



A-533-893  
Investigation  
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July 16, 2020

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Negative  
Determination in the Less-Than-Fair-Value Investigation of  
Forged Steel Fluid End Blocks from India

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## I. SUMMARY

The U.S. Department of Commerce (Commerce) preliminarily determines that forged fluid end blocks (fluid end blocks) from India are not being, or are not likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

## II. BACKGROUND

On December 19, 2019, Commerce received an antidumping duty (AD) petition concerning imports of fluid end blocks from India, filed in proper form on behalf of the FEB Fair Trade Coalition, the Ellwood Group (comprised of Ellwood City Forge Company, Ellwood Quality Steels Company, and Ellwood National Steel Company), and A. Finkl & Sons, Company (collectively, the petitioners), domestic producers of fluid end blocks.<sup>1</sup> On January 8, 2020, Commerce initiated the LTFV investigation on fluid end blocks from India.<sup>2</sup>

In the *Initiation Notice*, Commerce notified the public that it intended to examine all known producers and exporters of fluid end blocks (*i.e.* Bharat Forge Limited (Bharat) and Ultra

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<sup>1</sup> See Petitioners’ Letter, “Fluid End Blocks from China, Germany, India, and Italy: Antidumping and Countervailing Duty Petitions,” dated December 19, 2019 (Petition).

<sup>2</sup> See *Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, and Italy: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 2394 (January 15, 2020) (*Initiation Notice*).



Engineers (Ultra)), as identified in the Petition by the petitioners, who provided independent, third-party information as support that there are only two producers and exporters of fluid end blocks in India.<sup>3</sup>

On February 3, 2020, 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 fluid end blocks from India.<sup>4</sup>

On February 7, 2020, Commerce officials toured the fluid end blocks manufacturing facilities of the Ellwood Group and its production partners, North American Forgemasters and Medart Inc.<sup>5</sup>

In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of this and the companion investigations, as well as on the appropriate physical characteristics of fluid end blocks to be reported in response to Commerce's AD questionnaire.<sup>6</sup> On February 4, 2020, we received comments from BGH Edelstahl Siegen GmbH (BGH) and Ultra concerning the scope of the investigations.<sup>7</sup> On February 11, 2020, the petitioners submitted rebuttal scope comments.<sup>8</sup>

Between February 4 and 11, 2020, we received comments and rebuttals thereto concerning product characteristics from the petitioners and the producers and/or exporters of fluid end blocks from various countries including: BGH, Bharat, Cogne Acciai Speciali S.p.A. (Cogne Acciai), Metalcam, Schmiedewerke Gröditz GmbH (SWG), and Ultra.<sup>9</sup>

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<sup>3</sup> See Volume I of the Petitions, at 19 and Exhibit GEN-2; see also Petition Supplement, at 1 and Exhibit SUP-GEN-1.

<sup>4</sup> See *Fluid End Blocks from China, Germany, India, and Italy: Determinations*, Investigation Nos. 701-TA-632-635 and 731-TA-1466-1468 (Preliminary), 85 FR 7330 (February 7, 2020).

<sup>5</sup> See Memorandum, dated February 11, 2020; see also Petitioners' Letter, "Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Factual Information from Commerce Plant Visit," dated February 11, 2020.

<sup>6</sup> See *Initiation Notice*, 85 FR at 2395; see also Commerce's Letter to all interested parties, dated January 27, 2020.

<sup>7</sup> See BGH's Letter, "Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China; Comments on the Scope of the Investigations," dated February 4, 2020; Ultra Engineers' Letter, "Ultra Comments on Scope in the Antidumping and Countervailing Duty Investigations on Forged Steel Fluid End Blocks From the Federal Republic of Germany, India, Italy and the People's Republic of China," dated February 4, 2020.

<sup>8</sup> See Petitioners' Letter, "Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Petitioner's Scope Rebuttal Comments", dated February 11, 2020.

<sup>9</sup> See Petitioners' Letter, "Antidumping Duty Investigations of Forged Steel Fluid End Blocks from Germany, India, and Italy: Petitioner's Comments on Product Characteristics," dated February 4, 2020; BGH's Letter, "Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, and Italy; Comments on Product Characteristics," dated February 4, 2020; Cogne Acciai's and Metalcam's Letter, "Antidumping Duty Investigation of Forged Steel End Blocks from Italy: Comments on Product Characteristics," dated February 6, 2020; SWG's Letter, "Forged Steel Fluid End Blocks from Germany: Comments on Product Characteristics," dated February 4, 2020; Bharat's Letter, "Forged Steel Fluid End Blocks from Germany, Italy and India: Submission of Physical Characteristics Comments of Bharat Forge Limited," dated February 4, 2020; Petitioners' Letter, "Antidumping Investigations of Forged Steel Fluid End Blocks from Germany, India, and Italy: Petitioner's Rebuttal Comments Concerning Product Characteristics," dated February 11, 2020; Ultra Engineers' Letter, "Ultra Rebuttal Comments on Product Characteristics in the Antidumping and Countervailing Duty Investigations on Forged Steel Fluid End Blocks From the Federal Republic of Germany, India, Italy and the People's Republic of China," dated February 11, 2020; BGH's Letter, "Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, and Italy; Rebuttal Comments

On March 13, 2020, we received additional comments from Ultra, BGH, and Shanghai Qinghe Machinery Co., Ltd. (Qinghe) concerning the scope of the investigations.<sup>10</sup> On March 18, 2020, the petitioners submitted supplemental rebuttal scope comments.<sup>11</sup> Commerce issued a preliminary scope comments decision memorandum on May 18, 2020.<sup>12</sup>

On January 22, 2020, we issued the AD questionnaire to Bharat and Ultra.<sup>13</sup> During February and March 2020, we received questionnaire responses from Bharat<sup>14</sup> and Ultra.<sup>15</sup> On March 26, 2020, Commerce postponed the preliminary determination of this investigation by 50 days, to July 16, 2020, pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(b)(2).<sup>16</sup>

From March through July 2020, we issued supplemental questionnaires to Bharat<sup>17</sup> and received timely responses.<sup>18</sup>

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on Product Characteristics, dated February 11, 2020; Metalcam's Letter, "Antidumping Duty Investigation of Forged Steel End Blocks from Italy: Rebuttal Comments on Product Characteristics," dated February 11, 2020; and Bharat's Letter, "Forged Steel Fluid End Blocks from Germany, India and Italy: Submission of Physical Characteristics Rebuttal Comments of Bharat Forge Limited," dated February 11, 2020.

<sup>10</sup> See Ultra Engineers' Letter, "Ultra Additional Comments on Scope in the Antidumping and Countervailing Duty Investigations on Forged Steel Fluid End Blocks From the Federal Republic of Germany, India, Italy and the People's Republic of China," dated March 13, 2020, BGH's Letter, "Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China; Additional Scope Comments," dated March 13, 2020, and Qinghe's Letter, "Qinghe Comments on Scope in the Antidumping and Countervailing Duty Investigations on Forged Steel Fluid End Blocks From the Federal Republic of Germany, India, Italy and the People's Republic of China," dated March 13, 2020.

<sup>11</sup> See Petitioners' Letter, "Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Petitioner's Supplemental Scope Rebuttal Comments", dated March 18, 2020.

<sup>12</sup> See Memorandum, "Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated May 18, 2020 (Preliminary Scope Comments Decision Memorandum).

<sup>13</sup> See Commerce's Letters, dated January 22, 2020.

<sup>14</sup> See Bharat's Letters, "Forged Steel Fluid End Blocks from India: Submission of Bharat Forge Limited's Section A Response," dated February 20, 2020 (Bharat's AQR), "Forged Steel Fluid End Blocks from India: Submission of Bharat Forge Limited's Section C Response," dated March 10, 2020, and "Forged Steel Fluid End Blocks from India: Submission of Bharat Forge Limited's Section D Response," dated March 13, 2020.

<sup>15</sup> See Ultra's Letters, "Resubmission of Ultra's Section A Response in the Antidumping Duty Investigation of Forged Steel Fluid End Blocks From India," dated March 3, 2020, "Ultra Section C Response in the Antidumping Duty Investigation on Forged Steel Fluid End Blocks From India," dated March 9, 2020, "Ultra Section D Response in the Antidumping Duty Investigation on Forged Steel Fluid End Blocks From India," dated March 11, 2020.

<sup>16</sup> See *Forged Steel Fluid End Blocks from the Federal Republic of Germany, India and Italy: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 17042 (March 26, 2020).

<sup>17</sup> See Commerce Letters, dated March 26; March 30, 2020; May 6, 2020; May 8, 2020; June 10, 2020; June 18, 2020 (C2SQ); and July 2, 2020.

<sup>18</sup> See Bharat's Microsoft Excel file containing Section D Exhibits; Bharat's Letters "Forged Steel Fluid End Blocks from India: Submission of Bharat Forge Limited's Supplemental Section A Response," dated April 17, 2020; "Forged Steel Fluid End Blocks from India: Submission of Bharat Forge Limited's 2nd Supplemental Sections A & C Response," dated May 20, 2020; "Forged Steel Fluid End Blocks from India: Submission of Bharat Forge Limited's 2nd Supplemental Sections A & C Response, Questions 7-9 and 11," dated June 2, 2020; "Forged Steel Fluid End Blocks from India: Submission of Bharat Forge Limited's 3rd Supplemental Section C Response," dated June 29, 2020 (Bharat's CSQR); "Forged Steel Fluid End Blocks from India: Submission of 2nd Supplemental Section D Response," dated June 11, 2020 (Bharat's D2SQR); "Forged Steel Fluid End Blocks from India: Submission of Bharat Forge Limited's 3rd Supplemental Section C Response," dated June 29, 2020 (Bharat's

On March 20, 2020, Ultra requested that we determine that the products produced and exported by Ultra during the period of investigation (POI), fluid end block assemblies, are not subject to this investigation.<sup>19</sup> On April 3, 2020, we requested that Ultra provide additional information about the products that it exports to the United States<sup>20</sup> and Ultra responded to this request.<sup>21</sup> We sent an additional supplemental questionnaire to Ultra on May 1, 2020, and received a timely response.<sup>22</sup>

On March 23, 2020, we requested that interested parties submit constructed value (CV) profit and selling expense comments and information.<sup>23</sup> On April 20, 2020, the petitioners, Bharat, and Ultra submitted comments and new factual information related to the determination of CV profit and selling expenses for consideration in the calculation of CV as the basis for normal value (NV) in this investigation.<sup>24</sup> On May 11, 2020, the petitioners, Bharat, and Ultra submitted rebuttal comments and factual information that rebuts, clarifies, or corrects information concerning the submitted CV profit and selling expenses.<sup>25</sup>

On April 15, 2020, we received a particular market situation (PMS) allegation pursuant to section 773(e) of the Act with respect to steel ingots used in the production of fluid end blocks from the petitioner.<sup>26</sup> We received rebuttal comments from Ultra and Bharat on May 4 and 7, 2020, respectively.<sup>27</sup>

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CSQR); and, “Forged Steel Fluid End Blocks from India: Submission of Bharat Forge Limited’s 4th Supplemental Sections A and C Response,” dated July 9, 2020.

<sup>19</sup> See Ultra’s Letter, “Ultra Request to be De-selected as a Mandatory Respondent in the Antidumping Duty Investigation on Forged Steel Fluid End Blocks From India,” dated March 20, 2020.

<sup>20</sup> See Commerce Letter, “Antidumping Duty Investigation of Forged Steel Fluid End Blocks from India: Ultra Engineers,” dated April 3, 2020.

<sup>21</sup> See Ultra Letter, “Ultra Supplemental No Shipment Response in the Antidumping Duty Investigation on Forged Steel Fluid End Blocks From India,” dated April 30, 2020.

<sup>22</sup> See Commerce’s Letter dated May 1, 2020; and Ultra’s Letter, “Ultra Sections A and C Supplemental Response in the Antidumping Duty Investigation on Forged Steel Fluid End Blocks From India (A-533-893),” dated May 15, 2020.

<sup>23</sup> See Memorandum, “Antidumping Duty Investigations of Forged Steel Fluid End Blocks from Italy, India and Germany: Request for Constructed Value Profit and Selling Expense Comments and Information,” dated March 23, 2020.

<sup>24</sup> See Bharat Letter, “Forged Steel Fluid End Blocks from India: Submission of CV Profit and Selling Expense Information,” dated April 20, 2020; Petitioners’ Letter, “Forged Steel Fluid End Blocks from India: Petitioner’s Submission Concerning CV Profit and Selling Expenses,” dated April 20, 2020; and, Ultra’s Letter, “Ultra’s CV Profit and Selling Expense Comments in the Antidumping Duty Investigations of Forged Steel Fluid End Blocks from India,” dated April 20, 2020.

