fed. Cir. July 12, 2017) recently affirmed much of the Department's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

<sup>29</sup> See Memorandum, "Calculations Performed for Goodluck India Limited (Goodluck) for the Preliminary Determination in the Antidumping Duty Investigation of Cold Drawn Mechanical Tubing," dated concurrently with this memorandum (Goodluck Analysis Memo).

<sup>30</sup> See Memorandum, "Calculations Performed for Tube Investments of India Ltd. and Tube Products of India (collectively, TPI) for the Preliminary Determination in the Antidumping Duty Investigation of Cold Drawn Mechanical Tubing from India," dated concurrently with this memorandum (TPI Analysis Memo).

## VI. DATE OF SALE

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, the Department 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 Department may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>31</sup> Finally, 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>32</sup>

### Goodluck

Regarding home market sales, Goodluck reported the date of the invoice as the date of sale, and it demonstrated that this invoice date is the same date as the factory shipment date, and that the material terms of sale do not change after issuance of the invoice date. For its U.S. sales, Goodluck reported that the material terms of sale do not change after the issuance of the commercial invoice. Accordingly, we used the excise invoice date as the date of sale for home market sales and the invoice date as the date of sale for Goodluck's U.S. sales for the purposes of this preliminary determination.

### TPI

TPI reported the date of the invoice as the date of sale for home market sales, and it demonstrated that the material terms of sale do not change after issuance of the invoice date. For its U.S. sales, TPI reported that the material terms of sale do not change after the issuance of the commercial invoice. Accordingly, we used the invoice date as the date of sale for home market sales and U.S. sales for the purposes of this preliminary determination.

## VII. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by Respondents in India during the POI that fit the description in the "Scope of Investigation" section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales.

We compared U.S. sales to sales of foreign like product 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

---

<sup>31</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

<sup>32</sup> See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007) (*Shrimp from Thailand*), and accompanying IDM at Comment 11; *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.



similar foreign like product made in the ordinary course of trade or to constructed value (CV), as appropriate.

In making product comparisons, we matched subject merchandise and foreign like product based on whether the products were prime or non-prime and the physical characteristics reported by the respondents in the following order of importance: tube form, type of cold finishing process, steel grade, outside diameter, wall thickness, heat treatment, plating, painting, length, and surface finish. For the respondents' sales of cold-drawn mechanical tubing in the United States, the reported control number (CONNUM) identifies the characteristics of the cold-drawn mechanical tubing, as exported by Goodluck and TPI, respectively.

## **IIX. EXPORT PRICE**

In accordance with section 772(a) of the Act, we calculated EP for the respondents' U.S. sales because the subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation, and CEP methodology was not otherwise warranted based on the facts of the record.

### Goodluck

We calculated EP based on packed prices to unaffiliated purchasers in the United States. The Department made adjustments for early payment discounts, billing adjustments, credit expenses, other direct selling expenses, inventory carrying costs incurred in the country of manufacture, and indirect selling expenses incurred in the country of manufacture. The Department made deductions for movement expenses, *i.e.*, inland freight to the port of exportation, foreign inland insurance, international freight, and brokerage and handling expenses, in accordance with section 772(c)(2)(A) of the Act. In instances where U.S. sales remained unpaid as of the date of Goodluck's latest response, we used the signature date of the preliminary determination, *i.e.*, November 15, 2017, as the payment date, and we recalculated U.S. credit expenses, in accordance with our practice.<sup>33</sup> Moreover, pursuant to the Department's practice, we recalculated Goodluck's credit expense by subtracting discounts from the gross unit price.<sup>34</sup> Additionally, the Department has not treated Goodluck's reported freight and packing revenue as an addition to Goodluck's price, pursuant to 19 CFR 351.401(c). Instead, the Department followed its normal practice for when the freight and packing revenue exceeds expenses by treating freight and packing revenue as offsets to the corresponding costs rather than as an

---

<sup>33</sup> See *Stainless Steel Bar from France: Final Results of Antidumping Duty Administrative Review*, 70 FR 46482 (August 10, 2005) (*Steel Bar from France*), and accompanying IDM at Comment 8.

