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Investigation
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February 14, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation of Certain Oil Country Tubular
Goods from Taiwan

SUMMARY

The U.S. Department of Commerce (the Department) preliminarily determines that certain oil country tubular goods (OCTG) from Taiwan are being, or are 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 margins of sales at LTFV are listed in the "Preliminary Determination" section of the accompanying *Federal Register* Notice. Interested parties are invited to comment on this preliminary determination.

BACKGROUND

On July 2, 2013, the Department received an antidumping duty (AD) petition¹ concerning imports of OCTG from Taiwan filed in proper form on behalf of United States Steel Corporation, Vallourec Star L.P., TMK IPSCO, Energex (division of JMC Steel Group), Northwest Pipe Company, Tejas Tubular Products, Welded Tube USA Inc., Boomerang Tube LLC, and Maverick Tube Corporation (collectively, petitioners). The Department initiated an AD investigation of OCTG from Taiwan on July 22, 2013.²

The Department set aside a period of time for parties to raise issues regarding product coverage and invited all parties to submit comments within 20 calendar days of the signature date of the

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam, dated July 2, 2013.

² See *Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 78 FR 45505 (July 29, 2013) (*Initiation Notice*).



*Initiation Notice.*³ On August 12, 2013, WSP Pipe Co., Ltd. (WSP) submitted Scope Comments.⁴ Specifically, WSP requested that the Department exclude “pierced billets” from the scope of the investigations. On August 22, 2013, the petitioners filed rebuttal comments to WSP’s scope comments.⁵

The Department also set aside a time for parties to comment on product characteristics for use in the AD questionnaire.⁶ Between August 5, 2013 and August 12, 2013, we received comments from the petitioners and the producers/exporters of OCTG from various countries subject to the investigations. After reviewing all comments, we adopted the characteristics and hierarchy as explained in the “Product Comparisons” section of this notice, below.

On August 16, 2013, 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 OCTG from Taiwan.⁷

On August 20, 2013, we selected Chung Hung Steel Corp. (Chung Hung) and Tension Steel Industries Co., Ltd. (Tension Steel) as mandatory respondents.⁸ On August 21, 2013, we issued the AD questionnaire to Chung Hung and Tension Steel.⁹

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, 2013, through October 16, 2013. Therefore, all deadlines in this segment of the proceeding have been extended by 16 days.¹⁰ On October 24, 2013, the Department postponed the preliminary determination of this investigation by 50 days, to February 14, 2014, pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(b)(2).¹¹

³ See *Initiation Notice*, 78 FR at 45506; see also *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁴ See Letter from WSP to the Department of Commerce entitled “*Comments on scope of investigations: Antidumping Duty Investigations of Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam; Countervailing Duty Investigation of Oil Country Tubular Goods from India and Turkey*” dated August 12, 2013 (Scope Comments).

⁵ See Letter from the petitioners to the Department of Commerce entitled “*Certain Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam: Rebuttal Comments on Scope of Investigation*” dated August 22, 2013 (Scope Rebuttal Comments).

⁶ See *Initiation Notice*, 78 FR at 45506-7; see also *Preamble*, 62 FR at 27323.

⁷ See *Certain Oil Country Tubular Goods From India, Korea, the Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam: Determinations*, Investigation Nos. 701-TA-499-500 and 731-TA-1215-1223 (Preliminary), 78 FR 52213 (August 22, 2013).

⁸ See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, from Minoo Hatten, Program Manager, for Antidumping and Countervailing Duty Operations, Office 1, “*Antidumping Duty Investigation of Certain Oil Country Tubular Goods from Taiwan: Respondent Selection*,” dated August 20, 2013 (Respondent Selection Memo).

⁹ See Letters from Department to Chung Hung and Tension Steel dated August 21, 2013.

¹⁰ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “*Deadlines Affected by the Shutdown of the Federal Government*” (October 18, 2013).

¹¹ See *Certain Oil Country Tubular Goods From India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 78 FR 65268 (October 31, 2013). Due to the closure of the Federal Government on February 13, 2014, Commerce completed this determination on the next business day (i.e., February 14, 2014). See *Notice of Clarification: Application of “Next Business Day” Rule for*

We received responses to our questionnaires on September 18, 2013, October 21, 2013, and October 28, 2013.¹² We sent supplemental questionnaires on September 20, 2013, October 24, 2013, November 15, 2013, November 18, 2013, December 11, 2013, December 13, 2013, and January 17, 2014.¹³ Responses to the supplemental questionnaires were received from Chung Hung on November 22, 2014, December 9, 2014, and January 23, 2014;¹⁴ and Tension Steel on October 21, 2013, December 6, 2013, December 27, 2013, January 3, 2014, and January 30, 2014.¹⁵

In February 2014, Tension Steel and Chung Hung requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four-month to a six-month period.¹⁶

PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2012, through June 30, 2013. This period corresponds to the four most recent fiscal quarters prior to the month in which the Petition was filed, March 2013.¹⁷

POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on February 5, 2014, and February 3, 2014, respectively, Chung Hung and Tension Steel requested that the Department postpone the final determination and extend provisional measures from four to six months. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b) and (e), because: (1) our preliminary determination is affirmative; (2) the requesting exporters, Chung Hung and Tension Steel, account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination

Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005).

¹² See Section A response from Chung Hung dated September 18, 2013, Section A response from Tension Steel dated September 18, 2013, Section B and C response from Tension Steel dated October 21, 2013, Section D response from Tension Steel dated October 21, 2013, and Section B, C, and D response from Chung Hung dated October 28, 2013.

¹³ See supplemental questionnaires to Chung Hung dated October 24, 2013, and November 18, 2013; and the supplemental questionnaires to Tension Steel dated September 20, 2013, November 15, 2013, December 11, 2013, December 13, 2013, and January 17, 2014.

¹⁴ See supplemental questionnaire responses from Chung Hung dated November 22, 2013, December 9, 2013, and January 23, 2014.

¹⁵ See supplemental questionnaire responses from Tension Steel dated October 21, 2013 (T1SQR), December 6, 2013 (T2SQR), December 27, 2013 (T3SQR), January 3, 2014 (T4SQR), and January 30, 2014.

¹⁶ See letter from Chung Hung dated February 5, 2014, and letter from Tension Steel dated February 3, 2014. On February 11, 2014, the petitioners filed a request for postponement of the final determination pursuant to section 735(a)(2)(B) of the Act if the preliminary determination is negative. Because the preliminary determination is affirmative, the Department does not need to consider the petitioners' request.

¹⁷ See 19 CFR 351.204(b)(1).

until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*, and extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock. For a complete description of the scope of the investigation, *see* the accompanying *Federal Register* notice.

SCOPE COMMENTS

In the *Initiation Notice*, the Department invited interested parties to “to raise issues regarding product coverage.”¹⁸

On August 12, 2013, we received scope comments from WSP, requesting that the Department “clarify the scope of these oil country tubular goods (“OCTG”) investigations by excluding certain “pierced billets” from the scope.”¹⁹ WSP described the merchandise subject to the request as “billets with a chemical composition used to produce a variety of pipe and tube products (including but not limited to OCTG), which have been pierced, but which have not been otherwise further processed prior to importation into the United States.”²⁰ WSP further described the merchandise as “heated and pierced; it has not been rolled, sized, straightened, cut, etc., prior to importation into the United States.”²¹ WSP stated that it did not think that such “pierced billets” constitute “unfinished OCTG, including green tubes” because the billets are not dedicated for use as OCTG or green tubes and can be used for other applications such as diesel sleeves, mine crane rear axles, and mechanical or structural pipe.²² WSP also claimed that the merchandise in question requires substantial additional processing before it could be considered unfinished OCTG and thus subject to the scope of the investigations.²³

We received rebuttal comments from the petitioners on August 22, 2013, in which the petitioners claim that the Department should reject WSP’s request and that the merchandise in question is covered by the scope of the investigations.²⁴ The petitioners state that the scope language of the investigations covers “hollow steel products of circular cross section” that are unfinished and may be used as OCTG, and argue that the merchandise described by WSP fits this physical

¹⁸ *See Initiation Notice*, 78 FR at 45506.

¹⁹ *See Scope Comments* at 2.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at 2-3.

²⁴ *See Scope Rebuttal Comments* at 2.

description and thus is clearly within the scope.²⁵ The petitioners further state that the inclusion of this merchandise in the scope is consistent with previous practices and decisions by the Department.²⁶ The petitioners also argue that WSP provided no information to substantiate the claim that “pierced billets” require substantial additional processing, and moreover that there are many types of unfinished OCTG besides “green tubes” that are covered by the scope.²⁷ Finally, the petitioners believe that any “pierced billets” imported into the United States would be classified under the heading 7304 of Chapter 73 of the HTS, and that such a classification would indicate that the merchandise was a form of unfinished OCTG and covered by the scope.²⁸

In response to WSP’s arguments, the petitioners argued in part that the physical characteristics of the product in question were the same as merchandise covered by the scope of the investigations and that there was no evidence that the merchandise in question required further manufacturing. WSP never responded to the petitioners’ arguments, provided no further information, and subsequently did not respond to the Department’s AD Questionnaire. Therefore, we preliminarily find that we do not have sufficient evidence on the record to determine whether the merchandise described by WSP is not covered by the scope of these investigations. We invite parties to comment on this in their briefs so that the issue can be addressed in the final determination.²⁹

SELECTION OF RESPONDENTS

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters or producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. In the *Initiation Notice*, we stated that we intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of OCTG from the Taiwan.³⁰ On July 24, 2013, we released the CBP data to all parties with access to information protected by administrative protective order.³¹ The data on the record indicate that there are seven potential producers or exporters from Taiwan that exported the subject merchandise to the United States during the POI.³² We invited comments on CBP data and selection of respondents for individual examination.³³ We received no comments from interested parties.

Based on our review of the CBP data and our consideration of publicly available information we determined that we have the resources to examine two companies. Accordingly, we selected

²⁵ *Id.* at 2-3.

²⁶ *Id.*

²⁷ *Id.* at 3.

²⁸ *Id.* at 4.

²⁹ Parties are reminded to file any comments concerning the scope to all of the records of the concurrent OCTG investigations.

³⁰ See *Initiation Notice*, 78 FR at 45511.

³¹ See memorandum entitled “Release of Customs and Border Protection (CBP) data,” dated July 24, 2013 (CBP Data Memo).

³² *Id.*

³³ *Id.*

Chung Hung and Tension Steel³⁴ for individual examination in this investigation. These companies are the two producers/exporters of subject merchandise that account for the largest volume of the subject merchandise imported during the POI that we can reasonably examine in accordance with section 777A(c)(2)(B) of the Act.³⁵

DISCUSSION OF METHODOLOGY

Fair Value Comparisons

To determine whether sales of OCTG from Taiwan to the United States were made at LTFV, we compared the export prices (EPs) to the normal value (NV), as described in the “Export Price” and “Normal Value” sections of this memorandum, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared the weighted-average EP to POI weighted-average NVs for Chung Hung. In accordance with section 777A(d)(1)(B) of the Act, as discussed below, we compared the weighted-average NVs to the EPs of individual transactions for Tension Steel.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average constructed export prices (CEPs) or EPs (the average-to-average or A-to-A method), unless the Secretary determines that another method is appropriate in a particular situation. In recent AD proceedings, the Department examined whether to use the average-to-transaction (A-to-T) method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. In order to determine which comparison method to apply, in recent proceedings, the Department applied a “differential pricing” (DP) analysis for determining whether application of A-to-T comparisons is appropriate pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.³⁶ The Department finds the DP analysis used in recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this AD investigation.³⁷ The Department intends to continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-to-A method in calculating weighted-average dumping margins.

³⁴ Selected respondents are listed in alphabetical order.

³⁵ See Memorandum to Gary Taverman, “Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of the Philippines: Respondent Selection” dated August 20, 2013 (Respondent Selection Memo).

³⁶ See, e.g., *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 69371 (November 19, 2013).

³⁷ See, e.g., *Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying Issues and Decision Memorandum at Comment 5; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2011-2012*, 78 FR 40692 (July 8, 2013); *Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013); *Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21101 (April 9, 2013); *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) (*Polyester Staple Fiber*).

The DP analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods.³⁸ If such a pattern is found, then the DP analysis evaluates whether such differences can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The DP analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, zip codes) 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 being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the DP analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* test is applied when the test and comparison groups of data 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 calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net 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. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant 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 export prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-to-A 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 A-to-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-to-A method, and application of the A-to-A method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total

³⁸ As noted above, DP was used in recent investigations. It was also used in the recent antidumping duty administrative review of *Polyester Staple Fiber*. See *Polyester Staple Fiber*, and in *1-Hydroxyethylidene-1, 1-Diphosphonic Acid From India: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012; and Intent to Revoke Order (in Part)*, 78 FR 25699 (May 2, 2013).

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 A-to-A 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 EPs that differ significantly such that an alternative comparison method should be considered, then in the second stage of the DP analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative 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 A-to-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative 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 margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments in relation to the above-described DP approach used in this preliminary determination, including arguments for modifying the group definitions used in this segment of the proceeding.

B. Results of the Differential Pricing Analysis

Based on the results of the DP analysis, the Department finds that 61.00 percent of Chung Hung's EPs pass the Cohen's *d* test, and confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Further, the Department determines that the A-to-A method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the A-to-A method and an alternative method based on the A-to-T method applied to the U.S. sales which pass the Cohen's *d* test. Accordingly, the Department has determined to use the A-to-A method for all U.S. sales to calculate the preliminary weighted-average dumping margin for Chung Hung.³⁹

Based on the results of the DP analysis, the Department finds that 74.52 percent of Tension Steel's EPs pass the Cohen's *d* test, and confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Further, the Department determines that the A-to-A method cannot appropriately account for such differences because there is a meaningful difference in the weighted-average dumping margins when calculated using the A-to-A method and an alternative method based on the A-to-T method applied to the U.S. sales which pass the Cohen's *d* test. Accordingly, the Department determined

³⁹ In this preliminary determination, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006). In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

to use the A-to-T method for all U.S. sales to calculate the preliminary weighted-average dumping margin for Tension Steel.

Product Comparisons

As noted above, the Department gave parties an opportunity to comment on the appropriate hierarchy of product characteristics for model matching purposes within a certain deadline.⁴⁰ On August 5, 2013, we received comments regarding physical product characteristics from interested parties.⁴¹ On August 12, 2013, we received rebuttal comments from interested parties.⁴²

We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining models and, when necessary, for comparing similar models, for this AD investigation. The Department identified 10 criteria for matching U.S. sales of subject merchandise to NV (seamless/welded, type, grade, coupling, upset end, threading, nominal outside diameter, length, heat treatment, and nominal wall thickness), which were included in the questionnaires issued to the respondents on August 21, 2013.⁴³

The goal of the product characteristic hierarchy is to identify the best possible matches with respect to the characteristics of the merchandise. While variations in cost may suggest the existence of variation in product characteristics, such variations do not constitute differences in products in and of themselves. Furthermore, the magnitude of variations in cost may differ from company to company, and even for a given company over time and, therefore, do not, in and of themselves, provide a reliable basis for identifying the relative importance of different product characteristics. The Department noted that for defining products and creating a model match hierarchy, “{t}he physical characteristics are used to distinguish the differences among products across the industry,” that “{c}ost is not the primary factor for establishing these characteristics,” and, in short, “{c}ost variations are not the determining factor in assigning product characteristics for model-matching purposes.”⁴⁴

Therefore, based on the above, the Department is not modifying the hierarchy it proposed after the initiation of this investigation and included in its questionnaires. In accordance with section

⁴⁰ See *Initiation Notice*, 78 FR at 45506-7; see also *Preamble*, 62 FR at 27323.

⁴¹ See Letters from the petitioners, as well as SeAH Steel Corporation, Oil Country Tubular Ltd., United Seamless Tubular Pvt. Ltd., and Jubail Energy Services Company and Duferco Steel Inc., dated August 5, 2013.

⁴² See Letters from the petitioners, as well as AJU Besteel Co., Ltd. and Husteel Co., Ltd., Borusan Mannesmann Boru Sanayi ve Ticaret A.S., ILJIN Steel Corporation, Interpipe and North American Interpipe, Oil Country Tubular Ltd., United Seamless Tubular Pvt. Ltd., WSP Pipe Co., Ltd., and Jubail Energy Services Company and Duferco Steel Inc., dated August 12, 2013.

⁴³ See Letters from Department to Chung Hung and Tension Steel, dated August 21, 2013.

⁴⁴ See *Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review*, 73 FR 12950 (March 11, 2008), and accompanying Issues and Decision Memorandum at Comment 1. Also, the Department’s “...selection of model match characteristics {is based} on unique measurable physical characteristics that the product can possess” and “differences in price or cost, standing alone, are not sufficient to warrant inclusion in the Department’s model-match of characteristics which a respondent claims to be the cause of such differences.” See *Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Model Match Comment 1.

771(16) of the Act, all products produced by Chung Hung and Tension Steel, covered by the description in the “Scope of Investigation” section, above, and sold in the comparison market during the POI, are considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We relied on the above mentioned 10 criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product. Where there were no sales of identical merchandise in the comparison market to compare to subject merchandise sold in the United States, we compared these U.S. sales to home-market sales of the most-similar, foreign like product on the basis of the reported product characteristics and instructions provided in the AD questionnaire, which were made in the ordinary course of trade.

Alleged Affiliation

The petitioners alleged that Tension Steel is affiliated with one of the suppliers of hot-rolled steel coil, which it uses to produce OCTG, based on a close buyer-supplier relationship.

In accordance with section 771(33) of the Act, affiliated persons may be: “(A) members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; (B) any officer or director of an organization and such organization; (C) partners; (D) employer and employee; (E) any person directly or indirectly owning, controlling, controlled by, or holding with power to vote, five percent or more of the voting stock or shares of any organization and such organization; (F) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) any person who controls any other person and such other person.” To determine affiliation between two companies, the Department must find that at least one of the criteria above is applicable.

Section 771(33) of the Act further provides that “{f}or purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.” The Department’s regulations at 19 CFR 351.102(b)(3) state that in finding affiliation based on control, the Department will consider, among other factors: (i) corporate or family groupings; (ii) franchise or joint venture agreements; (iii) debt financing; and (iv) close supplier relationships. Control between persons may exist in close supplier relationships in which either party becomes reliant on one another.⁴⁵ With respect to close supplier relationships, the Department determined that the threshold issue is whether either the buyer or seller has, in fact, become reliant on the other. Only if such reliance exists does the Department then determine whether one of the parties is in a position to exercise restraint or direction over the other.⁴⁶ Pursuant to 19 CFR 351.102(b)(3), the Department will not, however, find affiliation on the basis of this factor unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.

We preliminarily determine that Tension Steel is not affiliated with the input supplier in question (Company A). As noted above, a close supplier relationship is defined as one in which the buyer

⁴⁵ See, e.g., SAA at 838.

⁴⁶ See, e.g., *Multilayered Wood Flooring From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum at Comment 21.

or the seller becomes “reliant” on the other. Here, however, record evidence establishes that Tension Steel could, and did, look to other unaffiliated suppliers of the input.⁴⁷ This fact belies the existence of a relationship in which Tension Steel has become “reliant” on Company A. Although the petitioners allege that neither of the other unaffiliated suppliers from which Tension purchased the input were “a viable alternative” to Company A,⁴⁸ the evidence on the record does not establish that Tension Steel would be unable to obtain the input from other sources if it desired to do so. Petitioners attempt to downplay the purchases from one of the other unaffiliated suppliers by observing that Tension Steel made the purchases from the other unaffiliated supplier “for trial production” but did not purchase from the supplier thereafter.⁴⁹ However, the fact that Tension Steel made the purchases on a trial basis does not indicate that it would be unable to replace the supply from Company A; rather, it merely indicates that Tension Steel made trial purchases and, for whatever reason, decided not to continue purchasing from that supplier.

With respect to the second other unaffiliated supplier, petitioners cited to evidence which they assert indicates that this supplier does not have the production capacity to significantly replace Company A’s supply.⁵⁰ While that may be the case, the existence of the first other unaffiliated supplier suggests, as described above, that Tension Steel could have made other or additional purchases from another supplier.

Further, even in cases where one party sold all of its output to another, the CIT found that the Department reasonably concluded that there was no close supplier relationship.⁵¹ In *TIJD*, the CIT determined that “Commerce reasonably concluded that Fay Candle was not bound to only sell the subject merchandise to *TIJD*. The evidence indicates that Fay Candle was free to sell the subject merchandise to other customers as well.”⁵² The evidence in this investigation similarly indicates that Tension Steel is not bound to purchase the input from Company A and that it was free to buy the input from other suppliers; further, in contrast to *TIJD*, in this investigation, Tension Steel actually did buy the input from other suppliers.

Moreover, although the petitioners cite *SSWR from Korea*⁵³ as precedent for their argument that we should find Tension Steel and Company A to be affiliated, the facts of this investigation are distinguishable from those of *SSWR from Korea*. In *SSWR from Korea*, we found that “the instant record indicates that Dongbang has not obtained suitable black coil from alternative sources but continues to exclusively rely upon POSCO/Changwon for this input,” that “POSCO/Changwon and Dongbang are ... able to shift the production of SSWR among one another,” and that “there continues to be a significant potential for the manipulation of price and

⁴⁷ See Tension Steel’s December 6, 2013, supplemental response at Exhibits 1 and 2.

⁴⁸ See Petitioners’ January 28, 2013, letter at 6-7.

⁴⁹ See T4SQR at 20.

⁵⁰ See Petitioners’ January 28, 2013, letter at 7.

⁵¹ See *TIJD, Inc. and Palm Beach Home Accents, Inc. v. United States*, 29 CIT 307, 366 F. Supp. 2d 1286 (March 18, 2005) (*TIJD*).

⁵² *Id.*

⁵³ See *Stainless Steel Wire Rod from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 59739 (October 11, 2006), unchanged in *Stainless Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 72 FR 46035 (August 16, 2007) (*SSWR from Korea*).

production because these companies remain intertwined by virtue of the significant transactions between them, including sales of both SSWR and black coil for the production of SSWR.”⁵⁴ As described above, Tension Steel did not rely on Company A exclusively for the input, there is no evidence that Tension Steel and Company A are able to shift the production of OCTG among each other, and there is no evidence that the companies sell OCTG to each other or that Tension Steel sells the input to Company A. Accordingly, we preliminarily determine that *SSWR from Korea* does support petitioners’ arguments in this investigation.

In addition, although the petitioners allege that Company A exercises control over the prices Tension Steel charges its customers by means of the “Retroactive Price Decline” rebate program, we preliminarily determine that the fact that Tension Steel passes on some of the rebates it receives from Company A to some of its customers does not indicate control of Tension Steel by Company A. There is no evidence on the record that Tension Steel has any obligation to pass on the rebates it received from Company A to its customers; indeed, the record shows that Tension Steel only passed the rebate on to certain customers, and did not always pass on the full amount of the rebate to the customer.⁵⁵ Moreover, there is no evidence on the record indicating that Company A knew or had reason to know the prices Tension Steel charged its customers aside from the petitioners’ unsupported speculation that Company A is controlling Tension Steel’s prices by means of granting rebates. Accordingly, there is no evidence to support the petitioners’ assertion that Company A is using the “Retroactive Price Decline” rebates to control Tension Steel’s sales or pricing decisions in Canada or the United States.

Finally, although the petitioners assert that the financing arrangements between Tension Steel and Company A indicate reliance by Tension Steel on Company A, we preliminarily determine that the financing arrangements between Tension Steel and Company A do not indicate that Tension Steel has become reliant on Company A. In order for us to find financing arrangements to indicate control such that it suggests affiliation, the financing arrangements must go beyond the dealings normally found between unaffiliated companies. For example, in *SSP from Taiwan*, one company pledged its accounts receivable and inventory without consideration so that the second company could obtain financing from a bank.⁵⁶ Of this arrangement, we found that the fact that the first company “would accept this risk without any consideration--without even a written agreement memorializing the terms and duration of the agreement--does not comport with the commercial realities of dealings between unaffiliated companies.”⁵⁷

In this investigation, the nature of the arrangement appears to be a type of credit line between Tension Steel and Company A for the purpose of purchasing the inputs from the input supplier.⁵⁸ However, in contrast to *SSP from Taiwan*, in this investigation there are written agreements covering the financing arrangements. Moreover, any risk of nonpayment by Tension Steel that might be assumed by Company A appears to be no more than that which would be assumed by any seller which allowed its customers to pay after delivery.

⁵⁴ See *SSWR from Korea*, 72 FR at 59739-40.

⁵⁵ See T2SQR at 17.

⁵⁶ See *Certain Welded Stainless Steel Pipe From Taiwan; Final Results of Administrative Review*, 62 FR 37543, 37549-50 (July 14, 1997) (*SSP from Taiwan*).

⁵⁷ *Id.*

⁵⁸ See T2SQR at Exhibit 4.

In any event, Tension Steel reported that Company A sold its accounts receivable (derived from sales of steel coils to Tension Steel) to a third-party bank and that Tension Steel ultimately paid the third-party bank.⁵⁹ As a result, Company A does not appear to assume any risk of loss on Tension Steel's behalf. Accordingly, we preliminarily determine that the financing arrangements between Tension Steel and the input supplier do not indicate control of Tension Steel by its input supplier or reliance by Tension Steel on its input supplier.

For the foregoing reasons, we preliminarily determine that Tension Steel and Company A are not affiliated. We note, however, that the petitioners filed additional comments on February 6, 2014, but we have not had a chance to consider those comments for this preliminary determination.

Date of Sale

Although the Department normally uses the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale, the Department's regulations provide that the Department may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale (*e.g.*, price and quantity).⁶⁰

Chung Hung reported that all of its U.S. and comparison-market sales were produced to order pursuant to sales contracts between Chung Hung and the customer. Chung Hung asserted that changes could be made to the terms of sales, such as price, ordered quantities, payment terms, and delivery terms before shipment due to the customers' request or Chung Hung's production situation.⁶¹ Chung Hung contends that in such circumstances, no revised sales contract needs to be made, and upon shipment, it issues the commercial invoice based on the revised terms of sales agreed by both parties.⁶² As such, Chung Hung reported shipment date as the date of sale for reporting purposes.

As the information on the record indicates that the material terms of sale (*e.g.*, price and quantity) could change after the date of the sales contract for both U.S. and comparison-market sales, we preliminarily determine that the use of the date of the sales contract as the date of sale is not warranted.⁶³ Thus, because Chung Hung's reported U.S. and Canadian sales had shipment dates that precede the date of invoice, we used the date of shipment as the date of sale for Chung Hung's reported U.S. and Canadian sales in accordance with our normal practice.⁶⁴

⁵⁹ *Id.*, at 2.

⁶⁰ See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92 (CIT 2001); and *Yieh Phui Enterprise Co. v. United States*, 791 F. Supp. 2d 1319 (CIT 2011) (affirming that the Department may use invoice date unless a party demonstrates that the material terms of its sale were established on another date).

⁶¹ See Chung Hung section A questionnaire response at A-15-A-17.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ See, *e.g.*, *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009) (*Staple Fiber from Korea*).

Tension Steel reported that all of its U.S. and comparison-market sales were produced to order pursuant to sales contracts between Tension Steel and the customer. Tension Steel asserted that the price and quantity are subject to change after the sales contract between Tension Steel and the customer. Thus, Tension Steel reported the date of invoice as the date of sale. Tension Steel reported that the invoice is issued normally on the same date as the export declaration and that the export declaration is normally not made on the same day Tension Steel ships the merchandise. According to Tension Steel, there are typically two to three days between the date it prepares the export declaration and the date it ships the merchandise.

We examined the information on the record and preliminarily find that the material terms of Tension Steel's U.S. and comparison-market sales were subject to change until the date of shipment.⁶⁵ As the information on the record indicates that the material terms of sale (*e.g.*, price and quantity) could change after the date of the sales contract for both U.S. and comparison-market sales, we preliminarily determine that the use of the date of the sales contract as the date of sale is not warranted.⁶⁶

Because Tension Steel's sales to Canada had shipment dates that precede the date of invoice, we used the date of shipment as the date of sale for Tension Steel's reported Canadian sales in accordance with our normal practice.⁶⁷

With respect to Tension Steel's U.S. sales, Tension Steel claimed the date the merchandise was shipped from the seaport warehouse was the appropriate date of shipment rather than the date the merchandise was shipped from the factory.⁶⁸ Tension Steel explained that "{s}hipments of OCTG to the United States were stored at the seaport warehouse prior to shipment to the United States because of the ocean shipping company's request to handle the merchandise as bulky goods. During the POI, all shipments of OCTG to the United States were shipped in bulk rather than in containers. The bulk goods were required to be delivered to the seaport warehouse at least one week prior to the ocean-going vessel's arrival at {the} seaport so that the ocean shipping company would have sufficient time to organize, sort, and load goods of different shapes and weights (from Tension Steel and other exporters) on board the ocean-going vessel." ⁶⁹

We preliminarily determine that the date of shipment from the factory is the appropriate date of shipment to the customer. From the above description, it is clear that the warehousing at the seaport warehouse occurs only for the purpose of transporting the merchandise to the customer in the United States after sale (as opposed, for example, to holding the merchandise in inventory prior to sale). Moreover, Tension Steel reported that "OCTG destined for the United States was never 're-routed' (*i.e.*, shipped to a customer other than the one for whom it was originally destined when it left the factory)." ⁷⁰ Therefore, we used the date of shipment from the factory as the date of shipment. Moreover, we used the date of shipment from the factory as the date of

⁶⁵ See T1SQR at 4-8, T2SQR at 6-7 and T3SQR at 1-2.

⁶⁶ Where a change in the terms of sale was made, Tension Steel and its customer prepared a revised sales contract reflecting the revised terms of sale. See T3SQR at 2.

⁶⁷ See, *e.g.*, *Staple Fiber from Korea*.

⁶⁸ See T2SQR at 7.

⁶⁹ See T3SQR at 1.

⁷⁰ *Id.*, at 2.

sale for Tension Steel's reported U.S. sales in accordance with our normal practice because the date of shipment from the factory preceded the date of invoice.⁷¹

U.S. Price

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." We calculated EP for purposes of this preliminary determination, in accordance with subsections 772(a) and (c) of the Act, where the subject merchandise was first sold in the country of manufacture (*i.e.*, Taiwan) to an unaffiliated purchaser prior to importation and CEP was not otherwise warranted based on the facts of record. Therefore, for both Chung Hung and Tension Steel, we calculated EP based on the packed price that was charged to their customers in the United States. We made deductions for movement expenses (*e.g.*, foreign inland freight (plant/warehouse to the border)), where appropriate, in accordance with section 772(c)(2)(A) of the Act. We also made adjustments, where appropriate, for rebates.⁷²

Normal Value

1. Home Market Viability and Comparison-Market Selection

To determine whether there is a sufficient volume of sales of OCTG 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 respondent's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise during the POI.⁷³ Based on this comparison, we determined that neither Chung Hung nor Tension Steel had a viable home market during the POI. The only viable third country market to which Chung Hung and Tension Steel sold comparable merchandise during the POI was Canada. Consequently, we based NV on the respondents' third-country sales to Canada in accordance with section 773(a)(1)(C) of the Act.

2. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales of foreign like products at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁷⁴ Substantial differences in selling activities are a necessary, but not sufficient,

⁷¹ See, *e.g.*, *Staple Fiber from Korea*.

⁷² See Memorandum to the File entitled, "Certain Oil Country Tubular Goods from Taiwan - Preliminary Results Analysis Memorandum for Chung Hung Steel Corp.," dated concurrently with this memorandum (Chung Hung Preliminary Analysis Memorandum) and Memorandum to the File entitled, "Certain Oil Country Tubular Goods from Taiwan - Preliminary Results Analysis Memorandum for Tension Steel Industries Co., Ltd.," dated concurrently with this memorandum for a detailed discussion of these adjustments.

⁷³ See section 773(a)(1)(B) of the Act.

⁷⁴ See 19 CFR 351.412(c)(2).

condition for determining that there is a difference in the stages of marketing.⁷⁵ To determine whether the comparison-market sales were at different stages in the marketing process than the U.S. sales, we reviewed 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. To determine whether home market sales are at a different LOT than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

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.⁷⁶ When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sales to sales at a different LOT in the comparison market. When this occurs and available data make it practicable, we make an 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 was practicable), the Department grants a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁷⁷

During the POI, each respondent reported that it sold OCTG in the comparison market through a single channel of distribution and that the selling activities associated with all sales through the single channel of distribution did not differ. We found no evidence to contradict either respondent's statements. Accordingly, we found that each respondent's single comparison-market channel of distribution constituted a single level of trade.

Each respondent reported that its EP sales were made through a single channel of distribution and that the selling activities associated with all sales through the single channel of distribution did not differ. We found no evidence to contradict either respondent's statements. Accordingly, we found that each respondent's single EP channel of distribution constituted a single level of trade. For each respondent, we found that the selling functions the respondent performed for EP sales were very similar to those performed for comparison-market sales. As a result, we preliminarily determine for each respondent the level of trade of EP sales was the same as the level of trade of its comparison-market sales. Therefore, we matched the respondents' EP sales at the same level of trade in the comparison market and made no level-of-trade adjustment.

3. Calculation of Normal Value Based on Comparison-Market Prices

We calculated NV for each respondent based on its reported packed, ex-factory or delivered prices to comparison market customers. We made deductions from the starting price, where appropriate, for rebates and movement expenses, pursuant to section 773(a)(6)(B)(ii) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), where appropriate, we made circumstance-of-sale adjustments (*e.g.*, commissions). We added U.S. packing costs and

⁷⁵ See *id.*; see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*).

⁷⁶ See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

⁷⁷ See *Plate from South Africa*, 62 FR at 61732-33.

deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) 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 product and subject merchandise.⁷⁸

Cost of Production

As we stated in the *Initiation Notice*, we initiated a country-wide cost investigation on sales of OCTG from Taiwan to Canada.⁷⁹

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the cost of production (COP) based on the sum of the cost of materials and fabrication for the foreign like product plus an amount for general and administrative expenses (G&A), interest expenses, and comparison-market pricing costs (*see* the “Test of Comparison-Market Sales prices” section below for treatment of comparison-market selling expenses and packing costs). We relied on the COP data submitted by the respondents with certain exceptions. Specifically, for Chung Hung, we disallowed Chung Hung’s adjustment for non-prime pipes. We recalculated G&A, excluding miscellaneous income and expense items and other items that appear to relate to selling.⁸⁰ For Tension Steel, we allocated the manufacturing costs less the sales revenue of non-prime pipes to prime OCTG pipes.⁸¹ We examined the cost data and preliminarily determined that our quarterly cost methodology is not warranted for either respondent. Therefore, we applied our standard methodology of using annual costs based on the reported data, adjusted as described above.

2. Test of Comparison-Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sales were made at prices below the COP. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts and rebates, selling, and packing expenses.

⁷⁸ See 19 CFR 351.411(b).

⁷⁹ See *Initiation Notice*, 78 FR at 45509-10.

⁸⁰ See Memorandum to Neal Halper from Michael Martin entitled “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Chung Hung Steel Corporation,” dated concurrently with this memorandum.

⁸¹ See Memorandum to Neal Halper from Gina Lee entitled “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Tension Steel Industries, Co., Ltd.,” dated concurrently with this memorandum.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's 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 the below cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than COP, we determine that such sales have been made in "substantial quantities" and, thus, we disregard below cost sales.⁸² Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below cost sales occurring during the entire POI. In such cases, because we compare prices to POI-average costs, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

In this investigation, we found that, for certain specific products, more than 20 percent of Chung Hung's and Tension Steel's third country sales 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 disregarded these sales and used the remaining sales as the basis for determining NV in accordance with section 773(b)(1) of the Act.

CURRENCY CONVERSION

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

VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information relied upon in making our final determination for Chung Hung and Tension Steel.

⁸² See section 773(b)(2)(C) of the Act.


RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance



Date