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Administrative Review
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April 16, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review; 2017-2019

I. SUMMARY

We analyzed the comments filed by interested parties in the administrative review of the antidumping duty (AD) order on certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from India covering the period of review (POR) November 22, 2017, through May 31, 2019. As a result of our analysis, we made certain changes to the margin found in the *Preliminary Results*.[1]

We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below are the issues for which we received comments from interested parties:

Comment 1: Return Quantities
Comment 2: Billing Adjustments
Comment 3: Inland Freight Expenses
Comment 4: Export Subsidy Offset

[1] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Partial Discontinuation of Review; 2017-2019*, 85 FR 66930 (October 21, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

II. BACKGROUND

On October 21, 2020, the Department of Commerce (Commerce) published the *Preliminary Results* of this administrative review and invited interested parties to comment.[2] On November 24, 2020, we received timely-filed case briefs from the petitioners[3] and Tube Products of India, Ltd., a unit of Tube Investments of India Limited (TII).[4] On December 4, 2020, we received timely-filed rebuttal briefs from the petitioners[5] and TII.[6]

On February 8, 2021, Commerce extended the deadline for these final results by 57 days to April 16, 2021.[7]

III. SCOPE OF THE ORDER

The scope of the order covers cold-drawn mechanical tubing of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.,* electric resistance welded, continuous welded, *etc.*) or seamless (*e.g.*, pierced, pilgered or extruded, *etc.*) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device. Other cold-finishing operations that may be used to produce subject merchandise include cold-rolling and cold-sizing the tubing.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

(1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A-512, ASTM A-513 Type 3

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[2] *See Preliminary Results*.
[3] *See* Petitioners' Letter, "Petitioners' Case Brief for Tube Investment of India LTD.," dated November 24, 2020 (Petitioners Case Brief). The petitioners are ArcelorMittal Tubular Products LLC, Michigan Seamless Tube, LLC, Plymouth Tube, PTC Alliance Corp., and Webco Industries, Inc (collectively, the petitioners).
[4] *See* TII's Letter, " Cold-Drawn Mechanical Tubing from India: Case Brief," dated November 24, 2020 (TII Case Brief).
[5] *See* Petitioners' Letter, " Petitioners' Rebuttal Brief for Tube Investment of India LTD.," dated December 4, 2020 (Petitioners Rebuttal Brief).
[6] *See* TII's Letter, " Cold-Drawn Mechanical Tubing from India: Rebuttal Case Brief," dated December 4, 2020 (TII Rebuttal Brief).
[7] *See* Memorandum, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Extension of Deadline for Final Results of Antidumping Duty Administrative Review, 2017-2019," dated February 8, 2021.

(ASME SA513 Type 3), ASTM A-513 Type 4 (ASME SA513 Type 4), ASTM A-513 Type 5 (ASME SA513 Type 5), ASTM A-513 Type 6 (ASME SA513 Type 6), ASTM A-519 (cold-finished);

(2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;

(3) Aerospace Material Specification (AMS) AMS T-6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;

(4) United States Military Standards (MIL) MIL-T-5066 and MIL-T-6736;

(5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:

(a) German Institute for Standardization (DIN) specifications DIN 2391-2, DIN 2393-2, DIN 2394-2);

(b) European Standards (EN) EN 10305-1, EN 10305-2, EN 10305-4, EN 10305-6 and European national variations on those standards (*e.g.*, British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, *etc.*);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of this order when it meets the physical description set forth above.

Steel products included in the scope of the order is products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestructive testing, deburring or chamfering, remains within the scope of this order.

All products that meet the written physical description are within the scope of the order unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the order even if it is also dual or multiple certified to an otherwise excluded specification listed below.

The following products are outside of, and/or specifically excluded from, the scope of the order:

(1) Cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:
ASTM A-53;
ASTM A-106;
ASTM A-179 (ASME SA 179);
ASTM A-192 (ASME SA 192);
ASTM A-209 (ASME SA 209);
ASTM A-210 (ASME SA 210);
ASTM A-213 (ASME SA 213);
ASTM A-334 (ASME SA 334);
ASTM A-423 (ASME SA 423);
ASTM A-498;
ASTM A-496 (ASME SA 496);
ASTM A-199;
ASTM A-500;
ASTM A-556;
ASTM A-565;
API 5L; and
API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual- or multiple-certified to any other specification that otherwise would fall within the scope of the order.

The products subject to the order are currently classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, and 7306.50.5030. Subject merchandise may also enter under 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

IV. CHANGES SINCE THE *PRELIMINARY RESULTS*[8]

We made the following changes to our calculations since the *Preliminary Results*:

- We have revised our home market net price calculations to use the inland freight fields allocated by gross quantity (*i.e.*, INLFTWH2 and INLFTCH2). *See* Comment 3 for further discussion.

- We included the portion of inland freight expenses associated with returned merchandise as part of TII's home market indirect selling expenses. *See* Comment 3 for further discussion.

V. DISCUSSION OF THE ISSUES

Comment 1: Return Quantities

During the POR, certain of TII's customers in the home market returned a portion of the cold-drawn mechanical tubing that they purchased from TII.[9] We accepted TII's data, as reported, in our *Preliminary Results*.

Petitioners' Arguments

- The quantities reported for TII's returned products are aberrant and unsubstantiated. Therefore, TII's reporting of these quantities undermines the reliability of the normal value (NV) calculations for TII's home market sales.[10]
- Certain of TII reported returns were of products (known as "control numbers" or "CONNUMs") which TII also sold in the U.S. market. The record shows that these returns impact a large percentage of TII's identical U.S. product comparisons,[11] as well as a large percentage of U.S. sales.[12]
- TII's home market customers who returned their products did so for a significant portion of the cold-drawn mechanical tubing that they purchased during the POR.[13] Certain of the quantities returned are not credible.[14] For instance, TII reported that it could resell returned merchandise in the home market without incurring a loss and that customers

[8] *See* Memorandum, "Antidumping Duty Administrative Review of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Results Margin Calculation for Tube Products of India, Ltd., a unit of Tube Investments of India Limited (TII)," dated April 16, 2021 (Final Calculation Memorandum).
[9] *See* TII's Letter, "Cold-Drawn Mechanical Tubing from India: Section B Questionnaire Response," dated December 12, 2019 (TII December 12, 2019 BQR), at 40-41.
[10] *See* Petitioners Case Brief at 1 and 5.
[11] *Id*. at 3.
[12] *Id*. at 3-4.
[13] As the figures that the petitioners used to calculate the portion of returned sales are business proprietary information, we discuss this issue further in the Final Calculation Memorandum.
[14] *Id*.

sometimes returned and repurchased the same products.[15] These statements suggest that TII's returns were not legitimate.[16]
- For the final results, Commerce should reject TII's reporting of its returned quantities.

TII's Rebuttal Arguments

- There are no fundamental flaws in TII's reporting of the quantity of its initial sales and subsequent returns.
- Home market sales with returned quantities make up an insignificant portion of the total sales of each of the matching CONNUMs; thus, the returns have a negligible impact on the overall margin analysis.[17]
- Similarly, individual sales for which the returned quantity was high, measured as a share of the total invoiced quantity, account for a miniscule percentage of the total reported invoice quantity and net quantity. These sales are an insignificant portion of the database and, given that TII has cooperated to the best of its ability, there is no basis for Commerce to disregard any of these transactions.[18]
- The petitioners mis-quote TII's supplemental response with respect to why a customer would return and then re-purchase the same goods. In a supplemental questionnaire response, TII provides details relating to the particular customer and transaction referenced by the petitioners in their brief.[19] The petitioners' attempt to misrepresent facts with misplaced suppositions should be disregarded.[20]
- There is no factual basis to disregard TII's reporting of its returned quantities. TII followed Commerce's instructions and specifically reported its returns as requested and even segregated returns into separate variables RET_QTYH1 and RET_QTYH2,[21] based on the reason for the return. Given that sales with returns, and the volume of such returned quantities, account for only a miniscule percentage of the total home market sales database, there is no basis for disregarding these reported quantities.[22]
- Given that these transactions: (1) are not significant enough to call into question the veracity of the entire home market database; (2) actually occurred and were properly recorded in TII's books and records; and (3) were reported in the home market database, Commerce should continue to accept the data as reported for the final results.[23]

Commerce's Position: We continue to find that TII's return quantities are reliable and do not undermine our NV calculations. TII cooperated in this review and provided information and

[15] Although the petitioners treated this statement as business proprietary information, TII disclosed it publicly in its rebuttal brief. *See* TII Rebuttal Brief at 9.
[16] *See* Petitioners Case Brief at 4-5.
[17] *See* TII Rebuttal Brief at 8.
[18] *Id.* at 8-9.
[19] *Id.* at 9 (citing TII's Letter, "Cold Drawn Mechanical Tubing from India: Sections A, B, and C 2nd Supplemental Questionnaire Response," dated August 13, 2020 (TII August 13, 2020 SQR), at 23).
[20] *Id.*
[21] *Id.* (citing TII August 13, 2020 SQR at 23, 29, and Exhibit B-65).
[22] *Id.*
[23] *Id.* at 10.

supporting documentation regarding its returns, as requested.[24] Because TII provided sufficient information to support the reported quantities of its returns quantities, in accordance with 19 CFR 351.401(b)(1), we disagree with the petitioners that is it necessary or appropriate to disregard TII's reported sales with returned quantities, and we have continued to use TII's reported quantities in our final margin calculations.

In its initial response, TII notified Commerce that it had sales with returned quantities. TII reported the quantities of these returns in a separate field in its home market sales listing, which also included fields for both invoiced quantity and net quantity.[25] In a supplemental questionnaire, we asked TII a number of questions regarding the reported returns, and we requested supporting documentation related to them. In particular, our questions related to: the reasons for returns; the associated shipping procedures; and how the returns impacted TII's reported billing adjustments.[26] In response, TII provided a detailed narrative explaining the reasons for the returns and how it accounted for them in its books and records, as well as example documentation for sales with returns and any accompanying billing adjustments.[27] After analyzing the information in TII's submission, we further requested that TII create two new fields in the home market database (*i.e.*, RET_QTYH1 and RET_QTYH2) and report its returns in these fields according to the reason for each return.[28] TII followed Commerce's instructions and specifically reported its returns as requested and segregated returns into separate variables, RET_QTYH1 and RET_QTYH2,[29] depending on the reason for the return.

Throughout this review, we examined TII's method of accounting for returns in its normal books and records, its explanation of the reasons for returns received during the POR, and source documentation supporting its reported information. Contrary to the petitioners' assertions, the record contains documentation for at least 15 sales with returned quantities, including initial invoices, shipping notices, return invoices, credit notes, and corresponding accounting entries, all of which match to TII's return quantities reported in its home market sales listing.[30] This record evidence also supports TII's narrative explanations. Although the petitioners claim that the reported return quantities, and TII's explanations for them, are not credible, the petitioners point to no evidence demonstrating that the reported returned quantities (or the justification for the underlying returns) are incorrect.

Finally, we agree with TII that the number of reported home market sales with returns, and the aggregate returned quantity itself, account for a very small percentage of TII's total home market sales database. While the petitioners argue that Commerce "matched" a large percentage of

[24] *See* TII's Letter, "Cold Drawn Mechanical Tubing from India: Sections A, B, C, and D Supplemental Questionnaire Response," dated May 26, 2020 (TII May 26, 2020 SQR), at Exhibits B-25 through B-29; and TII August 13, 2020 SQR at Exhibits B-38 through B-48.
[25] *See* TII December 12, 2019 BQR at 40-41.
[26] *See* Commerce's Letter, "Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel Section A, B, C and D Supplemental Questionnaire," dated April 27, 2020, at 6-7.
[27] *See* TII May 26, 2020 SQR at 29-38 and Exhibits B-25 through B-37; and TII August 13, 2020 SQR at 6-13, 23-25, and Exhibits B-38 through B-48.
[28] *See* Commerce's Letter, "Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel Section A, B, C and D Supplemental Questionnaire," dated July 23, 2020, at 23.
[29] *See* TII August 13, 2020 SQR at 23.
[30] *See* TII May 26, 2020 SQR at Exhibits B-25 through B-29; and TII August 13, 2020 SQR at Exhibits B-38 through B-48.

these home market sales to U.S. sales, we disagree that this is cause for concern because, as outlined above, we have no reason to believe that TII's returned quantities are incorrectly reported. Further, given the miniscule quantity of the transactions in question, we find that the impact on TII's NVs is negligible.

In summary, we find that TII has supported its reported home market sales quantities, making these sales a suitable basis for NV and suitable matches for U.S. sales. Because record evidence supports TII's reported return quantities, we have continued to use TII's sales with returns in our calculation of NV.

Comment 2: Billing Adjustments

During the POR, TII made certain billing adjustments related to its home market sales. TII reported these billing adjustments on a transaction-specific basis (in the field BILLADJH), and it computed the per-unit amounts using the sales quantities net of any returns.[31] We accepted these billing adjustments, as reported, in the *Preliminary Results*.[32]

Petitioners' Arguments

- TII's approach to the calculation of billing adjustments results in a distorted home market net price and a distorted dumping margin.[33]
- TII computed its reported home market price adjustments, including quantity discount expenses, billing adjustments, and inland freight expenses, using the gross sales quantity in its supplemental response.[34] In the *Preliminary Results*, Commerce used the quantity discount variable allocated by gross quantity, but it used the billing adjustment variable allocated by net quantity, in its home market net price calculation.[35] TII's methodology is inconsistent with the methodology used to compute per-unit discounts.[36]
- TII's reported billing adjustments are irregular and illogical because they are allocated based on distortive net quantities (*see* Comment 1).
- If Commerce continues to rely on the net sales quantities, it should correct the distortion in the reported billing adjustments resulting from the use of these quantities using facts available, as proposed in the petitioners' case brief.[37]

[31] *See* TII December 12, 2019 BQR at 43. At our request, TII also computed its billing adjustments based on gross quantity, and it reported these alternative amounts in the field BILLADJH2.
[32] *See Preliminary Results* PDM at 14.
[33] *See* Petitioners Case Brief at 6-7.
[34] *See* Petitioners Case Brief at 5 (citing TII May 26, 2020 SQR at 29, and TII August 13, 2020 SQR at 23).
[35] *Id*. (citing Memorandum, "Antidumping Duty Administrative Review of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Results Margin Calculation for Tube Investments of India Ltd. and Tube Products of India," dated October 14, 2020 (Preliminary Calculation Memorandum), at Section IV.B; and TII's Letter, "Cold Drawn Mechanical Tubing from India: 3rd Supplemental Questionnaire Response," dated October 7, 2020 (TII October 7, 2020 SQR), at 2).
[36] *Id*.
[37] *Id*. at 7.

TII's Rebuttal Arguments

- TII reported its billing adjustments in accordance with Commerce's instructions. Further, it fully explained these reasons for these adjustments and reconciled them to TII's record keeping in the normal course of business.
- The petitioners' arguments exaggerate the potential margin impact related to individual line-item transactions where there is both a return and a billing adjustment.[38]
- Commerce issued TII a supplemental questionnaire to specifically address the manner in which TII reported its billing adjustments.[39] TII confirmed that it had computed the reported amounts using: (1) net quantity when it issued the billing adjustment after the customer made a return; and (2) gross quantity when it issued the billing adjustments before the customer made a return.[40]
- The petitioners, in their brief, examine a single transaction without providing sufficient context. TII explained the process it follows for issuing and accounting for billing adjustments. The transaction in question was the result of TII issuing the billing adjustment prior to the customer returning its goods, and TII calculated the billing adjustment in accordance with the methodology it described.
- Commerce accepted TII's reporting of billing adjustments in the preliminary results based on the field BILLADJH. There is no reason to modify the analysis here.[41]
- Additionally, Commerce should not accept the petitioners' proposed modification to the SAS programming because it is tantamount to rejecting the entirety of TII's home market sales database. There is no basis to make such a draconian modification, given that TII has already reported billing adjustments based upon the net quantity in variable BILLADJH for those transactions where billing adjustments were issued after a return was made, and reported billing adjustments based upon gross quantity for those transactions where billing adjustments were issued before a return was made.[42]
- The vast majority of transactions in the home market sales database do not have returns associated with them at all. Commerce's regulations define an insignificant adjustment as "any individual adjustment having an *ad valorem* effect of less than 0.33 percent or any group of adjustments having an *ad valorem* effect of less than 1 percent, of the export price, constructed export price or NV, as the case may be."[43] In this case, the transactions with the billing adjustments in question (*i.e.*, those that also feature partial returns) are such an insignificant portion of the entire home market database that Commerce does not have any basis to disregard or otherwise modify the billing adjustments as reported by TII.[44] TII's data is accurate and complete and should be utilized in its entirety without resort to any adverse inferences or modifications.[45]

Commerce's Position: For these final results, we have continued to use the billing adjustments reported in the field BILLADJH by TII in accordance with 19 CFR 351.401(c). Throughout this

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[38] *See* TII Rebuttal Brief at 10-12.
[39] *Id.* at 10 (citing TII October 7, 2020 SQR at 1).
[40] *Id.* at 10-11.
[41] *Id.* at 11.
[42] *Id.* at 11-12.
[43] *See* 19 CFR 351.413
[44] *See* TII Rebuttal Brief at 12.
[45] *Id.*

review, we examined the billing adjustments reported by TII and, in doing so, examined the overall context and value of such adjustments, as well as TII's statements regarding the reasons for such adjustments. In this analysis, we did not find evidence that the adjustments were distortive or incorrect.

TII reported billing adjustments in its initial response[46] and we issued a supplemental questionnaire to TII requesting additional information.[47] In reply, TII provided a detailed explanation of its billing adjustment allocation process;[48] it stated that it reported billing adjustments based on net quantity when the billing adjustments were issued after a return was made by a customer, and that it reported billing adjustments on the basis of gross quantity if the billing adjustments were issued before a return was made by the customer (or if there was no return for the sale).[49] Further, TII provided documentation related to its billing adjustments that supports its narrative explanation.[50] For instance, for a number of sales identified by Commerce, TII provided the initial invoice, the credit/debit note, and corresponding payment documents.[51] TII also provided calculation worksheets and a discussion of how such adjustments could be reconciled to its accounting records.[52]

The petitioners identify sales for which the resulting billing adjustment is purportedly irregular. However, as noted above, the record – including multiple responses to Commerce on this issue – supports TII's explanation of the billing adjustment process. As noted in Comment 1, after examining numerous examples of return documentation, we found no discrepancies that would cause us to question TII's reported return quantities, meaning that TII's gross and net quantities used to allocate its billing adjustments are valid.

Additionally, the petitioners argue that billing adjustments allocated by net weight differ from those allocated by gross weight. However, this is simply the mathematical result of using a different denominator and not an indication that the billing adjustments themselves are distorted. TII has adequately explained its method of allocating billing adjustments and in which situations it used either net or gross quantity; therefore, we disagree with the petitioners that the allocation of billing adjustments is irregular or illogical. Importantly, as noted in Final Analysis Memorandum, given the overall context of TII's billing adjustment process, we do not find these billing adjustments to be distortive.[53]

In sum, TII's fully explained its billing adjustment allocation process in its responses and supported its explanation with documentation on the record.[54] Therefore, we disagree that the petitioners' proposed modification to the SAS programming language is appropriate. Based on

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[46] *See* TII December 12, 2019 BQR at 43.
[47] *See* TII August 13, 2020 SQR at 4.
[48] *Id.* at 13-19, 21-25, and Exhibits B-60 through B-64, and TII October 7, 2020 SQR at 1-3; *see also* TII Rebuttal Brief at 10-12.
[49] *See* TII Rebuttal Brief at 10-11 (citing TII October 7, 2020 SQR at 1).
[50] *See* TII August 13, 2020 SQR at Exhibits B-60 through B-64.
[51] *See, e.g.*, TII May 26, 2020 SQR at 34-38.
[52] *Id.* at 38.
[53] *See* Final Calculation Memorandum.
[54] *See* TII December 12, 2019 BQR at 43; TII August 13, 2020 SQR at 13-19, 21-25, and Exhibits B-60 through B-64; and TII October 7, 2020 SQR at 1-3.

the record of this review, we have no reason to revise the values used in our margin calculations, and we have continued to use the field BILLADJH in our calculations.

Comment 3: Inland Freight Expenses

During the POR, TII incurred inland freight expenses to transport merchandise to its home market customers. TII reported inland freight to the warehouses expenses allocated by net quantity in the field INLFTWH and, as an alternative, by gross quantity in the field INLFTWH2; TII also reported inland freight to the customer expenses allocated by net quantity in the field INLFTCH and, also as an alternative, by gross quantity in the field INLFTCH2.[55] In the *Preliminary Results*, we used the inland freight fields allocated by net quantity (*i.e.*, INLFTWH and INLFTCH) in our calculations.[56]

Petitioners' Arguments

- Similar to the correction required for TII's billing adjustments, Commerce should use facts available to correct the distortion in TII's reported inland freight expenses resulting from the use of net quantity.[57]
- Commerce's normal practice is to deduct movement expenses, including inland freight, from the reported gross unit price. Incorrectly reported inland freight expenses undermine the accuracy of the home market net price, and, in turn, distort the dumping margin.[58]
- To correct this, Commerce should rely on facts available by setting inland freight expenses to zero for any transactions with a returned quantity of greater than zero.[59]

TII's Rebuttal Arguments

- TII reported its home market freight costs in accordance with Commerce's specific instructions and it provided inland freight calculations based upon gross quantity in fields INLFTWH2 and INLFTCH2.[60] Accordingly, the petitioners' proposed programming changes, *i.e.*, rejecting freight values for all transactions that have returns, is neither required nor necessary.
- In instances such as this, where there is no gap in the record, the Act does not support disregarding or otherwise modifying the reported expenses.

Commerce's Position: We have revised our home market net price calculations to use the inland freight fields allocated on the basis of gross quantity. Section 773(a)(6)(B)(ii) of the Tariff Act of 1930, as amended (the Act), states that Commerce will adjust the home market price to account for expenses incurred to bring the merchandise to the customer's delivery location. As the customer initially receives the gross quantity it ordered, freight expenses allocated on a gross quantity basis are the appropriate value to use under section 773(a)(6)(B)(iii) of the Act.

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[55] *See* TII October 7, 2020 SQR at 1-4.
[56] *See* Preliminary Calculation Memorandum at Section IV.B.
[57] *See* Petitioners Case Brief at 5
[58] *Id*. at 7-8 and Attachments 5 and 6.
[59] *Id*. at 8.
[60] *See* TII October 7, 2020 SQR at 2-4.

In our September 28, 2020, supplemental questionnaire, we asked TII questions regarding its allocation of expenses on different quantity bases.[61] In response, TII added new fields to its home market sales listing, including INLFTWH2 and INLFTCH2, which represent expenses allocated by gross invoice quantity.[62] While we did not use these fields in our calculations for the *Preliminary Results*, they are available on the record.[63]

As the petitioners argue, using freight expenses allocated by net quantity may result in distortions for transactions with returns. TII incurred the expenses associated with inland freight to the warehouse and inland freight to the customer when transporting the merchandise to the customer's delivery location. Therefore, TII incurred these expenses on the basis of the initial invoiced quantity (*i.e.*, the gross quantity). Any potential returns would happen after delivery of the order to the customer and after TII had already incurred the inland freight expenses. Accordingly, it is appropriate to allocate the inland freight expenses using the quantity of merchandise on which TII actually incurred those expenses.

As noted above, inland freight expenses properly allocated on this gross quantity basis are already available on the record. For this reason, we disagree with the petitioners that it is necessary to resort to facts available. TII cooperated by responding to our questions regarding these expenses and provided information on both quantity bases (*i.e*., gross and net). While the petitioners assert that TII's return quantities are unsupported – a statement with which we disagree, as discussed in Comment 1 – the inland freight expenses in the fields INLFTWH2 and INLFTCH2 are computed using freight expenses and gross quantity. We find no basis to conclude that there are discrepancies with either the freight expenses or the gross quantities used to compute the inland freight expenses in these fields, and, thus, there is no reason to disregard the reported information. By revising our calculations to use variables based on gross quantity, we have addressed the petitioners' concerns regarding net quantity allocations.

Regarding the inland freight expenses incurred on returned merchandise, it is Commerce's normal practice to categorize those expenses as indirect selling expenses.[64] For instance, in *Shrimp from Thailand*, customers destroyed portions of shipments while retaining the remainder of the shipment. In that case, Commerce stated that:

> Although the destroyed merchandise was initially sold as part of the same transaction as the merchandise used in our analysis, this merchandise was ultimately rejected by the customer and Good Luck Product did not receive

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[61] *See* Commerce's Letter, "Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel Section B and C Supplemental Questionnaire," dated September 28, 2020, at 3.
[62] *See* TII October 7, 2020 SQR at 1-4.
[63] *See* Preliminary Calculation Memorandum.
[64] *See Notice of Final Determination of Sales at Not Less Than Fair Value: Certain Color Television Receivers from Malaysia*, 69 FR 20592 (April 16, 2004), and accompanying Issues and Decision Memorandum (IDM) at Comment 2; and *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 7. This practice has been upheld by the U.S. Court of International Trade. *See Agro Dutch Industries, Ltd. v. United States*, 20 CIT 320 (June 23, 2006); and *Agro Dutch Industries, Ltd. v. United States*, 30 CIT 977 (July 25, 2006).

payment for it. It would be inappropriate to apply the expenses related to the destroyed (and unsold) merchandise to the remaining (sold) transactions reported in the U.S. sales listing. Therefore, in accordance with our practice, we have continued to treat the expenses in question as {indirect selling expenses} for purposes of the final results.[65]

Similarly, since TII's customers returned certain merchandise, it is appropriate to treat the inland freight expenses incurred on returned merchandise as indirect selling expenses. Accordingly, we have revised TII's total indirect selling expenses and home market indirect selling expense ratio to include the value of the freight incurred on returns. For further discussion, *see* the Final Calculation Memorandum.

Comment 4: Export Subsidy Offset

TII's Arguments

- Commerce correctly applied the export subsidy offsets in the *Preliminary Results*.[66] Commerce should not make any changes for the final results of this review.

The petitioners did not comment on this issue.

Commerce's Position: We agree with TII and have continued to offset U.S. price by the amount of the export subsidies found in the most recently-completed segment of the countervailing duty proceeding, in accordance with section 772(c)(1)(C) of the Act.

VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this administrative review and the final weighted-average dumping margin in the *Federal Register*.

☒	☐
Agree	Disagree

X

Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

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[65] *Id*.

[66] *See* TII Case Brief at 2.