<sup>34</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Critical Circumstances Determination: Bottom Mount Refrigerator-Freezers from Mexico (Refrigerators from Mexico)*, 76 FR 67688 (November 2, 2011).

addition to U.S. price.<sup>35</sup>

Goodluck reported certain sales as sample sales because it provided a small sample to its U.S. customer for which it did not receive payment.<sup>36</sup> Accordingly, the Department finds that the sample sales are not a sale since no “consideration” was provided and should not be included in calculating the comparison market price in the U.S. market.<sup>37</sup>

## TPI

We calculated EP based on packed prices to unaffiliated purchasers in the United States. The Department made adjustments for billing adjustments, credit expenses, bank charges, indirect selling expenses incurred in the country of manufacture, and inventory carrying costs incurred in the country of exportation. We also made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, inland freight to the port of exportation, international freight, marine insurance, and brokerage and handling expenses, in accordance with section 772(c)(2)(A) of the Act.

TPI claimed an adjustment for duty drawback (DDB) based upon the duty drawback schedules in effect on exports of tubes under Indian Tariff category 7304.<sup>38</sup> The Department applies a two-pronged test to determine whether to grant a respondent a DDB adjustment pursuant to section 772(c)(1)(B) of the Act. Specifically, the Department grants a respondent a DDB adjustment if it finds that: (1) import duties and rebates are directly linked to, and are dependent upon, one another, and (2) the company claiming the adjustment can demonstrate that there are sufficient imports of raw materials to account for the duty drawback received on exports of the manufactured product.<sup>39</sup>

However, TPI did not provide information on its DDB programs that was sufficient enough to demonstrate whether any of their import duties and corresponding rebate or exemption were linked to, and dependent upon, one another. Specifically, TPI did not identify the DDB program(s) in India at issue, nor did it identify whether it received either an exemption or refund of duties paid by the manufacturer upon the import of raw materials. TPI merely provided a short description of Indian DDB programs (with no sufficient documentation, such as

---

<sup>35</sup> See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 77 FR 61738 (October 11, 2012) and accompanying Issues and Decision Memorandum at Comment 3; see also *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less-Than-Fair-Value*, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum at Comment 39; *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review; 2011-2012* (78 FR 34337) and accompanying Issues and Decision Memorandum at Comment 5.

<sup>36</sup> See Goodluck's August 25, 2017 Section C Questionnaire at C-59.

<sup>37</sup> See *NSK Ltd. And NSK Corp. v. United States*, 115 F.3d 965, 975 (CIT 1997) (because NSK's samples did not constitute “sales” they should not have been included in calculating United States price); *Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 73 FR 55036 (September 24, 2008) and accompanying Issues and Decision Memorandum at Comment 7.

<sup>38</sup> See TPI October 17, 2017 SABCQR at 32.

<sup>39</sup> See *Steel Wire Rope from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 61 FR 55965, 55968 (October 30, 1996).

accompanying laws or regulations),<sup>40</sup> and stated that the DDB program in “India permits the refund of duties paid by the manufacturer upon export of the finished good.”<sup>41</sup> TPI did not describe the specific programs for which it was claiming an adjustment, provide an explanation, or provide evidentiary support for how its import duties and rebates or exemptions were linked to one another in the DDB program (*i.e.*, no license or government document linking the duties paid by TPI and the exemptions or rebates that relieve TPI from the duties paid).

TPI also did not demonstrate that there were sufficient imports of the imported material to account for the amount of import duty refunded or exempted for the export of the manufactured product. Instead, TPI only provided a chart showing the raw material imports that were subject to duty drawback programs and a chart showing accounting information denoting total duties paid and total duties recovered.<sup>42</sup> However, TPI did not list the imported material inputs specific to the finished products that were subject to the DDB programs and did not list the amount of excise duties recovered from each product subject to the DDB programs for which it was claiming an adjustment. Therefore, because TPI failed to provide sufficient evidence to pass the Department’s two-pronged test, we have not increased U.S. price by the amount of drawback claimed by TPI.