<sup>25</sup> See Bharat Letter, “Forged Steel Fluid End Blocks from India: Submission of Rebuttal Comments and Information to Petitioner’s CV Profit and Selling Expense Submission,” dated May 11, 2020; Petitioners’ Letter, “Forged Steel Fluid End Blocks from India: Petitioner’s Rebuttal Submission Concerning CV Profit and Selling Expenses,” dated May 11, 2020; and, Ultra’s Letter, “Ultra’s CV Profit and Selling Expense Rebuttal Comments in the Antidumping Duty Investigation of Forged Steel Fluid End Blocks from India,” dated May 11, 2020.

<sup>26</sup> See Petitioners’ Letter, “Forged Steel Fluid End Blocks from India: Allegation of a Particular Market Situation Affecting the Costs of Producing Steel Ingot,” dated April 15, 2020.

<sup>27</sup> See Bharat’s Letter, “Forged Steel Fluid End Blocks from India: Bharat Forge’s Submission of Comments and Rebuttal Factual Information to Petitioner’s PMS Allegation,” dated May 7, 2020; and, Ultra’s Letter, “Ultra’s

On June 12, 2020, and June 15, 2020, respectively, Ultra and Bharat requested that, in the event of an affirmative preliminary determination in this investigation, Commerce postpone its final determination in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period.<sup>28</sup> On June 24, 2020, the petitioners requested that, in the event of a negative preliminary determination in this investigation, Commerce postpone its final determination under section 735(a)(2)(B) of the Act.<sup>29</sup>

### III. TREATMENT OF ULTRA ENGINEERS

On March 20, 2020, Ultra requested that Commerce “de-select Ultra as a mandatory respondent” in the investigation.<sup>30</sup> On April 3, 2020, we requested additional information from Ultra regarding its products and sales, including descriptions of each product sold in the United States and an explanation of why each product is not covered by the scope of this investigation.<sup>31</sup> Ultra provided the requested information and confirmed that none of its U.S. sales during the POI included subject merchandise; Ultra also provided a list, descriptions, and diagrams of exported products, as well as sample sale and export documentation.<sup>32</sup>

Based on the information provided by Ultra and our preliminary scope ruling as outlined in the Preliminary Scope Comments Decision Memorandum<sup>33</sup>, we preliminary find that the products sold by Ultra during the POI are outside the scope of this investigation, and therefore we have not calculated an estimated weighted-average dumping margin for Ultra for this preliminary determination. As provided in section 782(i)(1) of the Act, we intend to verify Ultra’s claim that it did not sell the subject merchandise during the POI.

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Letter In Lieu of PMS Rebuttal Comments in the Antidumping Duty Investigations of Forged Steel Fluid End Blocks from India,” dated May 4, 2020.

<sup>28</sup> See Ultra’s Letter, “Ultra’s Request to Extend the Final Determination: Antidumping Duty Investigation of Forged Steel Fluid End Blocks From India (A-533-893),” dated June 12, 2020, and Bharat’s Letter, “Forged Steel Fluid End Blocks from India: Request to Postpone the Final Determination of the Investigation,” dated June 16, 2020.

<sup>29</sup> See Petitioners’ Letter, “Forged Steel Fluid End Blocks from India: Petitioner’s Request to Postpone the Antidumping Investigation Final Determination,” dated June 24, 2020.

<sup>30</sup> See Ultra’s Letter, “Ultra Request to be De-selected as a Mandatory Respondent in the Antidumping Duty Investigation on Forged Steel Fluid End Blocks from India,” dated March 20, 2020. Commerce has not limited its examination of producers and exporters in this investigation pursuant to section 777A(c) of the Act, and therefore, has not “selected” Ultra as a mandatory respondent in this investigation. Rather, as we explained above, Commerce stated in the *Initiation Notice* that it intended to examine all known producers and/or exporters of fluid end blocks in India, Bharat and Ultra.

<sup>31</sup> See Commerce’s Letter, “Antidumping Duty Investigation of Forged Steel Fluid End Blocks from India: Ultra Engineers,” dated April 3, 2020.

<sup>32</sup> See Ultra’s Letter, “Ultra Supplemental No Shipment Response in the Antidumping Duty Investigation on Forged Steel Fluid End Blocks From India,” dated April 30, 2020.

