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August 7, 2019

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

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

SUBJECT: Finished Carbon Steel Flanges from Spain: Decision
Memorandum for Preliminary Results of Antidumping Duty
Administrative Review; 2017-2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on finished carbon steel flanges (flanges) from Spain in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is February 8, 2017 through May 31, 2018. The administrative review covers six companies, including the mandatory respondent, ULMA Forja, S.Coop (ULMA). We preliminarily determine that ULMA made sales of subject merchandise at prices below normal value (NV) during the POR.

II. BACKGROUND

On June 14, 2017, Commerce published in the *Federal Register* an AD order on flanges from Spain.¹ On June 1, 2018, Commerce published a notice of opportunity to request an administrative review of the *Order*.² On June 28, 2018, Commerce received a timely request from ULMA for an administrative review of itself.³ On July 2, 2018, Commerce received a timely request from Weldbend Corporation and Boltex Manufacturing Co., L.P. (the petitioners) for administrative review of the following companies: (1) ULMA; (2) Grupo Cunado; (3) Tubacero, S.L.; (4) Ateaciones De Metales Sinterizados S.A.; (5) Transglory S.A.; and (6)

¹ See *Finished Carbon Steel Flanges from Spain: Antidumping Duty Order*, 82 FR 27229 (June 14, 2017) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 25429 (June 1, 2018).

³ See ULMA's Letter, "ULMA Forja, S. Coop's Request for Administrative Review: Finished Carbon Steel Flanges from Spain," dated June 28, 2018.



Central Y Almacenes.⁴ On August 10, 2018, Commerce initiated an administrative review of the *Order* on flanges from Spain for the period February 8, 2017 through May 31, 2018.⁵ The administrative review was initiated for the six companies listed above.⁶

In the *Initiation Notice*, Commerce stated that if it limited the number of respondents for individual examination in this administrative review, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review.⁷ Accordingly, on August 29, 2018, Commerce released the CBP data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁸ We received no comments. On September 25, 2018, we selected ULMA as the sole mandatory respondent in this review.⁹ On October 11, 2018, we issued the standard AD questionnaire (the questionnaire) to ULMA.¹⁰

On October 26, 2018, ULMA requested permission to add one month to its reporting period for purposes of determining cost of production (COP) and constructed value (CV) to conform to ULMA's fiscal year accounting records, which differ from the POR by a single month, without the deletion of any cost data.¹¹ On November 6, 2018, we issued a cost reporting period supplemental questionnaire to ULMA.¹² On November 13, 2018, ULMA responded to the cost reporting period supplemental questionnaire.¹³ On November 15, 2018, we granted ULMA's request to add one month to its reporting period for COP and CV purposes.¹⁴

Between November 8, 2018 and December 10, 2018, ULMA submitted its responses to sections A-D of the questionnaire.¹⁵ Between December 13, 2018 and June 3, 2019, we issued

⁴ See Petitioners' Letter, "Finished Carbon Steel Flanges from Spain: Request for Administrative Review," dated July 2, 2018.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 39688 (August 10, 2018) (*Initiation Notice*).

⁶ *Id.* at 39690.

⁷ *Id.* at 39689.

⁸ See Memorandum, "Finished Carbon Steel Flanges from Spain, 2017-2018: Placement on the Record of Results of Inquiry to U.S. Customs and Border Protection," dated August 29, 2018. The results of Commerce's data query are contained in Attachment 1 of that memorandum.

⁹ See Memorandum, "Selection of Respondents for the 2017-2018 Administrative Review of the Antidumping Duty Order on Finished Carbon Steel Flanges from Spain," dated September 25, 2018.

¹⁰ See Commerce's Letter dated October 11, 2018.

¹¹ See ULMA's Letter, "ULMA Forja, S. Coop's Request for Change in Cost Accounting Period: Finished Carbon Steel Flanges from Spain," dated October 26, 2018.

¹² See Commerce's Letter, "Antidumping Duty Review of Finished Carbon Steel from Spain-Request to Amend the Cost Reporting Period," dated November 6, 2018.

¹³ See ULMA's Letter, "ULMA FORJA S. COOP's Response to the Department's Cost Reporting Period Supplemental -- Finished Carbon Steel Flanges from Spain, 2017-2018," dated November 13, 2018.

¹⁴ See Commerce's Letter, "Administrative Review of Finished Carbon Steel Flanges from Spain, 2017-2018: Request to Amend the Cost Reporting Period," dated November 15, 2018.

¹⁵ See ULMA's Letter, "ULMA FORJA S. COOP's Response to Section A Questionnaire, Finished Carbon Steel Flanges from Spain, 2017-2018," dated November 8, 2018 (Section A Response); *see also* ULMA's Letters, "ULMA FORJA S. COOP's Response to Section B Questionnaire -- Finished Carbon Steel Flanges from Spain, POR 1"; "ULMA FORJA S. COOP's Response to Section C Questionnaire -- Finished Carbon Steel Flanges from Spain, POR 1"; and "ULMA FORJA S. COOP's response to Section D Questionnaire -- Finished Carbon Steel

supplemental questionnaires to ULMA.¹⁶ Between January 7, 2019 and June 17, 2019, ULMA submitted its responses to Commerce's supplemental questionnaires.¹⁷ From June 24 through June 28, 2019, we conducted verification of ULMA at its facilities in Onati, Spain.¹⁸

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.¹⁹ If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. On March 15, 2019, we extended the deadline for the preliminary results by 120 days.²⁰ The revised deadline for the preliminary results is now August 9, 2019.

III. SCOPE OF THE *ORDER*

The scope of this *Order* covers finished carbon steel flanges. Finished carbon steel flanges differ from unfinished carbon steel flanges (also known as carbon steel flange forgings) in that they have undergone further processing after forging, including, but not limited to, beveling, bore threading, center or step boring, face machining, taper boring, machining ends or surfaces, drilling bolt holes, and/or de-burring or shot blasting. Any one of these post-forging processes suffices to render the forging into a finished carbon steel flange for purposes of this *Order*. However, mere heat treatment of a carbon steel flange forging (without any other further processing after forging) does not render the forging into a finished carbon steel flange for purposes of this *Order*.

While these finished carbon steel flanges are generally manufactured to specification ASME B16.5 or ASME B16.47 series A or series B, the scope is not limited to flanges produced under those specifications. All types of finished carbon steel flanges are included in the scope

Flanges from Spain, POR 1," each dated December 10, 2018 (Section B Response, Section C Response, and Section D Response, respectively).

¹⁶ See Commerce's Letter, "Finished Carbon Steel Flanges from Spain: Section A Supplemental Questionnaire," dated December 13, 2018; Commerce's Letter, "Antidumping Duty Administrative Review of Finished Carbon Steel Flanges from Spain," dated March 18, 2019; Commerce's Letter, "Finished Carbon Steel Flanges from Spain: Second Section A Supplemental Questionnaire," dated May 29, 2019; and Commerce's Letter, "Finished Carbon Steel Flanges from Spain: Sections B and C Supplemental Questionnaire," dated June 3, 2019.

¹⁷ See ULMA's Letter, "ULMA FORJA S. COOP's Response to the Department's Supplemental Section A Questionnaire: Finished Carbon Steel Flanges from Spain, POR 1," dated January 7, 2019 (First Supplemental Section A Response); ULMA's Letter, "ULMA FORJA S. COOP's Response to the Department's Supplemental Section D Questionnaire: Finished Carbon Steel Flanges from Spain, POR 1," dated April 1, 2019; ULMA's Letter, "ULMA FORJA S. COOP's Response to the Department's Second Supplemental Section A Questionnaire -- Finished Carbon Steel Flanges from Spain, POR 1," dated June 7, 2019 (Second Supplemental Section A Response); and ULMA's Letter, "ULMA FORJA S. COOP's Response to the Department's Supplemental Sections B and C Questionnaire -- Finished Carbon Steel Flanges from Spain, POR 1," dated June 17, 2019.

¹⁸ At the date of these preliminary results, the verification report has not been completed; we shall issue it as soon as possible.

¹⁹ See Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

²⁰ See Memorandum, "Finished Carbon Steel Flanges from Spain: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review, 2017-2018," dated March 15, 2019.

regardless of pipe size (which may or may not be expressed in inches of nominal pipe size), pressure class (usually, but not necessarily, expressed in pounds of pressure, *e.g.*, 150, 300, 400, 600, 900, 1500, 2500, *etc.*), type of face (*e.g.*, flat face, full face, raised face, *etc.*), configuration (*e.g.*, weld neck, slip on, socket weld, lap joint, threaded, *etc.*), wall thickness (usually, but not necessarily, expressed in inches), normalization, or whether or not heat treated. These carbon steel flanges either meet or exceed the requirements of the ASTM A105, ASTM A694, ASTM A181, ASTM A350 and ASTM A707 standards (or comparable foreign specifications). The scope includes any flanges produced to the above-referenced ASTM standards as currently stated or as may be amended. The term “carbon steel” under this scope is steel in which:

- (a) iron predominates, by weight, over each of the other contained elements:
- (b) the carbon content is 2 percent or less, by weight; and
- (c) none of the elements listed below exceeds the quantity, by weight, as indicated:
 - (i) 0.87 percent of aluminum;
 - (ii) 0.0105 percent of boron;
 - (iii) 10.10 percent of chromium;
 - (iv) 1.55 percent of columbium;
 - (v) 3.10 percent of copper;
 - (vi) 0.38 percent of lead;
 - (vii) 3.04 percent of manganese;
 - (viii) 2.05 percent of molybdenum;
 - (ix) 20.15 percent of nickel;
 - (x) 1.55 percent of niobium;
 - (xi) 0.20 percent of nitrogen;
 - (xii) 0.21 percent of phosphorus;
 - (xiii) 3.10 percent of silicon;
 - (xiv) 0.21 percent of sulfur;
 - (xv) 1.05 percent of titanium;
 - (xvi) 4.06 percent of tungsten;

(xvii) 0.53 percent of vanadium; or

(xviii) 0.015 percent of zirconium.

Finished carbon steel flanges are currently classified under subheadings 7307.91.5010 and 7307.91.5050 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also be entered under HTSUS subheadings 7307.91.5030 and 7307.91.5070. The HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether ULMA's sales of the subject merchandise from Spain to the United States were made at less than NV, Commerce compared the constructed export price (CEP) and export price (EP) to the NV as described in the "Constructed Export Price," "Export Price," and "Normal Value" sections of this memorandum. As further explained below, we have preliminarily determined that ULMA made no CEP sales.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NV to weighted-average EP (or CEP) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations (LTFV), Commerce examines whether to compare weighted-average normal values with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in LTFV investigations.²¹

In recent investigations, Commerce 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.²² Commerce finds that

²¹ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

²² 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); see also *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).

the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. 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 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 these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period 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 review 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 normal value 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 these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

For ULMA, based on the results of the differential pricing analysis, we preliminarily find that more than 33 percent but less than 66 percent of the value of ULMA's total U.S. sales pass the differential pricing test, and the results of the test support consideration of the application of a mixed methodology (*i.e.*, applying 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 applying the average-to-average method to those sales identified as not passing the Cohen's *d* test).²³ Further, we preliminarily determine that applying solely the average-to-average method to all sales cannot appropriately account for such differences because there is a meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and when using the alternative method. The weighted-average dumping margin using the mixed methodology is above the *de minimis* threshold, while the margin determined under the average-

²³ See Memorandum, "Finished Carbon Steel Flanges from Spain: Analysis of Data Submitted by ULMA Forja S. Coop. for Preliminary Results of Antidumping Duty Administrative Review; 2017-2018," dated concurrently with this memorandum (Analysis Memorandum).

to-average method is not.²⁴ Accordingly, we preliminarily determine to use the mixed methodology for all U.S. sales to calculate the weighted-average margin of dumping for ULMA.

Product Comparisons

In accordance with section 771(16) of the Act, we compared U.S. sales to sales made in the comparison market on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. For instances in which there was neither an identical nor similar comparison product, we compared the products sold in the United States to constructed value. In the order of importance, these physical characteristics are category, stage, state, and range of concentration of active ingredients.

Date of Sale

Section 351.401(i) of Commerce's regulations states that we normally will use, as the date of sale, the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business. The regulation provides further that we may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. Consistent with our long-standing practice, where shipment date precedes invoice date, we find that shipment date better reflects the date on which the material terms of sale are established.²⁵ In both markets, ULMA considers that the invoice date is the date of sale, because significant terms of sale (price, product and occasionally price) can, and do, change between the date the original purchase order is confirmed and the date the product is invoiced and shipped. However, while the invoice date is the date of sale according to ULMA's records, ULMA reported the earlier of invoice date or shipment date (the date the merchandise leaves the factory or warehouse) as the date of sale in its databases, in accordance with Commerce's standard practice.²⁶

Export Price and Constructed 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)" of section 772 of the Act.

Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States to an unaffiliated purchaser in the United States before or after the date of importation by or for the account of the producer or exporter of such

²⁴ *Id.*

²⁵ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying IDM at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

²⁶ See Section A Response at 22; see also Section B Response at 28; and Section C Response at 29.

merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)” of section 772 of the Act.

Direct ULMA Sales in U.S. Market

The first channel of distribution reported by ULMA consisted of direct sales from ULMA to U.S. customers.²⁷ We preliminarily determine that these are EP sales. The second channel of distribution reported by ULMA involved back-to-back invoicing through ULMA Piping USA, ULMA’s U.S. affiliate. In this channel, ULMA invoiced the product to ULMA Piping USA on the date the merchandise left the factory; ULMA issued an invoice from ULMA Piping USA to the U.S. customer on the same date. The documentation, invoicing, transportation, U.S. entry duties, antidumping duties, and all other expenses were born by ULMA, and ULMA was the importer. The merchandise never entered into ULMA Piping USA’s possession, inventory, or books.²⁸ As all the terms of sale were negotiated by ULMA before the subject flanges entered the United States, we preliminarily determine that these are EP sales.

ULMA Sales through Mexico

ULMA reported the process for sales in its third channel of distribution as: (1) ULMA invoiced ULMA Piping Mexico S.A. de C.V. (ULMA Mexico) and shipped flanges to ULMA Mexico; (2) ULMA Mexico’s sales in Mexico were so low that the company was gradually shut down; (3) ULMA bought back flanges from ULMA Mexico’s inventory; (4) ULMA negotiated and sold these flanges in the United States generally to fill portions of existing orders, invoicing ULMA USA (which, as above, did not take possession of these flanges) as an intermediary at the request of the customers; and (5) ULMA shipped flanges from ULMA Mexico to U.S. end user customers.²⁹ As all the terms of sale were negotiated by ULMA before the subject flanges entered the United States, we preliminarily determine that these are EP sales. ULMA’s fourth reported channel of distribution involved the same process, except that ULMA Mexico invoiced the U.S. end user itself at the direction of ULMA and the customer.³⁰ Here as well, as all the terms of sale were negotiated by ULMA Forja before the subject flanges entered the United States, we preliminarily determine that these are EP sales.

Pursuant to section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and comparison markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets. No other adjustments were claimed or applied.

²⁷ See Section A Response at 2 and 18-19.

²⁸ *Id.*

²⁹ See First Supplemental Section A Response at 1-2; *see also* Second Supplemental Section A Response at 3-5.

³⁰ See First Supplemental Section A Response at 1-2; *see also* Second Supplemental Section A Response at 3-5.

Normal Value

A. Home Market Viability

To determine whether there was a sufficient volume of sales of flanges 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 compared the respondent's volume of home-market sales of foreign like product to its volume of U.S. sales of the subject merchandise during the POR.³¹ Based on this comparison, we determined that ULMA had a viable home market during the POR.³²

B. Cost of Production

Section 773(b)(2)(A)(ii) of the Act requires Commerce to request cost information from respondent companies in all antidumping proceedings. Thus, we requested this information from ULMA and it submitted timely responses. We examined ULMA's cost data and determined that our quarterly cost methodology was not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.³³

1. Calculation of COP

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by ULMA in its questionnaire responses for the COP calculation.

2. Test of Comparison Market Sales Prices

As required under sections 773(b)(1) and (2) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, billing adjustments, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product

³¹ See section 773(a)(1)(B) of the Act.

³² See Section A Response at Exhibit A-1.

³³ We made certain adjustments to ULMA's COP data. See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results: ULMA FORJA S. COOP," dated August 9, 2019 at 1-2; see also Analysis Memorandum at 3.

because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded 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 of the COPs, 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.

Our cost tests for ULMA indicated that, for comparison market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales to determine NV.³⁴

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).³⁵ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³⁶ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),³⁷ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.³⁸

When we are unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, we 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

³⁴ See Analysis Memorandum at 4.

³⁵ See 19 CFR 351.412(c)(2).

³⁶ *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order, in Part*, 75 FR 50999, 51001 (August 18, 2010) (*Orange Juice from Brazil*), and accompanying IDM at Comment 7.

³⁷ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

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

adjustment is possible), we will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³⁹

ULMA did not claim different levels of trade in the home market or U.S. market, coding all sales as at the same level of trade in its database reporting;⁴⁰ ULMA claimed neither a level of trade adjustment nor a CEP offset (as it maintained that there were no CEP sales). We nevertheless examined the differences in selling functions reported in ULMA's responses. Selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. ULMA reported that it utilized only one channel of distribution in the comparison market, direct sales to unaffiliated end users.⁴¹ We therefore found that there is a single LOT in the comparison market.

ULMA reported four channels of distribution in the United States, as detailed above. Most or all of the selling activities related to sales in the United States are performed by ULMA. We found that, for all four channels of distribution, the selling functions performed by ULMA are minimal. For these sales, ULMA performs substantially similar selling activities compared to those activities performed in its comparison market LOT. ULMA reported activity in 24 selling functions for its sales in the home market and in the United States.⁴² In none of these was there a higher level of intensity in the comparison market sufficient to determine that the comparison market LOT was substantially different from the EP LOT. Accordingly, we preliminarily determine that the comparison market sales were not made at an LOT that was at a more advanced stage of distribution than the EP LOT. On this basis, for these preliminary results, we did not make a LOT adjustment. Since there are no CEP sales, neither did we grant a CEP offset to NV.

D. Calculation of Normal Value Based on Comparison Market Prices

We based NV on the starting prices of ULMA to unaffiliated home market customers. We made adjustments for differences in packing and for inland freight expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the subject merchandise.⁴³ See Analysis Memorandum for further details.

E. Calculation of Normal Value Based on Constructed Value

In accordance with 773(e) of the Act, we used CV as the basis for normal value for the U.S. sales for which we could not find comparison market sales of similar or identical merchandise. In

³⁹ See, e.g., Orange Juice from Brazil at Comment 7.

⁴⁰ See Section B Response at 40; see also Section C Response at 42.

⁴¹ See Section A Response at Exhibit A-11.

⁴² *Id.*

⁴³ See 19 CFR 351.411(b).

accordance with section 773(e) of the Act, we calculated CV based on the sum of the cost of materials and fabrication, selling, general and administrative expenses, U.S packing expenses, and profit. We relied on information submitted by the respondent for materials and fabrication costs, selling general and administrative expenses, and U.S. packing costs. In accordance with 773(e)(2)(A) of the Act and 19 CFR 351.405(b)(1), we based selling expenses and profit on the amounts ULMA incurred and realized in connection with the production and sale of the foreign like product in the ordinary course of trade in the home market.⁴⁴

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.⁴⁵

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results of review.



Agree



Disagree

8/7/2019

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁴⁴ See Analysis Memorandum.

⁴⁵ These exchange rates are available on the Enforcement and Compliance website at:
<http://enforcement.trade.gov/exchange/index.html>.