



A-469-821
Investigation
04/01/2019 – 03/31/2020
Public Document
E&C/OII: TKS/WAM

November 12, 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 Determination in the
Less-Than-Fair-Value Investigation of Prestressed Concrete
Steel Wire Strand from Spain

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that prestressed concrete steel wire strand (PC strand) from Spain is being, or likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On April 16, 2020, Commerce received an antidumping duty (AD) petition covering imports of PC strand from Spain, which was filed in proper form by Insteel Wire Products, Sumiden Wire Products Corporation, and Wire Mesh Corp. (collectively, the petitioners).¹ On May 4, 2020, we released U.S. Customs and Border Protection (CBP) data to all interested parties under an administrative protective order and requested comments regarding the data and respondent selection.²

¹ See Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, the Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, the Republic of Turkey, Ukraine, and the United Arab Emirates: Petition for the Imposition of Antidumping and Countervailing Duties,” dated April 16, 2020.

² See Memorandum, “Petition for the Imposition of Antidumping Duties on Imports of Prestressed Concrete Steel Wire Strand from Spain: Release of Customs Data from U.S. Customs and Border Protection,” dated May 4, 2020.



Commerce initiated this investigation on May 6, 2020.³ In the *Initiation Notice*, we stated that, where appropriate, we intended to select respondents based on CBP data for U.S. imports of PC strand from Spain under the appropriate Harmonized Tariff Schedule of the United States subheadings.⁴ On June 3, 2020, Commerce selected Trenzas & Cables De Acero SA (TYCSA) as the sole respondent for individual examination,⁵ and on June 10, 2020, we issued the AD questionnaire to TYCSA.⁶

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of PC strand to be reported in response to Commerce's AD questionnaire.⁷ In June 2020, the petitioners, CB Trafilati Acciai S.p.A. (CP Trafilati), and P JSC PA Stalkanat-Silur (Stalkanat) submitted comments regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes;⁸ the petitioners and TYCSA submitted rebuttal comments.⁹

On June 1, 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 PC strand from Spain.¹⁰

In July 2020, Commerce revised the reporting requirements for the "diameter" product characteristic based on comments filed by Kiswire Sdn. Bhd., a mandatory respondent in the investigation of PC strand from Malaysia, and the petitioners.¹¹

³ See *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, the Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, the Republic of Turkey, Ukraine, and the United Arab Emirates: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 28605 (May 13, 2020) (*Initiation Notice*).

⁴ See *Initiation Notice*, 85 FR at 28609.

⁵ See Memorandum, "Less-Than-Fair-Value Investigation of Prestressed Concrete Steel Wire Strand from Spain: Respondent Selection," dated June 3, 2020.

⁶ See Commerce's Letter, "Antidumping Duty Questionnaire," dated June 10, 2020.

⁷ See *Initiation Notice*, 85 FR at 28606-07.

⁸ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates – Petitioners' Comments on the Important Product Characteristics and Product Matching Hierarchy," dated June 2, 2020; CB Trafilati's Letter, "Prestressed Concrete Steel Wire Strand from Italy: Scope and Product Characteristic Comments," dated June 2, 2020; and Stalkanat's Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates: Comments on Product Characteristics and Product Matching Hierarchy," dated June 2, 2020.

⁹ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates – Petitioners' Rebuttal Comments on the Important Product Characteristics and Product Matching Hierarchy," dated June 12, 2020; and TYCSA's Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates: Rebuttal Comments on Product Characteristics and Product-Matching Hierarchy," dated June 12, 2020.

¹⁰ See *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates*, 85 FR 34648 (June 5, 2020).

¹¹ See Memorandum, "Less-Than-Fair-Value Investigation of Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan,

From July through August 2020, TYCSA¹² submitted timely responses to sections A through D of Commerce’s AD questionnaire, *i.e.*, the sections relating to general information, comparison market sales, U.S. sales, and cost of production (COP)/constructed value (CV).¹³ From August 2020 through October 2020, we issued supplemental questionnaires to TYCSA and received responses to these supplemental questionnaires from September 2020 through October 2020.¹⁴

On August 19, 2020, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation.¹⁵ Based on the request, and pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), on September 8, 2020, Commerce published in the *Federal Register* a postponement of the preliminary determination until no later than November 12, 2020.¹⁶

On October 19, 2020, the petitioners submitted information alleging that critical circumstances exist with respect to imports of PC Strand from Spain.¹⁷ In October 2020 and November 2020, TYCSA and the petitioners requested that Commerce postpone the final determination, and TYCSA also requested that provisional measures be extended.¹⁸

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

Tunisia, Turkey, Ukraine, and the United Arab Emirates: Revision to “Diameter” Product Characteristic,” dated July 28, 2020.

¹² In its responses, TYCSA identified its company name as Global Special Steel Products S.A.U. (d.b.a. Trenzas y Cables de Acero PSC, S.L.).

¹³ See TYCSA’s Letter, “Prestressed Concrete Steel Wire Strand from Spain: Section A Questionnaire Response,” dated July 13, 2020 (TYCSA’s AQR); and TYCSA’s Letter, “Prestressed Concrete Steel Wire Strand from Spain: Sections B, C, and D,” dated August 5, 2020.

¹⁴ See TYCSA’s Letter, “Prestressed Concrete Steel Wire Strand from Spain: Supplemental Section D Response,” dated September 15, 2020; TYCSA’s Letter, “Prestressed Concrete Steel Wire Strand from Spain: Supplemental Sections A-D Response (“Section A” and Questions 1-2 and 4-8 of the “Sections B, C, and D General Questions” portions),” dated October 15, 2020 (TYCSA’s A-D SQR); TYCSA’s Letter, “Prestressed Concrete Steel Wire Strand from Spain: Supplemental Sections A-D Response (Sales Traces and Responses to Section B and Section C Questions),” dated October 19, 2020 (TYCSA’s B-C SQR); and TYCSA’s Letter, “Prestressed Concrete Steel Wire Strand from Spain: Second Supplemental Section D Response,” dated October 28, 2020.

¹⁵ See Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Taiwan, Tunisia, Turkey and Ukraine – Petitioners’ Request to Postpone Preliminary Determinations,” dated August 19, 2020.

¹⁶ See *Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Taiwan, Tunisia, Turkey and Ukraine: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 55413 (September 8, 2020).

¹⁷ See Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Spain and Ukraine – Petitioners’ Allegations of Critical Circumstances,” dated October 19, 2020 (Critical Circumstances Allegation).

¹⁸ See TYCSA’s Letter, “Antidumping Duty Investigation of Prestressed Concrete Steel Wire Strand from Spain: Request for Postponement of Final Determination and Provisional Measures Period,” dated October 30, 2020; and Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine – Petitioners’ Request for Postponement of Final Antidumping Determinations,” dated November 2, 2020.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2019 through March 31, 2020. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was April 2020.¹⁹

IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,²⁰ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage *i.e.*, scope.²¹ During this period, no interested party commented on the scope of this investigation.

V. SCOPE OF THE INVESTIGATION

The product covered by this investigation is PC strand. For a full description of the scope of this investigation, *see* this memorandum's accompanying *Federal Register* notice at Appendix I.

VI. NEGATIVE PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

Section 733(e)(1) of the Act provides that Commerce, upon receipt of a timely allegation of critical circumstances, will determine whether there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, and (B) there have been "massive imports" of the subject merchandise over a relatively short period. In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted 20 days or more before the scheduled date of the preliminary determination, Commerce must issue a preliminary critical circumstances determination no later than the date of the preliminary determination.

On October 19, 2020, the petitioners submitted information alleging that, pursuant to section 733(e)(1) of the Act, and 19 CFR 351.206, critical circumstances exist with respect to imports of PC strand from Spain.²² For the reasons discussed below, we preliminarily find that critical circumstances do not exist for TYCSA and the companies covered by the all-others rate.

History of Dumping and Material Injury

To determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous AD orders on the subject merchandise

¹⁹ See 19 CFR 351.204(b)(1).

²⁰ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

²¹ See *Initiation Notice*, 85 FR at 28606.

²² See Critical Circumstances Allegation.

from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise.²³ In this case, the current investigation marks the first instance that Commerce has examined whether sales of the subject merchandise have been made at LTFV in the United States. Accordingly, Commerce previously has not imposed an AD order on the subject merchandise from Spain. Moreover, Commerce is not aware of an AD order on PC strand from Spain in another country. Therefore, Commerce finds no history of injurious dumping of the subject merchandise pursuant to section 733(e)(1)(A)(i) of the Act.

Knowledge that Exporters Were Dumping and that There Was Likely to Be Material Injury by Reason of Such Sales

To determine whether importers knew or should have known that exporters were selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, pursuant to section 733(e)(1)(A)(ii) of the Act, we typically consider the magnitude of estimate weighted-average dumping margins, including margins alleged in the petition.²⁴ Commerce has found margins of 15 percent or more (for constructed export price or CEP) and 25 percent or more (for export price or EP) to be sufficient for this purpose.²⁵ However, the dumping margin of 14.75 percent preliminarily determined for TYCSA and also assigned to the companies covered by the all-others rate is not above these thresholds. Therefore, we preliminarily find that importers did not know or should not have known that exporters were selling the subject merchandise at LTFV. As a result, we did not examine whether importers knew or should have known that there was likely to be material injury caused by reason of such imports.

²³ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970, 31972-73 (June 5, 2008); and *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052-53 (January 14, 2009).

²⁴ See, e.g., *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances*, 80 FR 68504 (November 5, 2015); *Certain Corrosion-Resistant Steel Products from India: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 81 FR 35329 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35320 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35303 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35313 (June 2, 2016); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Taiwan: Final Negative Countervailing Duty Determination*, 81 FR 35299 (June 2, 2016); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Final Affirmative Determination and Final Affirmative Critical Circumstances, in Part*, 81 FR 35326 (June 2, 2016); and *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35310 (June 2, 2016).

²⁵ *Id.*

Massive Imports of the Subject Merchandise over a Relatively Short Period

Because we did not find that importers had knowledge that exporters were dumping, we did not examine whether TYCSA and the companies covered by the all-others rate had massive imports between the base and comparison periods.

VII. DISCUSSION OF THE METHODOLOGY

A. Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether TYCSA's sales of subject merchandise from Spain to the United States were made at LTFV, Commerce compared the EP or CEP to the normal value (NV), as described in the "Export Price/Constructed Export Price," and "Normal Value" sections of this memorandum.

1. Determination of Comparison Method

Pursuant to section 777A(d)(1)(A) of the Act and 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs, *i.e.*, the average-to-average method, less the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, 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 and AD reviews, 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.²⁶ 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 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 export prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the

²⁶ See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that 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.²⁷

2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce preliminarily finds that 8.14 percent of TYCSA's U.S. sales, by value, pass the Cohen's *d* test²⁸ and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for TYCSA.

B. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by TYCSA in Spain during the POI that fit the description in the "Scope of Investigation" section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on the physical characteristics reported by TYCSA in the following order of importance: cover, diameter, grade, strand, and type.

²⁷ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F.3d 1337 (Fed. Cir. 2017) affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

²⁸ See Memorandum, "Antidumping Duty Investigation of PC Strand from Spain: Calculations for the Preliminary Results," dated November 12, 2020 (Preliminary Sales Calculation Memo) at 2.

C. Date of Sale

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.²⁹

TYCSA reported the date of sale as the date of the commercial invoice for all home market and U.S. sales.³⁰ Because TYCSA did not report that the shipment date for any of its POI sales preceded the invoice date, we relied on TYCSA's reported date of sale for all home market and U.S. sales.

D. Export Price/Constructed Export Price

For certain U.S. sales made by TYCSA, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted.

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, from the starting price for billing adjustments and early payment discounts. We also made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight expenses, foreign brokerage and handling expenses, international freight expenses, U.S. brokerage expenses, U.S. warehousing expenses, U.S. inland freight expenses, U.S. duty expenses, and U.S. other transportation expenses (offset by freight revenue); and marine insurance expenses (offset by insurance revenue), in accordance with section 772(c)(2)(A) of the Act.

For the remainder of TYCSA's U.S. sales, we used CEP methodology, in accordance with section 772(b) of the Act, because the subject merchandise was first sold by the producer/exporter in the United States directly to the first unaffiliated purchaser after importation and EP methodology was not otherwise warranted.

We calculated CEP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight expenses, foreign brokerage and handling expenses, international freight expenses, U.S. brokerage expenses, U.S. warehousing expenses, U.S. inland freight expenses, U.S. duty expenses, and U.S. other transportation expenses (offset by freight revenue); and marine insurance expenses (offset by insurance revenue), in accordance with section 772(c)(2)(A) of the Act.

²⁹ See 19 CFR 351.401(i); *see also* *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

³⁰ See TYCSA's AQR at A17-A18; *see also* TYCSA's A-D SQR at Exhibit SSQ-3.

For both TYCSA's EP and CEP sales, because TYCSA calculated marine insurance expenses based on gross unit price amounts inclusive of freight and insurance revenue, we recalculated this expense using a net gross unit price exclusive of these revenue amounts.³¹ In addition, in accordance with our practice,³² we capped TYCSA's: (1) freight revenue by the total amount of freight expenses incurred on each sale; and 2) insurance revenue by the amount of marine insurance incurred on each sale.³³

E. Normal Value

1. Home Market Viability

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

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of TYCSA's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), the aggregate volume of TYCSA's home market sales of the foreign like product was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV, in accordance with section 773(a)(1)(B) of the Act.

2. 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).³⁴ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that

³¹ See Preliminary Sales Calculation Memo at 1-2.

³² See, *e.g.*, *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 63291 (October 16, 2012), and accompanying IDM at Comment 6.

³³ See Preliminary Sales Calculation Memo at 2.

³⁴ See 19 CFR 351.412(c)(2).

there is a difference in the stages of marketing.³⁵ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market, *i.e.*, the chain of distribution, including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales, *i.e.*, NV based on either home market or third country prices,³⁶ 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.³⁷

When Commerce is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales to sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³⁸

In this investigation, we obtained information from TYCSA regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution.³⁹ Selling activities can generally be grouped into five categories for our analysis: Provision of Sales Support,⁴⁰ Provision of Training Services,⁴¹ Provision of Technical Support,⁴² Provision of Logistical Services,⁴³ and Performance of Sales Related Administrative Activities.⁴⁴

In the home market, TYCSA reported that it made sales through one channel of distribution (*i.e.*, direct sales to end users).⁴⁵ TYCSA stated that it performed the following selling activities for

³⁵ *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*), and accompanying IDM at Comment 7.

³⁶ 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).

³⁷ See *Micron Tech., Inc. v. United States*, 243 F. 3d 1301, 1314-16 (Fed. Cir. 2001).

³⁸ See, e.g., *OJ from Brazil* IDM at Comment 7.

³⁹ See TYCSA's AQR at A-14-A17; see also TYCSA's A-D SQR at SSQ2 and Exhibit SSQ-2.

⁴⁰ See TYCSA's A-D SQR at Exhibit SSQ-2. The Provision of Sales Support can include: sales forecasting, strategic/economic planning, advertising, sales promotion, sales/marketing support, market research, and other related activities.

⁴¹ *Id.* The Provision of Training Services can include: personnel training/exchange, distributor/dealer training, and other related activities.

⁴² *Id.* The Provision of Technical Support can include: engineering services, technical assistance, and other related activities.

⁴³ *Id.* The Provision of Logistical Services can include: inventory maintenance, post-sale warehousing, repacking, freight and delivery, and other related activities.

⁴⁴ *Id.* The Performance of Sales Related Administrative Activities can include: order input/processing, rebate programs, warranty service, and other related activities.

⁴⁵ See TYCSA's AQR at A-14.

all of its reported home market sales: sales forecasting; customer visits and meetings; technical support for quality claims; logistical services; order input/processing; and administrative activities.⁴⁶ Accordingly, based on the selling function categories noted above, we find that TYCSA performed Provision of Sales Support, Provision of Technical Support, Provision of Logistical Services, and Performance of Sales Related Administrative Activities for all of its home market sales. Because we find that TYCSA performed the same selling activities to sell to all of its home market customers, we preliminarily determine that there is one LOT in the home market for TYCSA.⁴⁷

With respect to the U.S. market, TYCSA reported that it made sales through two channels of distribution (*i.e.*, direct sales and sales through unaffiliated warehouses to unaffiliated end users).⁴⁸ TYCSA stated that it performed the following selling activities at a similar level of intensity for all of its U.S. sales: sales forecasting; customer visits and meetings; technical support for quality claims; logistical services; order input/processing; and administrative activities.⁴⁹

Accordingly, based on the selling function categories noted above, we find that TYCSA performed Provision of Sales Support, Provision of Technical Support, Provision of Logistical Services, and Performance of Sales Related Administrative Activities for all of its U.S. sales. Because we find that there were no differences in the selling activities TYCSA performed to sell to its U.S. customers, we determine that all U.S. sales are at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT, and we find that the selling functions TYCSA performed for its U.S. and home market customers do not differ.⁵⁰ Therefore, we preliminarily determine that TYCSA's sales to the United States and home market during the POI were made at the same LOT and, as a result, no LOT adjustment or CEP offset is warranted.

3. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act,⁵¹ Commerce requested COP information from TYCSA. We examined TYCSA's cost data and determined that our quarterly cost methodology is not warranted. Therefore, we are applying our standard methodology of using annual costs based on TYCSA's reported data.

a. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and

⁴⁶ *Id.* at A-14-A17; *see also* TYCSA's A-D SQR at SSQ2 and Exhibit SSQ-2.

⁴⁷ *Id.*

⁴⁸ *See* TYCSA's AQR at A-14.

⁴⁹ *Id.* at A-15-A17; *see also* TYCSA's A-D SQR at SSQ2 and Exhibit SSQ-2.

⁵⁰ *Id.*

⁵¹ The TPEA amended section 773(b)(2)(A) of the Act. *See* TPEA found at <https://www.congress.gov/bill/114thcongress/>.

administrative (G&A) expenses and interest expenses. We relied on the COP data TYCSA submitted without adjustment.

b. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the comparison market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, movement charges, actual direct and indirect selling expenses, and packing expenses.

c. Results of the COP Test

In determining whether to disregard comparison market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and, (2) based on our comparison of prices to the weighted-average COPs for the POI, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

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

F. Calculation of NV Based on Comparison Market Prices

We calculated NV for TYCSA based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments and early payment discounts, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight expenses and insurance expenses, where appropriate, under section 773(a)(6)(B)(ii) of the Act.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances

of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, credit expenses, bank charges and other direct selling expenses, and added U.S. direct selling expenses, *i.e.*, credit expenses and bank charges. Because TYCSA calculated U.S. credit expenses and U.S. bank charges based on gross unit price amounts inclusive of freight and insurance revenue, we recalculated these expenses using a net gross unit price exclusive of these revenue amounts.⁵² For comparisons to CEP sales, we deducted home market credit expenses and bank charges, pursuant to 773(a)(6)(C) of the Act.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.⁵³

VIII. CURRENCY CONVERSION

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

IX. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

☒

Agree

☐

Disagree

11/12/2020

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁵² See Preliminary Sales Calculation Memo at 2.

⁵³ See 19 CFR 351.411(b).