<sup>33</sup> See Preliminary Scope Comments Decision Memorandum at 7 -9.

#### IV. PERIOD OF INVESTIGATION

The POI is October 1, 2018 through September 30, 2019. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition in December 2019.<sup>34</sup>

#### V. SCOPE OF INVESTIGATION

The products covered by this investigation are fluid end blocks from India, whether in finished or unfinished form, and which are typically used in the manufacture or service of hydraulic pumps. For a full description of the scope of the investigation, *see* the accompanying preliminary determination notice in the *Federal Register* at Appendix I.

#### VI. DISCUSSION OF THE METHODOLOGY

##### A. Comparisons to Normal Values

To determine whether sales of fluid end blocks from India to the United States were made at LTFV, we compared the export prices (EPs) to the NV, as described in the “Export Price”, and “Normal Value” sections of this memorandum, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared the weighted-average EP to weighted-average NVs for Bharat.

##### 1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates a weighted-average dumping margin by comparing weighted-average NVs to weighted-average EPs (or constructed export price (CEP)) (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In an LTFV investigation, Commerce 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 numerous investigations, Commerce 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>35</sup> Commerce 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. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of

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<sup>34</sup> See 19 CFR 351.204(b)(1).

<sup>35</sup> See, e.g., *Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

dumping that can occur when Commerce 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 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 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 Commerce uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

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

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

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

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce 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.

## 2. Results of the Differential Pricing Analysis

For Bharat, based on the results of the differential pricing analysis, Commerce preliminarily finds that 71.00 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>36</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce 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, Commerce is applying the average-to-average method for all U.S. sales to calculate the estimated weighted-average dumping margin for Bharat.

### B. Product Comparisons

As stated above, Commerce gave parties an opportunity to comment on the appropriate hierarchy of physical characteristics used to define each product, including for model matching purposes, within a certain deadline.<sup>37</sup> We considered the comments that were submitted and established the appropriate physical characteristics to use as a basis for defining the product control numbers

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<sup>36</sup> See Memorandum, "Forged Steel Fluid End Blocks from India – Preliminary Determination Analysis Memorandum for Bharat Forge Limited" dated concurrently with this memorandum, at 2-3.

<sup>37</sup> See *Initiation Notice*, 85 FR at 2395; see also Commerce's letter to all interested parties, dated January 27, 2020.



of fluid end blocks in this this investigation. Commerce identified eighteen criteria for physical characteristics of the subject merchandise: (1) chromium content, (2) nickel content, (3) copper content, (4) molybdenum content, (5) minimum specified tensile strength, (6) size, (7) length, (8) machining, (9) bores, (10) normalized heat treatment, (11) austenitized heat treatment, (12) annealed heat treatment, (13) solution annealed heat treatment, (14) tempered heat treatment, (15) age hardened heat treatment, (16) quenched heat treatment, (17) coating, and (18) parts.<sup>38</sup> Bharat and Ultra were instructed to use these product characteristics in their responses to the AD questionnaires issued in this investigation.<sup>39</sup> Because Bharat has no viable home market or third country market during the POI, we based NV on CV, as discussed in the “Calculation of Normal Value Based on Constructed Value” section of this notice, below.

### C. Date of Sale

Although Commerce normally uses the date of invoice, as recorded in the producer’s or exporter’s records kept in the ordinary course of business, as the date of sale, Commerce’s regulations provide that Commerce may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale (*e.g.*, price and quantity).<sup>40</sup>

Bharat reported that most of its U.S. sales were produced to order pursuant to sale contracts (*i.e.*, purchase orders) between Bharat and its U.S. customers.<sup>41</sup> Bharat asserted, however, that the material terms of sale were not final at the time of the purchase order and, accordingly, it contended that Commerce should rely on the date of the commercial invoice, for its EP sales, as the date of sale for U.S. sales of fluid end blocks it made during the POI.<sup>42</sup> We examined the information on the record and preliminarily find that the material terms of Bharat’s U.S. sales were subject to change after the date of the original purchase order.<sup>43</sup> Specifically, the record shows that the per-unit prices and quantities for certain sales of fluid end blocks invoiced during the POI changed after the date of the original purchase order, as a result of customer’s requested change to the type of finished form of ordered product.<sup>44</sup>

Bharat reported that for its direct sales to the first unaffiliated party in the United States, its commercial invoices are issued when the goods are loaded aboard ship in the Indian port of export and Bharat receives the bill of lading.<sup>45</sup> Additionally, Bharat Forge International (BF International), located in the United Kingdom, usually issues its commercial invoices on U.S.

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<sup>38</sup> See Commerce’s Letter, “Antidumping Duty Investigations of Forged Steel Fluid End Blocks from Germany, Italy, and India - Product Characteristics,” dated February 13, 2020.

<sup>39</sup> *Id.*

<sup>40</sup> See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92 (CIT 2001); and *Yieh Phui Enterprise Co. v. United States*, 791 F. Supp. 2d 1319, 1324 (CIT 2011) (affirming that Commerce may use invoice date unless a party demonstrates that the material terms of the sale were established on another date).

<sup>41</sup> See Bharat’s AQR at 21.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 22.

<sup>44</sup> *Id.*; and Bharat’s ASQR at 3-4.

<sup>45</sup> See Bharat’s AQR at 23.

sales which it handles while the goods are on the water before they arrive in the U.S. port of entry.<sup>46</sup> For U.S. sales, direct from Bharat to the first unaffiliated customer in the United States, we used Bharat's commercial invoice as the date of sale.<sup>47</sup> For Bharat's U.S. sales, which BF International was involved in, we used BF International's commercial invoice date as the date of sale because this invoice is issued to the first unaffiliated customer in the United States.<sup>48</sup>

#### D. Export Price

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)."

We calculated EP for purposes of this preliminary determination, in accordance with subsections 772(a) and (c) of the Act, where the subject merchandise was first sold in the country of manufacture (*i.e.*, India) to an unaffiliated purchaser prior to importation. There were two types of EP sales: (1) direct sales from Bharat to an unaffiliated customer in the United States, and (2) sales from Bharat through its selling affiliate BF International in London to an unaffiliated customer in the United States. For Bharat, we calculated EP based on packed price to an unaffiliated purchaser in the United States, taking into account the reported terms of sale. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act.

#### E. Normal Value

##### 1. Comparison Market Viability

Section 773(a)(1) of the Act states that the NV of subject merchandise shall be the price at which the foreign like product is first sold (or offered for sale) for consumption in the exporting country or, in the absence of such sales, in a country other than the exporting country or the United States. Bharat reported that neither company had sales of fluid end blocks in India or third-country markets during the POI.<sup>49</sup> Consequently we have preliminarily determined that the NV of the subject merchandise cannot be determined for Bharat pursuant to section 773(a)(1)(B) of the Act (*i.e.*, there is no viable comparison market as required under sections 773(a)(1)(B)(ii)(II) or 773(a)(1)(C)(ii) of the Act and 19 CFR 351.404(b)(2)). As such, in accordance with section 773(a)(4) of the Act, we have preliminarily based NV on CV for Bharat.

##### 2. Level of Trade (LOT)

Because Bharat had no viable home or third-country market during the POI, we based NV on CV. When NV is based on CV, the NV LOT is that of the sales from which we derive selling expenses and profit. In accordance with 19 CFR 351.412(d), where possible, Commerce will make its LOT determination under paragraph (d)(2) of that section on the basis of sales of the

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<sup>46</sup> See Bharat's CSQR at 1

<sup>47</sup> See Bharat's AQR at 23.

<sup>48</sup> See, *e.g.*, Bharat's CSQR at Exhibit C-52.

<sup>49</sup> See Bharat's AQR at Exhibit A-1.

foreign like product by the producer or exporter. Because it is not possible for Bharat in this investigation to make a LOT determination on the basis of sales of the foreign like product in the home or third-country market, Commerce may use sales of different or broader product lines, sales by other companies, or any other reasonable basis. As discussed further below in section titled “Calculation of Normal Value Based on Constructed Value,” we based the CV profit and selling expenses for Bharat on sales of other forgings made by Bharat’s Heavy Forging Division during 2018. There is no information on the record pertaining to this company’s selling activities with respect to its overall sales of other forgings that allows us to determine the LOT of the sales from which we derived profit and selling expenses for CV, or examine whether any difference in LOT exists or affects price comparability. Therefore, because there is no basis to evaluate whether the price comparability has been affected because of difference in the level of trade, we did not grant a level of trade adjustment to NV that we established for Bharat in this investigation.