## **IX. NORMAL VALUE**

### **A) *Home Market Viability***

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales, we normally compare the respondent’s volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent’s sales of the foreign like product to a third-country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

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

### **B) *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 U.S. sales. Sales are made at

---

<sup>40</sup> See TPI October 17, 2017 SABCQR at 32-33 and Exhibit C-20.

<sup>41</sup> *Id.* at 32-33.

<sup>42</sup> *Id.* at Exhibit C-21.

different LOTs if they are made at different marketing stages (or their equivalent).<sup>43</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>44</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>45</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>46</sup>

When the Department is unable to match 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 to 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>47</sup>

In this investigation, we obtained information from Goodluck and TPI regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Our LOT findings are summarized below.

### Goodluck

Goodluck indicated its home market sales were through four channels: 1) sales to unaffiliated original equipment manufacturers (OEM)/processors directly from factory; 2) sales to unaffiliated traders from the factory who then sell to unaffiliated end users; 3) stock transfers of goods to sales depots which are then sold to unaffiliated OEM/processors; and 4) stock transfers of goods to the sales depots which are then sold to unaffiliated traders.<sup>48</sup> Additionally, Goodluck reported that its U.S. sales were through one channel selling to two different categories of

---

<sup>43</sup> See 19 CFR 351.412(c)(2).

<sup>44</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 IDM at Comment 7 (*OJ from Brazil*).

<sup>45</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 (SG&A), and profit for CV, where possible. See 19 CFR 351.412(c)(1).

<sup>46</sup> See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>47</sup> See, e.g., *OJ from Brazil*, and accompanying IDM at Comment 7.

<sup>48</sup> See Goodluck July 19, 2017 AQR at 18-19.

customers (OEM and traders).<sup>49</sup> Goodluck did not claim any distinct levels of trade,<sup>50</sup> and its descriptions of selling functions indicated very little variation across channels and markets. Consequently, we preliminarily determine that there is only one level of trade in both markets for Goodluck.

## TPI

TPI indicated its home market sales were through two channels: sales to end users and sales to traders.<sup>51</sup> TPI also reported that its U.S. sales were made through two different channels of distribution: sales to end users and sales to distributors,<sup>52</sup> and stated that because all of its sales are manufactured to order, it did not differentiate between its channels of distribution for its U.S. sales.<sup>53</sup> TPI did not request a level of trade adjustment,<sup>54</sup> and its descriptions of selling functions indicated little variation across channels and markets. Consequently, we preliminarily determine that there is one level of trade in both markets for TPI.

### C) *Cost of Production Analysis*

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 CV and COP information from respondent companies in all AD proceedings.<sup>55</sup> Accordingly, the Department requested this information from Goodluck and TPI in this investigation. We examined their 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 for both companies.

#### 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 (G&A) expenses and interest expenses.

---

<sup>49</sup> *Id.* at 16-17.

<sup>50</sup> See Goodluck August 25, 2017 Submission at B-40 and C-37.

<sup>51</sup> See TPI's August 25, 2017 Section B Questionnaire Response (TPI August 25, 2017 BQR) at 25.

<sup>52</sup> See TPI's August 25, 2017 Section C Questionnaire Response (TPI August 25, 2017 CQR) at 23.

<sup>53</sup> See TPI's July 17, 2017 Section A Questionnaire Response (TPI July 17, 2017 AQR) at 15.

<sup>54</sup> See TPI August 25, 2017 BQR at 35; TPI August 25, 2017 CQR and 32.

<sup>55</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, 46794-95 (August 6, 2015) (*Applicability Notice*).

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

#### Goodluck

1. We adjusted the reported material costs to disallow rebates on coil purchases.<sup>56</sup>
2. We adjusted the general and administrative (G&A) expenses to include the market value of the rent for premises provided to Goodluck by an affiliated party on a rent-free basis.
3. We adjusted Goodluck's financial expenses to reflect market interest rates on loans provided by an affiliated party.<sup>57</sup>

#### TPI

1. We adjusted the denominators of TPI's G&A and financial expense ratios to include the offset for scrap sales.<sup>58</sup>

#### 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 billing adjustments, discounts and rebates, 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 because: 1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and, 2) based on our comparison of prices to the weighted-average 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.

---

<sup>56</sup> See Memorandum to Neal M. Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Goodluck India Limited," dated concurrently with this memorandum (Goodluck Cost Calculation Memorandum).

<sup>57</sup> See Goodluck Cost Calculation Memorandum.

<sup>58</sup> See Memorandum to Neal M. Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Tube Investments of India, Ltd.," dated concurrently with this memorandum ("TPI Cost Calculation Memorandum").

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

#### *D) Calculation of NV Based on Home-Market Prices*

##### Goodluck

For those comparison products for which there were an appropriate number of sales at prices above the COP for Goodluck, we based NV on home market prices. We calculated NV based on delivered prices to unaffiliated customers. We also made deductions from the starting price for inland freight to warehouse, warehousing, inland freight to customer, and inland insurance under section 773(a)(6)(B)(ii) of the Act. We offset these movement expenses with reported freight revenue, with the latter capped at no higher than the sum of the movement expenses in accordance with our normal practice.

We deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, (*i.e.*, credit expenses and other direct selling expenses) and added U.S. direct selling expenses (*i.e.*, warranty expenses, bank charges, and fumigation expenses). In instances where home market sales remained unpaid as of the date of Goodluck's latest response, we used the signature date of the preliminary determination, *i.e.*, November 15, 2017, as the payment date, and we recalculated home market credit expenses, in accordance with our practice.<sup>59</sup> Moreover, pursuant to the Department's practice, we recalculated Goodluck's credit expense by subtracting discounts from the gross unit price.<sup>60</sup>

When comparing U.S. sales with comparison-market sales of similar, but not identical, merchandise, the Department also made adjustments for differences in merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. The Department based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and merchandise under consideration.<sup>61</sup>

##### TPI

For those comparison products for which there were an appropriate number of sales at prices above the COP for TPI, we based NV on comparison market prices. We calculated NV based on delivered prices to unaffiliated customers. We also made deductions from the starting price for

---

<sup>59</sup> See *Steel Bar from France*, and accompanying IDM at Comment 8 and accompanying IDM at Comment 8.

<sup>60</sup> See *Refrigerators from Mexico* at 67694.

<sup>61</sup> See 19 CFR 351.411(b).

inland freight to warehouse, warehousing, inland freight to customer, and inland insurance under section 773(a)(6)(B)(ii) of the Act.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, credit expenses, and added U.S. direct selling expenses. In instances where U.S. sales remained unpaid as of the date of TPI's latest response, we used the signature date of the preliminary determination, *i.e.*, November 15, 2017, as the payment date, and we recalculated U.S. imputed credit expenses in accordance with our practice.<sup>62</sup> Moreover, pursuant to the Department's practice, we recalculated TPI's credit expense by subtracting discounts from the gross unit price.<sup>63</sup>

When comparing U.S. sales with comparison-market sales of similar, but not identical, merchandise, the Department also made adjustments for differences in merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. The Department based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and merchandise under consideration.<sup>64</sup>

#### E) *Calculation of NV Based on Constructed Value*

For Goodluck and TPI, where we were unable to find a home market match of identical or similar merchandise, we based NV on CV in accordance with section 773(a)(4) of the Act. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the respondent's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Calculation of Cost of Production" section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

For comparisons to Goodluck's and TPI's EP sales, we made circumstances-of-sale adjustments by deducting direct selling expenses incurred on home market sales, and adding U.S. direct selling expenses, to CV, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410.

## **X. CURRENCY CONVERSION**

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

---

<sup>62</sup> See *Stainless Steel Bar from France: Final Results of Antidumping Duty Administrative Review*, 70 FR 46482 (August 10, 2005), and accompanying IDM at Comment 8.

<sup>63</sup> See *Refrigerators from Mexico* at 67694.

<sup>64</sup> See 19 CFR 351.411(b).



## XI. CONCLUSION

We recommend applying the above methodology for this preliminary determination.



\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

11/15/2017

X



Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance