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International Trade Administration
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Investigation
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May 15, 2014

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Determination of Sales at
Less Than Fair Value: Non-Oriented Electrical Steel from Taiwan

SUMMARY

The U.S. Department of Commerce ("the Department") preliminarily determines that non-oriented electrical steel ("NOES") from Taiwan is being, or is likely to be, sold in the United States at less than fair value ("LTFV") as provided in section 733(b) of the Tariff Act of 1930, as amended ("the Act"). The estimated weighted-average dumping margins 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 September 30, 2013, the Department received an antidumping duty ("AD") Petition¹ concerning imports of NOES from Taiwan filed in proper form on behalf of AK Steel Corporation ("Petitioner"). In October 2013, the Department requested information regarding, and clarification of, certain areas of the Petition. Petitioner filed a timely response to this request. The Department initiated the AD investigation of NOES from Taiwan on November 18, 2013.²

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

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan, dated September 30, 2013 ("Petitions").

² See *Non-Oriented Electrical Steel from the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Initiation of Antidumping Duty Investigations*, 78 FR 69041 (November 18, 2013) (*Initiation Notice*).



of the *Initiation Notice*.³ On November 22, 2013, and November 26, 2013, we received comments from Petitioner proposing certain changes to the scope of this investigation.⁴

The Department also set aside a period of time for parties to comment on product characteristics for use in the AD questionnaire.⁵ On November 20, 2013, and November 26, 2013, we received comments from Petitioner. After reviewing all comments, we have adopted the physical characteristics and model matching hierarchy as explained in the “Product Comparisons” section of this notice, below.

On December 6, 2013, the International Trade Commission (“ITC”) published its affirmative preliminary determination that there is a reasonable indication that imports of NOES from Taiwan are materially injuring the U.S. industry, and the ITC notified the Department of its finding.⁶

On November 29, 2013, we selected China Steel Corporation (“CSC”) and Leicong Industrial Company, Ltd. (“Leicong”) as mandatory respondents in this investigation, and issued antidumping questionnaires to both parties.⁷ On January 3, 2014, we received a questionnaire response from CSC.⁸ We did not receive a questionnaire response from Leicong.

On January 28, 2014, POSCO submitted scope comments.⁹ Specifically, POSCO requested that the Department clarify whether the scope of the investigation excludes 1) lamination cores and certain laminations, and 2) NOES with the minimum silicon weight less than 1.25 percent.¹⁰ On February 4, 2014, Petitioner submitted comments in response to POSCO’s clarification requests.¹¹

We sent supplemental questionnaires to CSC from February 4, 2014, to April 8, 2014. We received responses from CSC to the supplemental questionnaires from February 21, 2014, to April 17, 2014.

³ See *Initiation Notice*, 78 FR at 69042.

⁴ See Letter from Petitioner entitled “Petitions For The Imposition Of Antidumping And Countervailing Duties Against Non-Oriented Electrical Steel From China, Germany, Japan, Korea, Sweden, and Taiwan/Petition Amendment To Clarify The Proposed Scope Definition,” dated November 22, 2013; see also Letter from Petitioner to the Department, regarding “Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, And Taiwan: Petitioner’s Comments On The Scope Of Investigations,” dated November 26, 2013; see also the “Scope Comments” section of this memorandum.

⁵ See *Initiation Notice*, 78 FR at 69042.

⁶ See *Non-Oriented Electrical Steel From China, Germany, Japan, Korea, Sweden, and Taiwan; Determinations, Investigation Nos. 701-TA-506-508 and 731-TA-1238-1243 (Preliminary)*, 78 FR 73562 (December 6, 2013).

⁷ See the “Selection of Respondents” section of this memorandum; see also Letters from the Department to Leicong and CSC, dated November 29, 2013.

⁸ See Section A response from CSC dated January 3, 2014 (“AQR”), and Section B and C responses dated January 24, 2014, and Section D response dated January 28, 2014 (B-D QR).

⁹ POSCO is a respondent in the concurrent AD and CVD NOES from Korea investigations.

¹⁰ See Letter from POSCO to the Department, regarding “Non-Oriented Electrical Steel From the People’s Republic of China, the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Scope Clarification Requests” dated January 28, 2014 (Scope Comments).

¹¹ See Letter from Petitioner, entitled “Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden and Taiwan/Petitioner’s Response to POSCO’s Scope Clarification Requests,” dated February 4, 2014 (Reply to Scope Comments).

On February 24, 2014, Petitioner submitted an allegation that differential pricing existed with respect to the U.S. sales reported by CSC, and urged the Department to apply an alternative comparison methodology in calculating CSC's margin for the preliminary determination.¹²

On February 28, 2014, Petitioner requested a 50-day extension for the preliminary determination of this investigation.¹³ In accordance with section 733(c)(1)(A) of the Act, we postponed our preliminary determination by 50 days.¹⁴

On April 10, 2014, the Department clarified the scope of the investigation.¹⁵ On April 14, 2014, we requested CSC to report any additional U.S. and comparison market sales that fall within the modified scope, as well as report additional cost information applicable to such sales. On April 24, 2014, CSC submitted revised U.S. market, comparison market, and cost databases.

On May 2, 2014, CSC requested that the Department postpone its final determination to not later than 135 days after the date of the publication of the preliminary determination, in accordance with Section 735(a)(2) of the Act. Additionally, CSC requested an extension of provisional measures from a four-month period to not more than six months.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 of the filing of the Petition in September 2013.¹⁷

POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on May 2, 2014, CSC requested that the Department postpone the final determination, and requested that the Department extend provisional measures.¹⁸ 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 exporter, CSC,

¹² See Letter from Petitioner entitled "Non-Oriental Electrical Steel from Taiwan: Targeted Dumping Allegation" (February 24, 2014).

¹³ See Letter from Petitioner entitled "Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden and Taiwan/Petitioner's Request For Postponement Of The Preliminary Determinations" (February 28, 2014).

¹⁴ See *Non-Oriented Electrical Steel from the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 79 FR 13987 (March 12, 2014).

¹⁵ See Memorandum from Abdelali Elouaradia, Office Director, Office IV, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations regarding "Scope Modification Requests." dated April 10, 2014.

¹⁶ See Letter from CSC to the Department, regarding "Non-Oriented Electrical Steel (NOES) from Taiwan," dated May 2, 2014 ("CSC Postponement Request").

¹⁷ See 19 CFR 351.204(b)(1).

¹⁸ See CSC Postponement Request.

accounts for a significant proportion of exports of the subject merchandise,¹⁹ and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

SCOPE COMMENTS

In the *Initiation Notice*,²⁰ the Department invited interested parties to “to raise issues regarding product coverage.”

On November 22, and 26, 2013, Petitioner requested that the Department clarify the scope by lowering the minimum silicon content from 1.25 percent to 1.00 percent, removing altogether the maximum silicon content, and including language regarding surface oxide coating.²¹ On January 28, 2014, POSCO/DWI,²² a respondent in the companion LTFV investigation of NOES from the Republic of Korea, filed scope comments with the Department in which it requested that the Department clarify whether laminations and cores, downstream products fabricated from NOES, and certain NOES specifications with silicon content less than the percentage identified in the scope of NOES investigations contained in the *Initiation Notice*, are covered by this and the companion investigations.²³ On February 4, 2014, Petitioner responded to POSCO/DWI’s comments, stating (1) that laminations and cores are out of the scope of the investigations to the extent that exclusion only covers products that are suitable for use (without further processing) as a drop-in part of a core; and (2) that the Department should promptly implement the changes to the scope of the investigations relating to silicon content described in Petitioner’s Proposed Scope Changes, and clarify for POSCO/DWI the data that it should report to the Department.²⁴

After analyzing the scope comments regarding silicon content and surface oxide coatings, the Department has decided to lower the minimum silicon content identified in the scope from 1.25

¹⁹ See Sections B and C Questionnaire Responses submitted by CSC to the Department, regarding “Non-Oriented Electrical Steel (NOES) from Taiwan,” dated January 24, 2014 at Exhibit B-1-1-2; *see also* Petitions at Exhibit VII-13.

²⁰ See *Initiation Notice*, 78 FR at 69042.

²¹ See Letter from Petitioner to the Secretary of Commerce, “Petitions for the Imposition of Antidumping and Countervailing Duties against Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, Taiwan/Petition Amendment to Clarify the Proposed Scope Definition,” dated November 22, 2013 (“Petitioner’s Proposed Scope Changes”); and Letter from Petitioner, “Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, Taiwan: Petitioner’s Comments on the Scope of Investigations,” dated November 26, 2013.

²² On January 23, 2014, POSCO and Daewoo International Corporation (DWI) filed a joint response in the concurrent LTFV investigation of NOES from Korea. The Department has preliminarily found these two companies to be a single entity in the LTFV investigation. See the memorandum from Senior Advisor Gary Taverman to Assistant Secretary Paul Piquado entitled “Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Non-Oriented Electrical Steel from the Republic of Korea” dated May 15, 2014. The Department will refer to the single entity as POSCO/DWI in this preliminary determination memorandum.

²³ See Letter from POSCO/DWI to the Secretary of Commerce, “Scope Clarification Requests,” dated January 28, 2014.

²⁴ See Letter from Petitioner to the Secretary of Commerce, “Re: Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden and Taiwan/Petitioner’s Response to POSCO’s Scope Clarification Requests,” dated February 4, 2014.

percent to 1.00 percent and to include language regarding surface oxide coating in the scope. However, the Department has decided not to eliminate the maximum silicon content in the scope. For a complete discussion of these decisions see the memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations from Robert Bolling, Program Manager for AD/CVD Operations, Office IV, regarding “Scope Modification Requests,” dated April 10, 2014, and hereby incorporated by reference into this memorandum. The scope language below reflects these decisions.

With respect to the issue involving laminations and cores, POSCO/DWI described laminations as products that are cut from NOES into their finished shape by a punch and die or, when in smaller quantities, by laser or wire erosion.²⁵ The laminations are subsequently assembled together to form laminated transformer cores or electric motor stator and rotor parts.²⁶ POSCO/DWI commented that it understands that laminations and cores manufactured from NOES are products not subject to these investigations because NOES is manufactured in sheet or strip form, either in coils or in straight lengths, and any subsequent processing is not simply an extension of the NOES production process, but, instead, processing performed by the end user or by a fabricator that sells to the end user.²⁷ POSCO/DWI commented that NOES is consumed exclusively in the production of laminated cores for transformers as well as stators and rotors for motors, and generators.²⁸ Depending on the design requirements of an end user, the standard lamination products are cut “E,” “I,” or “U,” or varying combinations thereof, while highly complex lamination products are customized with numerous sides, curved edges, or numerous punched holes.²⁹ POSCO/DWI commented that the process of converting NOES coil or strip into laminations or cores constitutes a substantial transformation into products with end uses and customer expectations different from those for NOES.³⁰

In its reply to POSCO/DWI’s scope clarification request, Petitioner stated that it agrees with POSCO/DWI that laminations and cores are outside the intended scope of the NOES investigations.³¹ Petitioner commented that to the extent the term “laminations” is used as a substitute for the term laminated “cores,” Petitioner likewise agrees that laminations that are ready for assembly into cores are excluded from the intended scope of the NOES investigations.³² Petitioner commented that it does not agree with POSCO/DWI that the production process for NOES necessarily ends with slitting; because the scope definition covers

²⁵ See Letter from POSCO/DWI to the Secretary of Commerce, “Scope Clarification Requests,” dated January 28, 2014, at 3.

²⁶ *Id.*, at 3-4.

²⁷ POSCO refers to the production process for NOES described in the petitions and in the International Trade Commission’s preliminary determination that POSCO understands to mean that the NOES production process ends with slitting. *Id.*, at 4.

²⁸ See Letter from POSCO/DWI to the Secretary of Commerce, “Scope Clarification Requests,” dated January 28, 2014, at 3-4.

²⁹ *Id.*, at 4-5.

³⁰ *Id.*, at 5.

³¹ See Letter from Petitioner to the Secretary of Commerce, “Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden and Taiwan/Petitioner’s Response to POSCO’s Scope Clarification Requests,” dated February 4, 2014, at 2.

³² See *id.* Referring to POSCO/DWI’s Scope Comments, Petitioner interprets POSCO/DWI’s statement, that POSCO/DWI uses the terms laminations and cores interchangeably in the normal course of business, to mean that laminations are a substitute for cores.

NOES “whether or not in coils,” simply cutting to length or cutting blanks from a coil (whether slit or not) does not take such products out of the scope.³³ Petitioner commented that it agrees nevertheless with POSCO/DWI that laminations cut from NOES to their finished shape and are otherwise suitable for use, without further processing, as a drop-in part of the core, are outside the intended scope of the NOES investigations.³⁴

On the basis of Petitioner’s statements that it is not seeking relief from laminations and cores made from NOES, we have modified the scope to reflect this exclusion.³⁵

We invite interested parties to comment on this proposed addition to the scope language in their briefs so that the finalized scope of the investigation can be adopted in the final determination.

SCOPE OF THE INVESTIGATION

The merchandise subject to this investigation consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term “substantially equal” means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B_{800} value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to this investigation whether it is fully processed (*i.e.*, fully annealed to develop final magnetic properties) or semi-processed (*i.e.*, finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of this investigation is not limited to merchandise meeting the ASTM, JIS and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of this investigation are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating,

³³ *Id.*

³⁴ *Id.*

³⁵ See Letter from Petitioner to the Secretary of Commerce, “Non-Oriented Electrical Steel from The People’s Republic of China, Germany, Japan, The Republic of Korea, Sweden, and Taiwan: Scope Clarification Language,” dated May 12, 2014.

or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part (*i.e.*, lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

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*³⁶ we stated that for Taiwan, the Department intends to examine all known producers/exporters identified in the Petition in this investigation. The Petition named only CSC and Leicong as producers/exporters of NOES from Taiwan. Accordingly, we selected CSC and Leicong for individual examination in this investigation.

Application of Facts Available and Use of Adverse Inference

As noted above, Leicong received, but did not respond to, the Department's questionnaire and otherwise declined to participate in the proceeding. For the reasons stated below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Leicong.

A. Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or an interested party withholds information requested by the Department; fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; significantly impedes a proceeding; or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

³⁶ See *Initiation Notice*, 78 FR 69046.

In this case, Leicong received our questionnaire but did not respond to it or otherwise participate in the proceeding.³⁷ As a consequence, we preliminarily find that necessary information is not available on the record, and Leicong withheld information requested by the Department, failed to provide information by the specified deadlines, and significantly impeded the proceeding.³⁸ Moreover, because Leicong failed to provide any information, section 782(e) of the Act is inapplicable. Accordingly, pursuant to sections 776(a)(1) and 776(a)(2)(A), (B), and (C) of the Act, we are relying upon facts otherwise available for Leicong's preliminary dumping margin.

B. Use of Adverse Inference

Section 776(b) of the Act provides that, if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.³⁹ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act ("SAA") explains that the Department may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."⁴⁰ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.⁴¹ It is the Department's practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.⁴²

The failure of Leicong to respond to the Department's questionnaire or otherwise participate in the proceeding has precluded the Department from performing the necessary analysis and verification of its questionnaire responses, as required by section 782(i)(1) of the Act. Accordingly, the Department concludes that Leicong failed to cooperate to the best of its ability to comply with a request for information by the Department, in accordance with section 776(b) of the Act and 19 CFR 351.308(a). Based on the above, the Department preliminarily determines that Leicong has failed to cooperate to the best of its ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted.⁴³

³⁷ See Memorandum to the File from Krisha Hill, regarding "UPS Delivery Confirmations," dated May 14, 2014.

³⁸ See sections 776(a)(2)(A), (B), and (C) of the Act.

³⁹ See also 19 CFR 351.308(a); *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002).

⁴⁰ See H.R. Doc. 103-316, Vol. 1 (1994) at 870; *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

⁴¹ See, e.g., *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Preamble*, 62 FR at 27340.

⁴² See, e.g., *Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum at page 4, unchanged in *Steel Threaded Rod From Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476 (March 14, 2014).

⁴³ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where the Department applied total AFA when the respondent failed to respond to the antidumping questionnaire).

C. AFA Rate Assigned To Leicong

Section 776(b) of the Act states that the Department, when employing an adverse inference, may rely upon information derived from the Petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.⁴⁴ In selecting a rate based on adverse facts available (“AFA”), the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁴⁵ In this investigation, we have selected the rate of 52.23 percent as the AFA rate applicable to Leicong.

Corroboration of Secondary Information

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal.⁴⁶ Secondary information is defined as “information derived from the Petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.”⁴⁷ Thus, because the 52.23 percent AFA rate applied to Leicong is derived from the Petition and, consequently, is based upon secondary information, the Department must corroborate it to the extent practicable.

The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value.⁴⁸ The SAA and the Department’s regulations explain that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.⁴⁹ To corroborate secondary information, the Department will, to the extent practicable, determine whether the information used has probative value by examining the reliability and relevance of the information.⁵⁰

We determined that the Petition margin of 52.23 percent is reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis and for purposes of this preliminary

⁴⁴ See also 19 CFR 351.308(c).

⁴⁵ See SAA at 870.

⁴⁶ See also 19 CFR 351.308(d).

⁴⁷ See SAA at 870; see also 19 CFR 351.308(c)(1).

⁴⁸ See SAA at 870; see also 19 CFR 351.308(d).

⁴⁹ See SAA at 870; see also 19 CFR 351.308(d).

⁵⁰ See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

determination.⁵¹ We examined evidence supporting the calculations in the Petition to determine the probative value of the margins alleged in the Petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis, we also examined the key elements of the export price (“EP”) and normal value (“NV”) calculations used in the Petition to derive an estimated margin. During our pre-initiation analysis, we also examined information (to the extent that such information was reasonably available) from various independent sources provided either in the Petition or, on our request, in the supplements to the Petition that corroborates some of the elements of the EP and NV calculations used in the Petition to derive estimated margins.

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider Petitioner’s EP and NV calculations to be reliable.⁵² Because we obtained no other information that would make us question the validity of the sources of information or the validity of information supporting the U.S. price or NV calculations provided in the Petition, based on our examination of the aforementioned information, we preliminarily consider the EP and NV calculations from the Petition to be reliable. Because we confirmed the accuracy and validity of the information underlying the derivation of the margins in the Petition by examining source documents and affidavits, as well as publicly available information, we preliminarily determine that the margins in the Petition are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. The courts acknowledge that the consideration of the commercial behavior inherent in the industry is important in determining the relevance of the selected AFA rate to the uncooperative respondent by virtue of it belonging to the same industry.⁵³

To corroborate the AFA margin that we selected, we compared Petitioners’ margin rate to the margin we found for CSC. We found that the margin of 52.23 percent is relevant and has probative value because it is in the range of the transaction-specific margins that we found for CSC.⁵⁴ Accordingly, we find that the rate of 52.23 percent is corroborated within the meaning of section 776(c) of the Act.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “all others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually examined, excluding all zero or *de minimis* rates, and all rates determined entirely under section 776 of the Act. As noted above, Leicong did not respond to the questionnaire. Therefore, CSC is the only respondent in this investigation for which the

⁵¹ See AD Investigation Initiation Checklist regarding, “Non-Oriented Electrical Steel from Taiwan,” dated November 6, 2013 (“Initiation Checklist”).

⁵² See Initiation Checklist.

⁵³ See, e.g., *Ferro Union, Inc. v. United States*, 44 F. Supp. 2d 1310, 1334 (CIT 1999).

⁵⁴ See Memorandum to the File from Karine Gziryany and Krisha Hill, regarding “Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Non-Oriented Electrical Steel (“NOES”) from Taiwan: China Steel Corporation,” dated May 15, 2014 (Preliminary Analysis Memorandum).

Department calculated a company-specific rate which is not zero, *de minimis* or based entirely on facts available. Accordingly, for purposes of determining the “all others” rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for CSC, as the estimated weighted-average dumping margin assigned to all other producers and exporters of the merchandise under consideration.

DISCUSSION OF METHODOLOGY

Fair Value Comparisons

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1), in order to determine whether the sales of NOES from Taiwan to the United States were made at LTFV, we compared the EP to the NV, as described in the “U.S. Price” and “Normal Value” sections of this memorandum.

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 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.⁵⁵ 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 investigation.⁵⁶ 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

⁵⁵ 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).

⁵⁶ 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) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews*, 79 FR 4327 (January 27, 2014)); *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) (unchanged in *Certain Activated Carbon From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 70533 (November 26, 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) (*Steel Threaded Rod*) (unchanged in *Certain Steel Threaded Rod From the People’s Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013)); *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) (*Polyester Staple Fiber*) (unchanged in *Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 38938 (June 28, 2013)).

masking of dumping that can occur when the Department uses the A-to-A method in calculating weighted-average dumping margins.

The DP analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods.⁵⁷ 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 customer codes as reported. Regions are defined using the reported destination code (*i.e.*, zip codes), which 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 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* coefficient is calculated 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 used 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 (*i.e.*, 0.8) 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, and the sales were 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 accounts for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the A-to-T method to all sales as an alternative to the A-to-A method. If the value of sales to

⁵⁷ As noted above, the DP analysis has been utilized in recent AD investigations and several recent AD administrative reviews to determine the appropriate comparison methodology. *See, e.g., Steel Threaded Rod; Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 21105 (April 9, 2013) (unchanged in Circular Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 65272 (October 31, 2013)); and Polyester Staple Fiber.*

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 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 (or CEPs) 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, then 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 and justifications in relation to the above-described DP approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

Based on the results of the DP analysis, the Department finds that 73.04 percent of CSC's U.S. sales pass the Cohen's *d* test, and confirm the existence of a pattern of prices 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 applied to all U.S. sales. Accordingly, the Department has determined to use the A-to-A method to calculate the preliminary estimated weighted-average dumping margin for CSC.⁵⁸

Product Comparisons

As noted above, the Department gave parties an opportunity to comment on the appropriate product characteristics and the for model matching hierarchy purposes within a certain

⁵⁸ See Preliminary Analysis Memorandum. 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 weighted-average EPs with weighted-average NVs.

deadline.⁵⁹ On November 20, 2013, we received comments regarding physical characteristics and the model matching hierarchy from interested parties.⁶⁰ On November 27, 2013, we received rebuttal comments from interested parties.⁶¹

We considered the comments that were submitted and established the appropriate physical characteristics to use as a basis for defining models and, when necessary, for comparing similar models of foreign like product sold in the comparison market which may serve as the basis for normal value (NV) in this LTFV investigation. The Department identified six physical characteristics for such purposes: maximum core loss, nominal thickness, processing level, coating type, form, and nominal width. On December 16, 2013, we requested respondents to report the product characteristics when replying to the Department's original questionnaire.⁶²

The goal of the physical characteristic and the model matching hierarchy is to identify the best possible matches with respect to the physical characteristics of the merchandise sold in the United States. While variations in cost may suggest the existence of variation in product characteristics, such variations in costs in and of themselves do not constitute differences in the products. Furthermore, the magnitude of variations in cost may differ from company to company, and even for a given company over time. Therefore, differences in production costs do not, in and of themselves, provide a reliable basis for identifying the existence of or relative importance of different product characteristics. The Department has 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."⁶³

Therefore, based on the above, the Department has preliminarily determined not to modify the physical characteristics and model matching hierarchy it proposed after the initiation of this investigation and included in its questionnaires. In accordance with section 771(16) of the Act, all products produced by CSC, 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 six physical characteristics and the model matching hierarchy 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 serve as the basis for NV for subject merchandise sold in the United States, we used comparison market sales of the

⁵⁹ See *Initiation Notice*, 78 FR at 69042.

⁶⁰ See Letters from Petitioner and POSCO/DWI, dated November 20, 2013.

⁶¹ See Letters from Petitioner and POSCO/DWI, dated November 27, 2013.

⁶² See Letters from the Department to the CSC and Leicong, dated December 16, 2013, requesting respondents to report product characteristics in response to the November 29, 2013, original questionnaire response.

⁶³ 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.

most-similar foreign like product on the basis of the reported product characteristics and model matching hierarchy to establish a NV for such U.S. sales.

Date of Sale

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), “use the date of invoice, as recorded in the exporter or producer’s records kept in the normal course of business.” In *Allied Tube*, the CIT noted that a “party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to ‘satisfy’ the Department that ‘a different date better reflects the date on which the exporter or producer establishes the material terms of sale.’”⁶⁴ Additionally, the Department 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.⁶⁵ This normally includes the price, quantity, delivery terms and payment terms.⁶⁶

For home-market sales, CSC reported the Government Uniform Invoice (“GUI”) date as the date of sale.⁶⁷ CSC reported the date of commercial invoice to the unaffiliated U.S. customer as the date of sale for its U.S. sales made through both channels of distribution.⁶⁸ CSC asserted that these dates reasonably reflect the dates on which the material terms of sale have been firmly established. In accordance with 19 CFR 351.401(i) and the Department’s long-standing practice of determining the date of sale, and in the absence of any information to the contrary, the Department preliminarily determines that the invoice date is the most appropriate date to use as CSC’s date of sale.

U.S. Price

In accordance with section 772(a) of the Act, EP is “the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the 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 section 772(c) of the Act. We used the EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States.

During the POI, in addition to CSC selling subject merchandise directly to the unaffiliated U.S. customer, CSC also sold subject merchandise to the United States via China Steel Global

⁶⁴ See *Allied Tube & Conduit Corp. v. United States* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (*Allied Tube*).

⁶⁵ See 19 CFR 351.401(i); see also *Allied Tube*, 132 F. Supp. 2d at 1090-1092.

⁶⁶ See, e.g., *Carbon and Alloy Steel Wire Rod From Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issue and Decision Memorandum at Comment 1; *Notice of Final Determinations 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 Comment 1.

⁶⁷ See Letter from CSC to the Department, regarding “Non-Oriented Electrical Steel (NOES) from Taiwan,” dated April 1, 2014.

⁶⁸ *Id.*

Trading Corporation (“CSGT”). CSGT is a wholly owned subsidiary of CSC located in Taiwan, and assists with CSC’s export sales. We preliminarily find that all of CSC’s and CSGT’s sales in this investigation are EP sales.⁶⁹

In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price (gross unit price) for movement expenses, selling expenses, credit expense, and inventory carrying costs.

Normal Value

1. Home Market Viability

To determine whether there is a sufficient volume of sales of NOES 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 CSC’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 in accordance with section 773(a)(1)(B)(i) of the Act. Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), CSC had a viable home market during the POI.⁷⁰ Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based NV on home market sales to unaffiliated purchasers made in the usual commercial quantities in the ordinary course of trade, as described in detail below.

2. Overruns

CSC reported three types of overrun products (*i.e.*, leeways (“Type Y”), secondary (“Type X”) and salvage (“Type S”)).⁷¹ CSC stated that Type Y products are of normal quality with insignificant defects, therefore these products are classified and sold as prime merchandise.⁷² CSC explained that Types X and S products have significant defects and therefore it classified these products as non-prime merchandise in its HM sales database.⁷³ CSC sold non-prime merchandise only in the home market, while CSC only sold prime merchandise to the United States.⁷⁴ Non-prime Types X and S overrun products sold in the HM are not comparable to prime products sold in the U.S. market, based on the Department’s standard calculation methodology.⁷⁵

⁶⁹ See CSC’s Section C questionnaire response (“SCR”) at C-12.

⁷⁰ See Preliminary Analysis Memorandum.

⁷¹ See Letter from CSC to the Department, regarding “Non-Oriented Electrical Steel (NOES) from Taiwan,” dated February 21, 2014 at SE-16 and SE-17.

⁷² See Letter from CSC to the Department, regarding “Non-Oriented Electrical Steel (NOES) from Taiwan,” dated April 17, 2014 at 5SE-1 and 5SE-2.

⁷³ See Letter from CSC to the Department, regarding “Non-Oriented Electrical Steel (NOES) from Taiwan,” dated March 18, 2014 at 2SE-4.

⁷⁴ See *id.*

⁷⁵ See *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Thirteenth Administrative Review*, 73 FR 14220 (March 17, 2008) and corresponding Issues and Decision Memorandum at Comment 11; see also *Notice of Final Results of the Twelfth Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 72 FR 13086 (March 20, 2007) and corresponding Issues and Decision Memorandum at Comment 12.

Although Type Y merchandise are classified as overruns and sold at lower prices than non-overrun products, we find that Type Y merchandise are within the ordinary course of trade. Due to the proprietary nature of this issue, please see the Preliminary Analysis Memorandum.

3. 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).⁷⁶ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁷⁷ 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 HM sales are at a different LOT than EP sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

When the Department is unable to match U.S. sales to 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 the difference in LOT is demonstrated to affect price comparability based on a pattern of consistent price differences between sales at different LOTs in the market in which NV is determined, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

We examined the differences in selling functions reported in CSC’s responses to our requests for information. CSC reported two channels of distribution in the home market: direct sales to unaffiliated end users and direct sales to distributors.⁷⁸ We found that the selling activities associated with selling to each of the two channels of distribution do not differ. We also found no differences in the intensity of any of the selling functions. Because there are no differences in selling functions, we found that the two channels of distribution constituted a single level of trade in the home market.

All of CSC’s U.S. sales were EP sales. Though CSC made these sales through two channels of distribution, CSC reported the same selling activities associated with sales to all U.S. customers.⁷⁹ Therefore, we considered the EP to constitute only one level of trade.

The selling function chart submitted by CSC,⁸⁰ shows that the respondent performed corresponding selling activities at the same or a similar level of intensity in both the U.S. and

⁷⁶ See 19 CFR 351.412(c)(2).

⁷⁷ 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*).

⁷⁸ See CSC’s section A questionnaire response (“AQR”) dated January 3, 2014, at A-12 through A-15 and Exhibits A-3a and A-3c; see also CSC’s supplemental section A questionnaire response (“SAQR”) dated February 21, 2014, at SE-7 to SE-10, and Exhibit SE-14-b.

⁷⁹ *Id.*

comparison markets with the exception of three out of twenty four selling activities, such as rebates, discounts and freight, which were not provided in the U.S. market. Although rebates, discounts and freight services differed between the U.S. and comparison markets, that difference alone does not mean this difference constitute different marketing stages given that (1) the majority of the listed selling activities were performed in the U.S. and comparison markets, and (2) in most cases, the respondent performed corresponding selling activities at the same or a similar level of intensity in the U.S. and comparison markets. Thus, while there appears to be a greater focus in the U.S. market on freight and deliveries, based on the totality of the information reported with respect to selling activities and the intensity levels at which these activities were performed, we do not find that the respondent sold foreign like product and the merchandise under consideration at significantly different marketing stages. Therefore, we preliminarily find that, during the POI, the respondent sold the merchandise under consideration and foreign like product at the same LOT.

4. Calculation of Normal Value Based on Home Market Prices

We based NV on the starting prices to home market customers. We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made circumstance-of-sale adjustments by deducting home market direct selling expenses from NV. 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.⁸¹

Cost of Production

As we stated in the *Initiation Notice*, we initiated a country-wide cost investigation on sales of NOES from Taiwan.⁸²

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”) and interest expenses (*see* the “Test of Home Market Sales Prices” section below for treatment of home market selling expenses and packing costs).

We relied on the COP data provided by CSC in its April 24, 2014, submission, with certain exceptions as follows. Because CSC deviated from its normal accounting method to report its

⁸⁰ *Id.*

⁸¹ *See* 19 CFR 351.411(b).

⁸² *See Initiation Notice*, 78 FR 69041.

costs of “Secondary” and “Salvage” for this investigation without any explanation, we disallowed the full cost allocation for the preliminary determination.^{83, 84}

We examined the cost data and preliminarily determined that our quarterly cost methodology is not warranted. Therefore, we applied our standard methodology of using annual costs based on the reported data, adjusted as described above.⁸⁵

2. Test of Home 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, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of 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.⁸⁶ 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 CSC’s home market 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

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

⁸³ See Section D Supplemental Response dated April 21, 2014, at Exhibit CSE 4SE-6.

⁸⁴ See Memorandum to the File from Gary Urso, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – China Steel Corporation,” dated May 15, 2014.

⁸⁵ See *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).

⁸⁶ See section 773(b)(2)(C) of the Act.

VERIFICATION

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

✓

Agree

Disagree

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

May 15, 2014

Date