### 3. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, we based Bharat’s NV on CV because Bharat had no viable home or third-country markets. In accordance with section 773(e) of the Act, we calculated CV based on the sum of Bharat’s cost of materials and fabrication employed in producing the subject merchandise, plus amounts for general and administrative (G&A) and financial expenses, CV profit and selling expenses, and U.S. packing costs. We calculated the cost of materials and fabrication, G&A and financial expenses based on information submitted by Bharat in its original and supplemental questionnaire responses, except in instances where we determined that the information was not valued correctly. Specifically, we adjusted Bharat’s cost of its major inputs, disallowed a certain offset to the cost of manufacturing, and adjusted its G&A and financial expense ratios.<sup>50</sup>

Because Bharat does not have a comparison market, Commerce cannot determine CV selling expenses and profit under section 773(e)(2)(A) of the Act, which requires sales by the respondent in question in the ordinary course of trade in a comparison market. Therefore, we have relied on section 773(e)(2)(B) of the Act to determine Bharat’s CV selling expenses and profit.

In situations where CV selling expenses and profit cannot be calculated under the preferred method, section 773(e)(2)(B) of the Act sets forth three alternatives. The statute does not establish a hierarchy for selecting among these alternative methodologies.<sup>51</sup> Nonetheless, we examined each alternative in searching for an appropriate method. The alternative methods of section 773(e)(2)(B) of the Act specifies that selling expenses and profit may be calculated based on either (i) “actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale of merchandise that is in the same general category of products as the subject merchandise; (ii) the use of the weighted-average of the actual amounts incurred and realized by exporters or producers (other than the respondent) that are subject to the

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<sup>50</sup> See Memorandum, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Bharat Forge Limited,” dated concurrently with this memorandum.

<sup>51</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (SAA) at 840.

investigation or review; or (iii) based on any other reasonable method, except that the amount for profit may not exceed the amount realized by exporters or producers (other than the respondents) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise (*i.e.*, the “profit cap”). In this preliminary determination, the first statutory alternative provided in section 773(e)(2)(B) of the Act is available because we have information on the record to permit a calculation of these amounts specific to home market sales by Bharat, of products in the “same general category” as the subject merchandise. The second alternative for determining CV profit is not available to us in this case because there are no other exporters or producers subject to review. The third alternative is also available in accordance with section 773(e)(2)(B)(iii) of the Act (*i.e.*, based on “any other reasonable method”). Here, we have selected the first alternative and employed the CV profit and selling expenses of Bharat’s Heavy Forging Division for the preliminary determination. This information meets our criteria in that it is contemporaneous, represents an Indian producer of comparable merchandise in the “same general category” as the merchandise under consideration, and reflects the profit and selling experience related to sales in the home market.

## **VII. PARTICULAR MARKET SITUATION**

The petitioner submitted an allegation that a PMS exists in India such that costs of production (COP) of fluid end blocks in India are distorted, warranting an adjustment to the respondents’ COP. Section 771(15)(C) of the Act states that Commerce will consider the following to be outside the ordinary course of trade: “{s}ituations in which the administering authority determines that the particular market situation prevents a proper comparison with the export price or constructed export price.” Further, section 773(e) of the Act provides that Commerce has discretion to “use another calculation methodology under this subtitle or any other calculation methodology” when a PMS exists “such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade.”<sup>52</sup> The statute does not define “particular market situation,” but the SAA explains that such a situation may exist for sales “where there is government control over pricing to such an extent that home market prices cannot be considered competitively set.”<sup>53</sup>

For the purposes of this preliminary determination, Commerce determines that there is insufficient evidence to warrant further investigation into whether a cost-based PMS exists. For a complete discussion of our decision with respect to the PMS allegation, *see* the accompanying PMS Memorandum.<sup>54</sup>

## **VIII. CURRENCY CONVERSION**

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

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<sup>52</sup> See section 773(e) of the Act.

<sup>53</sup> See SAA at 822.

<sup>54</sup> See Memorandum, “Allegation of a Particular Market Situation in the Antidumping Duty Investigation of Forged Steel Fluid End Blocks from India,” dated concurrently with this memorandum (PMS Memorandum).

## IX. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

X 

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Signed by: JEFFREY KESSLER

\_\_\_\_\_  
Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance