



A-583-856

POI: 04/01/2014–03/31/2015

E&C AD/CVD OIII: AM, PS

Public Document

December 21, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation of Certain Corrosion-Resistant
Steel Products from Taiwan

I. SUMMARY

The Department of Commerce (“Department”) preliminarily determines that certain corrosion-resistant steel products (“corrosion-resistant steel”) from Taiwan are not being, nor 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”).

II. BACKGROUND

On June 3, 2015, the Department received an antidumping duty (“AD”) petition covering imports of certain corrosion-resistant steel products from Taiwan,¹ which was filed in proper form by United States Steel Corporation, Nucor Corporation, Steel Dynamics Inc., California Steel Industries, ArcelorMittal USA LLC, and AK Steel Corporation (collectively, “Petitioners”). The Department initiated this investigation on June 23, 2015.²

In the *Initiation Notice*, the Department stated that it intended to select respondents based on U.S. Customs and Border Protection (“CBP”) data for certain of the Harmonized Tariff Schedule

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Corrosion-Resistant Steel Products from the People’s Republic of China, the Republic of Korea, India, Italy, and Taiwan, dated June 3, 2015 (“Petition”).

² See *Certain Corrosion-Resistant Steel Products From Italy, India, the People’s Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 37228 (June 30, 2015) (“*Initiation Notice*”).

of the United States (“HTSUS”) subheadings listed in the scope of the investigation.³ Accordingly, on June 25, 2015, the Department released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.

Also in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of corrosion-resistant steel to be reported in response to the Department’s AD questionnaire.⁴ In July and August 2015, POSCO, Totem Steel International (“Totem”), a U.S. importer of subject merchandise, and Baoshan Iron & Steel Co., Ltd and Baosteel America, Inc., (collectively, “Baosteel”), Great Grandeul Steel Co., Ltd. (“GGS”), and Yieh Phui Enterprise Co., Ltd. (“Yieh Phui”), respondents in the companion AD investigations on corrosion-resistant steel, submitted comments on the scope of this investigation. On July 24, 2015, Petitioners submitted rebuttal scope comments in response to POSCO, Totem, Yieh Phui, Baosteel, and GGS.

On July 17, 2015, Petitioners, Dongkuk Steel Mill Co., Ltd./Union Steel Manufacturing Co., Ltd. (“Dongkuk/Union Steel”), and Hyundai Steel Company (“Hyundai”), and Prosperity Tieh Enterprise Co., Ltd. (“Prosperity Tieh”), and Yieh Phui, respondents in the AD investigations on corrosion-resistant steel, submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. Then, on July 27, 2015, Petitioners filed rebuttal comments to comments on product characteristics comments filed by Dongkuk/Union Steel, Hyundai, Prosperity Tieh, and Yieh Phui. On the same date, Dongkuk/Union Steel, Hyundai, and POSCO, and JSW Steel Ltd. and JSW Steel Coated Products Limited (collectively, “JSW”), Prosperity Tieh, Yieh Phui, and Uttam Galva Steels Limited (“Uttam Galva”) filed rebuttal comments to Petitioners’ comments regarding the physical characteristics of the merchandise under consideration.

On July 6, 2015, we received comments regarding respondent selection from AK Steel Corporation,⁵ a petitioner in this investigation. On July 17, 2015, the Department limited the number of mandatory respondents selected for individual examination to the two largest publicly-identifiable producers/exporters of the subject merchandise by volume. Accordingly, we selected Yieh Phui and Prosperity Tieh as mandatory respondents in this investigation.⁶

On July 24, 2015, 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 corrosion-resistant steel from Taiwan.⁷

³ See *Initiation Notice*, 80 FR at 37233.

⁴ *Id.*, at 37228.

⁵ See Letter from Petitioners, “Certain Corrosion-Resistant Steel Products from Taiwan: Respondent Selection Comments,” dated July 6, 2015.

⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Selection of Respondents for the Antidumping Duty Investigation on Certain Corrosion-Resistant Steel Products from Taiwan,” dated July 17, 2015, at 5.

⁷ See *Certain Corrosion-Resistant Steel Products From China, India, Italy, Korea, and Taiwan*, 80 FR 44151 (July 24, 2015).

On August 7, 2015, the Department issued the AD questionnaire to Yieh Phui and Prosperity Tieh. On September 11 and September 15, 2015, respectively, Yieh Phui and Prosperity Tieh submitted timely responses to section A of the Department's AD questionnaire (*i.e.*, the section relating to general information). Both companies timely filed responses to sections B through D (*i.e.*, the sections relating to home market and U.S. sales, and cost of production information) on October 13, 2015.

In October and November 2015, we issued multiple supplemental questionnaires to Yieh Phui and Prosperity Tieh. We received responses to these supplemental questionnaires in November and December 2015. During the same time frame, Petitioners submitted comments regarding Yieh Phui's and Prosperity Tieh's questionnaire responses.

On October 14, 2015, the Department postponed the time period for the preliminary determination of this investigation by 41 days, to December 21, 2015, in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1).⁸

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

III. PERIOD OF INVESTIGATION

The period of investigation ("POI") is April 1, 2014, through March 31, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was June 2015.⁹

IV. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On July 23, 2015, Petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from Taiwan.¹⁰ On October 29, 2015, the Department issued its preliminary critical circumstances determinations.¹¹ As indicated in this memorandum, we have preliminarily determined that corrosion-resistant steel from Taiwan is not being, or is not likely to be, sold in the United States at LTFV and, thus, we are issuing a preliminary negative AD determination. Accordingly, we also preliminarily determine that critical circumstances do not exist with regard to imports of corrosion-resistant steel from Taiwan.

⁸ See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 61793 (October 14, 2015).

⁹ See 19 CFR 351.204(b)(1).

¹⁰ See Letter from Petitioners, "Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Critical Circumstances Allegations," dated July 23, 2015.

¹¹ See *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances*, 80 FR 68504 (November 5, 2015).

V. AFFILIATION AND COLLAPSING

We preliminarily determine that Yieh Phui and Synn Industrial Co., Ltd. (“Synn”) are affiliated, pursuant to section 771(33)(A) of the Act.¹² In addition, based on the evidence provided in Yieh Phui’s questionnaire responses, we also preliminarily determine that Yieh Phui and Synn should be collapsed and treated as a single entity in this investigation. This finding is based on the determination that the level of common ownership and management overlap between Yieh Phui and Synn may result in a significant potential for manipulation of price or production of subject merchandise, pursuant to 19 CFR 351.401(f). In addition, Yieh Phui acknowledges that common ownership and overlapping management exist between Yieh Phui and Synn.¹³ On December 16, 2015, we issued a full antidumping duty questionnaire to Synn, directly, and also through Yieh Phui. We will analyze Synn’s questionnaire responses and continue to consider whether Yieh Phui and Synn should be collapsed for the final determination. Because the record does not presently contain consolidated information for Synn, we have calculated the preliminary margin for the combined entity based solely on information provided by Yieh Phui. However, should the Department sustain this finding for the final determination, the Department expects to base its final margin calculation on Yieh Phui’s and Synn’s consolidated home market sales database, consolidated U.S. market sales database, and consolidated cost of production/constructed value database.

Further, while we have evaluated the record and preliminarily determine not to collapse Yieh Phui and Prosperity Tieh, we will continue to consider whether Yieh Phui and Prosperity Tieh should be collapsed for the final determination.

VI. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*,

¹² See Memorandum to Erin Begnal, Director, Office III, “Less Than Fair Value Investigation of Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Affiliation and Collapsing Memorandum for Yieh Phui Enterprise Co., Ltd.,” dated concurrently with this memorandum.

¹³ See, *e.g.*, Yieh Phui’s Section A response dated September 11, 2015, at 9 – 10, its supplemental questionnaire response dated November 6, 2015 at page 3, and its supplemental questionnaire response dated December 7, 2015 at page 2.

products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (“terne plate”), or both chromium and chromium oxides (“tin free steel”), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

VII. DISCUSSION OF THE METHODOLOGY

Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Yieh Phui’s and Prosperity Tieh’s sales of the subject merchandise from Taiwan to the United States were made at less than normal value (“NV”), the Department compared the export

price (“EP”) and constructed export price (“CEP”), as applicable, to the NV as described in the “Export Price and Constructed Export Price” and “Normal Value” sections of this memorandum.

A. *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the EPs (or CEPs of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁴ The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will 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 average-to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing 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. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing 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. For Yieh Phui, purchasers are based on the reported unique customer codes.¹⁵ For Prosperity Tieh, purchasers are based on the reported consolidated customer codes.¹⁶ Regions are defined using the reported destination code (*i.e.*, zip code for Yieh Phui and Prosperity Tieh) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of investigation based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

¹⁴ See, e.g., *Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3; *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015), and accompanying Issues and Decision Memorandum.

¹⁵ See Yieh Phui’s Initial Questionnaire responses to sections B and C, dated September 28, 2015 (“Yieh Phui IQR-BC”), at 58.

¹⁶ See Prosperity Tieh’s Initial Questionnaire responses to sections B and C, dated October 14, 2015 (“Prosperity Tieh IQR-BC”), at 16-17 and Exhibit C-6.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting

weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. *Results of the Differential Pricing Analysis*

Yieh Phui

For Yieh Phui, based on the results of the differential pricing analysis, the Department preliminarily finds that 58.88 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁷ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for this preliminary determination, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Yieh Phui.

Prosperity Tieh

For Prosperity Tieh, based on the results of the differential pricing analysis, the Department preliminarily finds that 81.17 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁸ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Prosperity Tieh.

VIII. DATE OF SALE

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of

¹⁷ See Memorandum to the File from Paul Stolz, "Analysis for the Preliminary Determination of the Less-Than-Fair Value Investigation of Certain Corrosion-Resistant Steel Products Corrosion Resistant Steel from Taiwan," dated concurrently with this memorandum ("Yieh Phui Preliminary Analysis Memorandum").

¹⁸ See Memorandum to the File from Andrew Medley, "Analysis for the Preliminary Determination of the Less-Than-Fair Value Investigation of Certain Corrosion-Resistant Steel Products from Taiwan for Prosperity Tieh Enterprise Co., Ltd.," dated concurrently with this memorandum ("Prosperity Tieh Preliminary Analysis Memorandum").

business. Additionally, the Secretary 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.¹⁹ In addition, the Department's long-standing practice is to rely on shipment date where it precedes invoice date as the date of sale.²⁰

Yieh Phui

For its comparison market sales and U.S. sales, Yieh Phui reported the earlier of the date of the invoice or the date of shipment as the date of sale.²¹ Therefore, we preliminarily determine that invoice date is the appropriate date of sale for those sales occurring prior to the date of shipment, in accordance with our regulatory preference in 19 CFR 351.401(i). After analyzing the information on the record which supports that the material terms of sale are established on the shipment date for certain of Yieh Phui's reported sales, we also preliminarily determine that shipment date is the appropriate date of sale for those sales where the date of shipment precedes invoice date.²²

Prosperity Tieh

For its comparison market sales and U.S. sales, Prosperity Tieh reported the earlier of the date of the invoice or the date of shipment as the date of sale.²³ Therefore, we preliminarily determine that invoice date is the appropriate date of sale for those sales occurring prior to the date of shipment, in accordance with our regulatory preference in 19 CFR 351.401(i). After analyzing the information on the record which supports that the material terms of sale are established on the shipment date for certain of Prosperity Tieh's reported sales, we also preliminarily determine that shipment date is the appropriate date of sale for those sales where the date of shipment precedes invoice date.²⁴

IX. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in Taiwan during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product

¹⁹ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) ("*Allied Tube & Conduit Corp.*") ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.").

²⁰ See, e.g., *Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review*; 2012-2013, 80 FR 33482 (June 12, 2015), and accompanying Issues and Decision Memorandum at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

²¹ See Yieh Phui's supplemental questionnaire response dated December 7, 2015 at 8.

²² *Id.*

²³ See Prosperity Tieh's Section A questionnaire response dated October 13, 2015 at 22.

²⁴ *Id.*

comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on prime versus non-prime merchandise and the physical characteristics reported by the respondents in the following order of importance: type, reduction process, clad material/coating metal, metallic coating weight, metallic coating process, quality, yield strength, nominal thickness, nominal width, and form. Yieh Phui's and Prosperity Tieh's reported control numbers for sales to the United States of corrosion-resistant steel, identify the characteristics of the corrosion-resistant steel as exported by Yieh Phui and Prosperity Tieh.²⁵

Neither Yieh Phui nor Prosperity Tieh reported sales of non-prime corrosion-resistant steel to the United States, but both reported that they sold non-prime corrosion-resistant steel in the home market.

X. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE

In accordance with section 772(a) of the Act, we calculated EP for Yieh Phui's and Prosperity Tieh's U.S. sales where the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and the CEP methodology was not otherwise warranted based on the facts of the record. We did not utilize the CEP methodology in accordance with section 772(b) of the Act because Yieh Phui's and Prosperity Tieh's U.S. sales of merchandise under consideration were not sold in the United States by U.S. sellers affiliated with Yieh Phui and Prosperity Tieh and therefore are EP, as defined by section 772(a) of the Act.

Yieh Phui

We based EP on a packed price to the first unaffiliated purchaser in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. duty.

Prosperity Tieh

We based EP on a packed price to the first unaffiliated purchaser in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, and international freight.

²⁵ See Yieh Phui's IQR-BC at page 8; and Prosperity's IQR-BC at page B-11 and Exhibit B-7.

XI. NORMAL VALUE

A. Comparison Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act and 19 CFR 351.404(b)(2). If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we determined that Yieh Phui's and Prosperity Tieh's aggregate volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for Yieh Phui and Prosperity Tieh, in accordance with section 773(a)(1)(B) of the Act.

Consistent with our practice, we also included Yieh Phui's and Prosperity Tieh's sales to affiliated parties for purposes of determining home market viability.²⁶

B. Affiliated-Party Transactions and Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.²⁷ The Department excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because the Department considers them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, "the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."²⁸

During the POI, Yieh Phui and Prosperity Tieh made sales of corrosion-resistant steel in the home market to affiliated parties, as defined in section 771(33) of the Act.²⁹ Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, we compared the unit prices of sales to affiliated and unaffiliated customers net of all direct selling and packing expenses. Pursuant to 19 CFR 351.403(c) and, in accordance with the Department's practice, where the price to that affiliated party was, on average, within a range of 98 to 102

²⁶ See *Certain Oil Country Tubular Goods From Saudi Arabia: Final Determination of Sales at Less Than Fair Value*, 79 FR 41986 (July 18, 2014), and accompanying Issues and Decision Memorandum at Comment 2 (use of affiliated party sales in viability determination).

²⁷ See 19 CFR 351.403(c).

²⁸ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003).

²⁹ See Yieh Phui's IQR-BC at 6 and Prosperity Tieh's IQR-BC at B-7 and B-20.

percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade (“LOT”), we determined that the sales made to the affiliated party were at arm’s length. Sales to affiliated customers in the home market that were not made at arm’s-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.³⁰

C. 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 at the same LOT as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).³¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³² In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),³³ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.³⁴

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. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³⁵

In this investigation, we obtained information from Yieh Phui and Prosperity Tieh regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.³⁶ Our LOT findings are summarized below.

³⁰ See section 771(15) of the Act; 19 CFR 351.102(b)(35).

³¹ See 19 CFR 351.412(c)(2).

³² *Id.*; see also *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (“*OJ from Brazil*”).

³³ Where NV is based on constructed value (“CV”), we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (“SG&A”) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

³⁴ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

³⁵ See, e.g., *OJ from Brazil* and accompanying Issues and Decision Memorandum at Comment 7.

³⁶ See Yieh Phui’s IQR-BC at 27 and 68 and its section A supplemental questionnaire response, “Corrosion-

Yieh Phui

In the home market, Yieh Phui reported that it made sales through two channels of distribution (*i.e.*, direct shipments to end-users, trading companies, or distributors and indirect sales to end-users, trading companies, or distributors through related home market customers). Yieh Phui reported that it performed the following selling functions for sales to home market customers: sales forecasting, strategic/economic planning, sales promotion, packing, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, market research, technical assistance, rebates (channel one only), warranty service, guarantees, and freight and delivery arrangements.³⁷

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Yieh Phui performed sales and marketing, freight and delivery services, and warranty and technical support for its reported sales to affiliated and unaffiliated customers in the home market. Because Yieh Phui performed the same selling functions at the same relative level of intensity for all of its home market sales, we determine that all home market sales are at the same LOT.

With respect to the U.S. market, Yieh Phui reported that it made sales through two channels of distribution (*i.e.*, direct shipments to unrelated end-users and through a related Taiwanese trading company). Yieh Phui reported that it performed the following selling functions for sales to home market customers: sales forecasting, strategic/economic planning, packing, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, market research, technical assistance, commissions, warranty service, guarantees, and freight and delivery arrangements.³⁸

As stated above, selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Yieh Phui performed sales and marketing, freight and delivery services, and warranty and technical support for its reported sales to unaffiliated customers in the U.S. market. Because Yieh Phui performed the same selling functions at the same relative level of intensity for all of its U.S. sales, we determine that all U.S. sales are at the same LOT.

We compared the home market EP channel 1 and EP channel 2 LOTs to the U.S. market EP channel 1 and EP channel 2 LOTs and found that the selling functions Yieh Phui performed for its home market customers are virtually the same as those performed for its U.S. customers at the same relative level of intensity. The only differences are that Yieh Phui made sales promotion in

Resistant Steel Products from Taiwan; Supplemental Section A Response,” dated November 6, 2015 at Exhibits 46 and 47; and Prosperity Tieh’s September 15, 2015, Section A response at 16.

³⁷ See Yieh Phui’s IQR-BC at 27 and 68 and its section A supplemental questionnaire response, “Corrosion-Resistant Steel Products from Taiwan; Supplemental Section A Response,” dated November 6, 2015 at Exhibits 46 and 47.

³⁸ *Id.*

the home market by providing rebates but not granting rebates in the U.S. market and paid commission in the U.S. market but not in the home market. This difference is not sufficient to determine that Yieh Phui's U.S. LOT is different from the home market LOT. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POI were made at the same LOTs as Yieh Phui's EP sales through Channel 1 and channel 2 to the U.S. market. Consequently, we matched EP sales channel 1 and EP channel 2 sales to home market sales at the same LOT, and no LOT adjustment was warranted.

Prosperity Tieh

In the home market, Prosperity Tieh reported that it made sales through two channels of distribution (*i.e.*, sales of subject merchandise to unaffiliated customers and sales of subject merchandise from affiliated resellers to unaffiliated customers).³⁹ Prosperity Tieh reported that it performed a number of selling functions for sales to home market customers.⁴⁰

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Prosperity Tieh performed the same selling functions at the same relative level of intensity for all of its home market sales, and thus, we determine that all home market sales are at the same LOT.

With respect to the U.S. market, Prosperity Tieh reported that it made sales through two channels of distribution, (*i.e.*, sales directly to unaffiliated trading companies and sales to unaffiliated purchasers via commission agents).⁴¹ Prosperity Tieh reported that it performed a number of selling functions for sales to U.S. market customers.⁴²

As stated above, selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Prosperity Tieh performed the same selling functions at the same relative level of intensity for all of its U.S. sales, and thus, we determine that all U.S. sales are at the same LOT.

We compared the home market EP channel 1 and EP channel 2 LOTs to the U.S. market EP channel 1 and EP channel 2 LOTs and found that the selling functions Prosperity Tieh performed for its home market customers are virtually the same as those performed for its U.S. customers at the same relative level of intensity. The primary difference is that Prosperity Tieh paid commission in the U.S. market but not in the home market. This difference is not sufficient to determine that Prosperity Tieh's U.S. LOT is different from the home market LOT. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POI were made at the same LOT as Prosperity Tieh's EP sales through

³⁹ See Prosperity Tieh's September 15, 2015, Section A response, at 16. See also, Prosperity Tieh's October 14, 2015, Section B response, at 21-22.

⁴⁰ See Prosperity Tieh's September 15, 2015, Section A response, at 18 and Exhibit A-9.

⁴¹ *Id.*, at 16. See also, Prosperity Tieh's October 14, 2015, Section C response, at 17-18.

⁴² See Prosperity Tieh's September 15, 2015, Section A response, at 18 and Exhibit A-9.

channel 1 and channel 2 to the U.S. market. Consequently, we matched EP sales channel 1 and EP channel 2 sales to home market sales at the same LOT, and no LOT adjustment was warranted.

D. Cost of Production Analysis

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (“TPEA”), which made numerous amendments to the AD and CVD law, including amendments to section 773(b)(2) of the Act, regarding the Department’s requests for information on sales at less than cost of production. *See Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production information from respondent companies in all AD proceedings. *Id.*, 80 FR at 46794-95. Accordingly, the Department requested this information from Prosperity Tieh and Yieh Phui. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>; *see also* the Petition. We examined Prosperity Tieh and Yieh Phui’s cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses.⁴³

Yieh Phui

We relied on the COP data submitted by Yieh Phui, except as follows:⁴⁴

- We disallowed a portion of Yieh Phui’s offset to general and administrative (“G&A”) expenses.
- We recalculated the reported zinc and steel scrap offsets so that they are based on the quantity generated rather than the quantity sold.
- Pursuant to section 772(f)(2) of the Act, we adjusted the reported hot-rolled and cold-rolled coil cost to reflect the higher of the transfer price or the affiliated suppliers’

⁴³ See “Test of Comparison Market Sales Prices” section, below, for treatment of home market selling expenses.

⁴⁴ See Memorandum to Neal M. Halper, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Yieh Phui Enterprise Co., Ltd., dated concurrently with this memorandum.

acquisition cost (inclusive of selling, general and administrative expenses) for these inputs.

- We adjusted the reported hot-rolled and cold-rolled coil costs for drawing and deep drawing quality merchandise to account for cost differences between input coils used to produce these products and coils used to produce structural or commercial quality corrosion-resistant steel products.

Prosperity Tieh

We relied on the COP data submitted by Prosperity Tieh, except as follows:⁴⁵

- We disallowed a portion of Prosperity Tieh's offset to G&A expenses.
- We made certain other adjustments to the G&A expense and financial expense ratios.

2. Test of Comparison Market Sales Prices

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

3. Results of the COP Test

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

We found that, for certain products, more than 20 percent of Yieh Phui's and Prosperity Tieh'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. We, therefore, excluded these sales

⁴⁵ See Memorandum to Neal M. Halper, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Prosperity Tieh Enterprise Co., Ltd., dated concurrently with this memorandum.

and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

E. Calculation of NV Based on Comparison Market Prices

Yieh Phui

We calculated NV based on delivered or ex-works prices to unaffiliated and affiliated customers where the sale was made at arm's length. We made deductions, where appropriate, from the starting price for billing adjustments, discounts, and rebates, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for movement expenses, including inland freight under section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses and other direct selling expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

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

Prosperity Tieh

We calculated NV based on delivered or ex-works prices to unaffiliated and affiliated customers where the sale was made at arm's length. We made deductions, where appropriate, from the starting price for billing adjustments in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for movement expenses, including inland freight under section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses and other direct selling expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

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

XII. CURRENCY CONVERSION

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

XIII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Date