



February 28, 2017

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

FROM: James Maeder
Senior Director, Office I
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Less-Than-Fair-Value Investigation of Steel Concrete
Reinforcing Bar from Taiwan

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that steel concrete reinforcing bar (rebar) 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 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On September 20, 2016, the Department received an antidumping duty (AD) petition covering imports of rebar from Taiwan,¹ which was filed by the Rebar Trade Action Coalition and its individual members: Bayou Steel Group, Byer Steel Group, Inc., Commercial Metals Company, Gerdau Ameristeel U.S. Inc., Nucor Corporation, and Steel Dynamics, Inc., (collectively, Petitioners). On September 23, 2016, the Department issued supplemental questionnaires to Petitioners.² Between September 28, 2016, and October 4, 2016, Petitioners filed supplemental questionnaire responses regarding the Petition. On October 5, 2016, Petitioners amended the

¹ See Petition for the Imposition of Antidumping and Countervailing Duties: Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey” (September 20, 2016) (the Petition).

² See Letter from the Department, “Petition for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey and Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Questions” (September 23, 2016); see also Letter from the Department, “Petition for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from Taiwan: Supplemental Questions” (September 23, 2016).



Petition language with regards to scope. The Department published its notice of initiation for this investigation on October 18, 2016.³

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 of the United States (HTSUS) subheadings listed in the scope of the investigation.⁴ Accordingly, on October 18, 2016, 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.⁵ No interested parties commented on the CBP entry 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 rebar to be reported in response to the Department's AD questionnaire.⁶ The Department did not receive any comments relating to the scope of the investigation, therefore, the Department is preliminarily not modifying the scope language as it appeared in the *Initiation Notice*.

On October 9, 2016, 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.⁷ Accordingly, we selected Agir Haddecilik International LLP (Agir) and Power Steel Co., Ltd. (Power Steel) as the mandatory respondents in this investigation.⁸ On December 9, 2016, the Department determined that Agir, because it did not have manufacturing operations in Taiwan during the period of investigation (POI), and exported subject merchandise purchased from Power Steel, was not an appropriate mandatory respondent and was not required to respond to the AD questionnaire.⁹ In addition, the Department selected a replacement mandatory respondent, Lo-Toun Steel and Iron Works Co., Ltd. (Lo-Toun).¹⁰

On November 4, 2016, Petitioners submitted comments on product characteristics and product matching in this investigation.¹¹ Between November 16, 2016, and December 6, 2016, Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.Ş. (Habas) and Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas), interested parties in the concurrent AD investigation of rebar from the Republic of Turkey (Turkey), and Petitioners submitted rebuttal comments.¹²

³ See *Steel Concrete Reinforcing Bar from Japan, Taiwan and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 81 FR 71697 (October 18, 2016) (*Initiation Notice*).

⁴ See *Initiation Notice*, 81 FR at 71701.

⁵ See Department Memorandum, "Antidumping Investigation of Steel Concrete Reinforcing Bar from Taiwan: Customs Entry Data for Respondent Selection" (October 18, 2016).

⁶ See *Initiation Notice*, 81 FR at 71698.

⁷ See Department Memorandum, "Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from Taiwan: Respondent Selection" (October 9, 2016).

⁸ *Id.*

⁹ See Department Memorandum, "Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from Taiwan: Deselection of Agir Haddecilik International LLP as a Mandatory Respondent and Selection of a Replacement Mandatory Respondent" (December 9, 2016).

¹⁰ *Id.*

¹¹ See Letter from Petitioners, "Antidumping Duty Investigations of Steel Concrete Reinforcing Bars from Japan, Taiwan and the Republic of Turkey: Product Characteristics and Product Matching Comments" (November 4, 2016).

¹² See Letter from Habas, "Steel Concrete Reinforcing Bar from Japan, Taiwan, and Turkey; Habas rebuttal comments on product characteristics" (November 16, 2016); see also Letter from Icdas, "Steel Concrete Reinforcing

On November 14, 2016, the U.S. International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of rebar.¹³

On November 21, 2016, the Department issued the AD questionnaire to Power Steel. On December 12, 2016, the Department issued the AD questionnaire to Lo-Toun. Between December 19, 2016, and January 26, 2017, both companies timely filed responses to the Department's AD questionnaire. Between January 13, 2017, and February 3, 2017, we issued supplemental questionnaires to Power Steel and Lo-Toun. Between January 24, 2017, and February 17, 2017, we received responses to these supplemental questionnaires. During the same time frame, Petitioners submitted comments regarding Power Steel and Lo-Toun's questionnaire responses.¹⁴ On February 17, 2017, Lo-Toun submitted revised home market and U.S. sales databases, which the Department rejected on February 28, 2017.¹⁵

On February 15, 2017, Petitioners filed a notice with the Department, stating that one of the petitioning domestic producers, Bayou Steel Group, no longer intends to continue as a member of the petitioning coalition.¹⁶

Petitioners filed comments in advance of this preliminary determination on February 17, 2017.¹⁷ To the extent possible, we have considered these comments in making this determination. On February 22, 2017, Petitioners submitted a "particular market situation" allegation with respect to Power Steel's purchase of billets from China.¹⁸ In light of the timing of the filing of this allegation, the Department did not have the opportunity to consider the allegation for purposes of this preliminary determination.

Bar (Rebar) from Japan, Taiwan, and the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.' Rebuttal Comments on Product Characteristics & Product Matching (November 16, 2016); *see also* Letter from Petitioners, "Steel Concrete Reinforcing Bar from Japan, Taiwan and the Republic of Turkey: Comments on Product Characteristics and Product Matching" (November 21, 2016); *see also* Letter from Icdas, "Steel Concrete Reinforcing Bar (Rebar) From Japan and Taiwan: Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.' Additional Rebuttal Comments on Product Characteristics & Product Matching" (December 6, 2016).

¹³ *See* Letter from U.S. International Trade Commission, notifying the Department on the affirmative preliminary determination by the ITC, (November 14, 2016).

¹⁴ The Department's initial questionnaire and supplemental questionnaires to respondents Power Steel and Lo-Toun, and respondents' respective responses are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

¹⁵ *See* Letter from Lo-Toun, "Steel Concrete Reinforcing Bar from Taiwan: Lo-Toun's Revised Sections B and C Sales Lists Reflecting Section D Coding Corrections" (February 17, 2017); *see also* Letter from the Department, "Steel Concrete Reinforcing Bar from Taiwan: Lo-Toun's Revised Sections B and C Sales Databases" (February 28, 2017).

¹⁶ *See* Letter from Petitioners, "Steel Concrete Reinforcing Bar from Japan, Taiwan, and Turkey: Notice Regarding Composition of the Petitioning Coalition," (February 15, 2017).

¹⁷ *See* Letter from Petitioners, "Steel Concrete Reinforcing Bar from Taiwan: Pre-Preliminary Comments Regarding Power Steel Co." (February 17, 2017).

¹⁸ *See* Letter from Petitioners, "Steel Concrete Reinforcing Bar from Taiwan: Particular Market Situation Regarding PSCO's Purchase of Chinese Billets" (February 22, 2017).

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

III. PERIOD OF INVESTIGATION

The POI is July 1, 2015, through June 30, 2016. This period corresponds to the four most recently completed fiscal quarters prior to the month of the filing of the petition, which was September 2016.¹⁹

IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

On February 17, 2017, and February 21, 2017, pursuant to 19 CFR 351.210(b)(2)(ii) and 19 CFR 351.210(e)(2), Power Steel and Lo-Toun requested that, contingent upon an affirmative preliminary determination of sales at LTFV, the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.²⁰ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because 1) our preliminary determination is affirmative, 2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and 3) no compelling reasons for denial exist, we are granting the respondents' 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.

V. SCOPE OF THE INVESTIGATION

The products covered by this investigation are steel concrete reinforcing bar from Taiwan. The scope currently contains the following language pertaining to the scope of the CVD from Turkey investigation:

“At the time of the filing of the petition, there was an existing countervailing duty order on steel reinforcing bar from the Republic of Turkey. *Steel Concrete Reinforcing Bar From the Republic of Turkey*, 79 Fed. Reg. 65,926 (Dep’t Commerce Nov. 6, 2014) (2014 Turkey CVD Order). The scope of this countervailing duty investigation with regard to rebar from Turkey covers only rebar produced and/or exported by those companies that are excluded from the 2014 Turkey CVD Order. At the time of the issuance of the 2014 Turkey CVD Order, Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. was the only excluded Turkish rebar producer or exporter.”

The Department is preliminarily removing this language from the scope of the instant investigation because it does not pertain to this investigation. For a full description of the scope of this investigation, *see* this investigation’s accompanying *Federal Register* notice at Appendix I.

¹⁹ *See* 19 CFR 351.204(b)(1).

²⁰ *See* Letter from Power Steel, “Steel Concrete Reinforcing Bar from Taiwan: DOC Preliminary Determination Extension,” (February 16, 2017); *see also* Letter from Lo-Toun, “Steel Concrete Reinforcing Bar from Taiwan: Lo-Toun’s Request to Postpone the Final Determination” (February 21, 2017).

VI. 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 Power Steel's and Lo-Toun's sales of subject merchandise from Taiwan to the United States were made at LTFV, the Department compared the export price (EP) or constructed export price (CEP), as appropriate, to the normal value (NV), as described in the "Export Price/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 LTFV investigations, the Department examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales, *i.e.*, the average-to-transaction method, as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In recent investigations, the Department has applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.²¹ 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 examines whether there exists a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code, and are grouped into regions based upon standard definitions published by the U.S.

²¹ See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

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

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

If both tests in the first stage, *i.e.*, the Cohen’s *d* test and the ratio test, demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, 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 this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

B. *Results of the Differential Pricing Analysis*

Power Steel

For Power Steel, based on the results of the differential pricing analysis, the Department preliminarily finds that 81.27 percent of the value of U.S. sales pass the Cohen's *d* test,²² and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method versus when calculated using an alternative comparison method based on applying the average-to-transaction method to all sales. Thus, for this preliminary determination, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Power Steel.

Lo-Toun

For Lo-Toun, based on the results of the differential pricing analysis, the Department preliminarily finds that zero percent of the value of U.S. sales pass the Cohen's *d* test.²³ These results do not support consideration of an alternative to the average-to-average method. Thus, for this preliminary determination, the Department is applying the average-to-average method to Lo-Toun's U.S. sales.

VII. 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 Department normally will use

²² See Memorandum to the File from Jun Jack Zhao, International Trade Compliance Analyst, entitled, "Analysis for the Preliminary Determination in the Less-Than-Fair Value Investigation of Steel Concrete Reinforcing Bar from Taiwan for Power Steel Co., Ltd.," dated concurrently with this memorandum (Power Steel Preliminary Analysis Memorandum) at 5-6.

²³ See Memorandum to the File from Kathryn Wallace, International Trade Compliance Analyst, entitled, "Analysis for the Preliminary Determination in the Less-Than-Fair Value Investigation of Steel Concrete Reinforcing Bar from Taiwan for Lo-Toun Steel and Iron Works Co., Ltd.," dated concurrently with this memorandum (Lo-Toun Calculation Memorandum) at 4-5.

the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. 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.²⁴ Finally, the Department has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.²⁵

Power Steel

Power Steel reported commercial invoice date as the date of sale for its U.S. sales, and the VAT invoice date as the date of sale for its home market sales. Power Steel demonstrated that certain sales terms for home market sales were not settled until the issuance of the VAT invoice, and that sales terms for U.S. market sales were not settled until the issuance of the commercial invoice.²⁶ Therefore, we preliminarily determine to use these invoice dates as the home and U.S. market dates of sale for Power Steel, and in accordance with our regulation and practice.

Lo-Toun

In its Section A Response, Lo-Toun stated that it would be using the earlier of the invoice date or shipment date as the date of sale for its U.S. and home market.²⁷ Consistent with its Section A Response, in its Section C Response, Lo-Toun reported its date of sale for the U.S. market as the earlier of the invoice date or the shipment date.²⁸ In its Section B Response, however, Lo-Toun reported its date of sale for the home market as the shipment date.²⁹ Our analysis of Lo-Toun's sales indicates that, for some of Lo-Toun's home market sales, the invoice date precedes the shipment date.³⁰ Lo-Toun did not demonstrate that where shipment date followed invoice date, terms of sale can, and did, change following the invoice. Therefore, we preliminarily used the earlier of the invoice date and shipment date as the date of sale in the U.S. market and home market, in accordance with our regulations and practice.

²⁴ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

²⁵ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 11; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

²⁶ Power Steel indicated that the value-added tax (VAT) invoice is the only invoice used in its normal course of business. See Power Steel's Section A response, (December 22, 2016) (Power Steel's Section A Response) at 17-18. See also Power Steel's Supplemental Section A response, (January 23, 2017) (Power Steel's Supplemental Section A Response), at 1-3.

²⁷ See Lo-Toun's Section A response, (January 10, 2017) (Lo-Toun's Section A Response) at 13. See also Lo-Toun's Supplemental Section A response, (January 31, 2017) (Lo-Toun's Supplemental Section A Response), at 8-10.

²⁸ See Lo-Toun's Section C response, (January 25, 2017) (Lo-Toun's Section C Response) at 15.

²⁹ See Lo-Toun's Section B response, (January 26, 2017) (Lo-Toun's Section B Response) at 19.

³⁰ *Id.*

VIII. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents, Power Steel and Lo-Toun, in Taiwan during the POI that fit the description in the “Scope of Investigation” section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate.³¹ 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 or CV, as appropriate.

In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: type of steel, minimum specified yield strength, coating, martensitic, nominal diameter, and form.

IX. EXPORT PRICE

Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of 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.

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

We calculated EP for Power Steel and Lo-Toun based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, from the starting price, for billing adjustments. We also made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight, certain international freight, and foreign brokerage and handling expenses, in accordance with section 772(c)(2)(A) of the Act.

X. NORMAL VALUE

A. *Home Market Viability*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales, we

³¹ Specifically, in our calculations for Power Steel, the Department used the home market and U.S. sales databases submitted with Power Steel’s Supplemental Section B-D response, (February 13, 2017) and the costs database submitted with Power Steel’s Supplemental Section D response, (February 9, 2017). For Lo-Toun’s calculations, the Department used the home market and U.S. sales databases submitted with Lo-Toun’s Supplemental Section B-D response (February 13, 2017) and the cost data base submitted in Lo-Toun’s Section D response (January 26, 2017).

normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third-country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we determined that the aggregate volume of home market sales of the foreign like product for each respondent was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for Power Steel and Lo-Toun, in accordance with section 773(a)(1)(B) of the Act.

B. *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 level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).³² Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³³ 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 as relevant,³⁴ we consider the starting prices before any adjustments. When the Department is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales to sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In this investigation, we obtained information from Power Steel and Lo-Toun regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution.³⁵ Our LOT findings are summarized below.

³² See 19 CFR 351.412(c)(2).

³³ *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*).

³⁴ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

³⁵ See Power Steel's Section A response, at 13-17 and Exhibits A-5 and A-6; Lo-Toun's Section A response, at A-12 – A-17 and Exhibits A-5 through A-10.

Power Steel

In the home market, Power Steel reported that it sells the merchandise under consideration through three channels of distribution, to distributors, retailers, and end users.³⁶ Power Steel stated that all of its home market customers are unaffiliated and as the Taiwanese domestic rebar market is a mature market, Power Steel generally provides limited sales activities and services to all of its customers, regardless of the different channels of distribution.

According to Power Steel, it performed the following selling functions for sales to all home market customers: sales forecasting; strategic/economic planning; procurement/sourcing services; packing; and provision of warranty services.³⁷ In addition, Power Steel reported freight and delivery services only for sales made on a delivered basis.³⁸

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Power Steel performed sales and marketing, warranty and technical support for all of its home market sales, and freight and delivery for some home market sales.³⁹ Information on the record indicates that Power Steel only provided limited sales activities and services and there were no significant differences in selling activities performed by Power Steel to its home market customers. Furthermore, the selling functions performed for the different channels of trade do not differ significantly such that we would consider these channels to be separate marketing stages. Therefore, we preliminarily determine that there is one LOT in the home market for Power Steel.

With respect to the U.S. market, Power Steel reported that it made sales through one channel of distribution, *i.e.*, direct sales to unaffiliated traders/wholesalers.⁴⁰ Power Steel reported that it performed the following selling functions for sales to all U.S. customers: packing and provision of freight and delivery.⁴¹ Therefore, we preliminarily determine that all U.S. sales are at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Power Steel performed for its U.S. and home market customers differed only slightly.⁴² Specifically, Power Steel reported no sales activities and services in all of these following categories for both home and U.S. market: personnel training/exchange; engineering services; advertising; sales promotion; distributor/dealer training; inventory maintenance; order input/processing; direct sales personnel; sales/marketing support; market research; technical assistance; provision of rebates; provision of cash discounts; commissions; provision of guarantees; provision of after-sales services; perform repacking; and provision of post-sale

³⁶ See Power Steel's Section A response, at 9-12, and Exhibits A-5 and A-6.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See Power Steel's Section A response, at 10.

⁴¹ See Power Steel's Section A response, A-6.

⁴² *Id.*

warehousing.⁴³ Power Steel stated that the Taiwan domestic rebar market is a mature market and Power Steel had longstanding relationships with these unaffiliated customers, and Power Steel generally provides limited sales activities and services.⁴⁴ Our analysis found that the additional sales services in the home market are all very “low” or “low to none”.⁴⁵ Therefore, we preliminarily determine that sales to the United States and the home market during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

Lo-Toun

In the home market, Lo-Toun reported that it made sales through two channels of distribution, *i.e.* direct sales to unaffiliated customers on either 1) delivered or 2) Ex-works term.⁴⁶ Under delivered term, Lo-Toun delivers to the location designated by its customers.⁴⁷ Under the Ex-works term, Lo-Toun’s customers pick up the products at Lo-Toun’s factory or, upon request, at another designated location.⁴⁸ According to Lo-Toun, it performed the following selling functions for sales to all home market customers: strategic and economic planning; sales forecasting; sales force development; market research; solicitation of orders; technical advice; price negotiation; production facilities performance and customer liaison; processing of purchase orders; invoicing; accounts receivable management; advertising; inventory maintenance; and packing.⁴⁹ In addition, Lo-Toun reported that it arranged delivery from plant to the unaffiliated customer’s designated place for sales made on a delivered basis.⁵⁰

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Lo-Toun performed sales and marketing, inventory maintenance and warehousing, and warranty and technical support for all of its home market sales, and freight and delivery for some home market sales. Because we find that there were no significant differences in selling activities performed by Lo-Toun to sell to its home market customers, we preliminarily determine that there is one LOT in the home market for Lo-Toun.

With respect to the U.S. market, Lo-Toun reported that it made sales through one channel of distribution, *i.e.* direct sales to unaffiliated customers on Free on Board (FOB) terms.⁵¹ Lo-Toun reported that it performed the following selling functions for sales to all U.S. customers: strategic and economic planning; sales forecasting; sales force development; market research; solicitation of orders; technical advice; price negotiation; production facilities performance and customer liaison; processing of purchase orders; invoicing; accounts receivable management; advertising;

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ See Lo-Toun’s Section A response, at 13.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.* at 15 and Exhibit A-7.

⁵⁰ *Id.*

⁵¹ *Id.* at 13.

inventory maintenance; and packing.⁵² For U.S. sales, Lo-Toun reported inland transportation from the plant to the port in Taiwan, and related export expenses, such as loading, etc.⁵³ Accordingly, based on the selling function categories noted above, we find that Lo-Toun performed sales and marketing, inventory maintenance and warehousing, and warranty and technical support for all of its U.S. sales. We preliminarily determine that Lo-Toun's U.S. sales are at one LOT.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Lo-Toun performed for its U.S. and home market customers are nearly identical in all respects except for minor differences in intensity. Therefore, we preliminarily determine that sales to the United States and home market during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

C. *Cost of Production Analysis*

On June 29, 2015, the Trade Preferences Extension Act of 2015 (TPEA) was signed into law. The TPEA made numerous amendments to the AD and countervailing duty 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 (COP).⁵⁴ The 2015 law does not specify dates of application for those amendments.⁵⁵ 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 in section 771(7) of the Act, which relate to determinations of material injury by the ITC.⁵⁶ 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 CV and COP information from respondent companies in all AD proceedings.⁵⁷ Accordingly, the Department requested this information from Power Steel and Lo-Toun. We examined Power Steel's and Lo-Toun'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 costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses.

We relied on the COP data submitted by Lo-Toun on January 26, 2017, and Power Steel on February 9, 2017, except as follows:⁵⁸

⁵² *Id.* at 15 and Exhibit A-7.

⁵³ *Id.* at 13 and A-7.

⁵⁴ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

⁵⁵ The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

⁵⁶ 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).

⁵⁷ *Id.*, 80 FR at 46794-95.

⁵⁸ See section 773(b)(3)(A)-(C) of the Act.

Power Steel

- We adjusted Power Steel's submitted COP data to include both the cost of further processing performed by unaffiliated subcontractors prior to sale and the freight costs attributable to the transfer of products from Power Steel's production facilities to the unaffiliated subcontractor;⁵⁹ and
- We recalculated the per-unit general and administrative and financial expenses based on our revised cost of manufacturing.⁶⁰

Lo-Toun

- We revised Lo-Toun's general and administrative expense rate to include certain other non-operating expenses;⁶¹

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, discounts and rebates, where applicable, 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.

⁵⁹ See Memorandum from Kristin Case, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Power Steel Co.," dated concurrently with this memorandum (Power Steel Prelim Cost Memo).

⁶⁰ *Id.*

⁶¹ See Memorandum from Alma Sepulveda, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Lo-Toun Steel and Iron Works Co., Ltd.," dated concurrently with this memorandum.

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

D. *Calculation of NV Based on Comparison-Market Prices*

Power Steel

We calculated NV based on delivered or ex-factory prices to unaffiliated customers. 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 inland freight under section 773(a)(6)(B)(ii) of the Act. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, bank charges and credit expenses, and added U.S. direct selling expenses, *i.e.*, credit expenses. We also made adjustments for indirect selling expenses incurred in the home market or the United States.

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.⁶²

Lo-Toun

We calculated NV based on either delivered or ex-factory prices to unaffiliated home market customers. We made deductions, where appropriate, from the starting price for billing discounts, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight expenses from the factory to the customer, under section 773(a)(6)(B)(ii) of the Act.

We deducted home market packing costs and added U.S. packing costs, where appropriate, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, commission, credit and bank charge expenses incurred in the home market, and added U.S. direct selling expenses, *i.e.*, commission, credit and bank charge expenses incurred in the U.S. market.

⁶² See Power Steel Prelim Cost Memo.

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.⁶³

XI. CURRENCY CONVERSION

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

XII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☒

☐

Agree

Disagree

2/28/2017

X *Ronald K. Lorentzen*

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

⁶³ See 19 CFR 351.411(b).